

Special Meeting  
January 18, 2011

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 p.m.

Present: Burt, Espinosa, Holman, Klein, Price, Scharff, Schmid, Shepherd

Absent: Yeh

#### CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS  
City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Sandra Blanch, Marcie Scott, Roger Bloom, Darrell Murray)  
Employee Organization: International Association of Fire Fighters, Local 1319  
Authority: Government Code Section 54957.6(a)

The Council reconvened from the Closed Session at 7:49 p.m. and Mayor Espinosa advised no reportable action.

#### STUDY SESSION

2. City of Palo Alto Service Efforts and Accomplishments Report Fiscal Year 2010.

The Council held a Study Session to discuss the Service Efforts and Accomplishments (SEA) Report for Fiscal Year 2010. The Study Session began with a presentation, from Acting City Auditor Mike Edmonds. He spoke on the results of the annual citizen survey, including Palo Alto's national benchmark ratings and results of the survey by geographic area.

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The City Auditor's Office identified an error in the Fiscal Year 2009 Geographic Subgroup Comparison results provided by the survey company and was working with the vendor to correct the error. An updated report would be provided to the Council, and updated on the City Auditor's website. Senior Performance Auditor, Ian Hagerman presented expenditure and performance data for each City department, the second annual Citizen-Centric Report, and highlighting key data from the SEA Report. Council expressed interest in utilizing the SEA Report throughout the year, and stated it was a valuable resource to help inform their discussions regarding future priorities. Council expressed an interest in outreach to the community, and within the City, regarding the SEA Report. Council suggested reviewing the presentation of staffing levels in comparison to other local jurisdictions to ensure that staffing levels were precisely portrayed.

#### ORAL COMMUNICATIONS

Mark Petersen-Perez spoke on his public record requests, community member Victor Frost, and his First Amendment rights. He requested free access to the same media press releases that his competitors received.

#### CITY MANAGER COMMENTS

City Manager, James Keene spoke on the City's 28<sup>th</sup> Annual Toys for Kids drive. The Palo Alto Art Center will showcase a monumental, site-specific willow sculpture by Patrick Dougherty.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Shepherd moved, seconded by Council Member Price to approve the minutes of November 8 and 22, 2010, and December 6, 2010.

**MOTION PASSED:** 8-0 Yeh absent

#### CONSENT CALENDAR

**MOTION:** Council Member Holman moved, seconded by Council Member Scharff to pull Agenda Item No. 3 to become Agenda Item No. 7a.

**MOTION:** Council Member Klein moved, seconded by Council Member Shepherd to approve Agenda Item Nos. 4-7.

~~3. Adoption of a Budget Amendment Ordinance for the Fiscal Year 2011 in the Amount of \$57,761 to Allocate Funds to Capital Improvement Project PG-09002 for the Replanting of Trees at Eleanor Pardee Park.~~

4. Approval of an Exchange Agreement and Quit Claim Deed for the Exchange of a 1,525 Square Foot Portion of Public Street Right-Of-Way Land Along San Antonio Road for a 28,098 Square Foot Privately Owned Parcel of Land Located Under the San Antonio Road Overpass to Secure and Maintain a Public Access Road to the Former Mayfield Mall Site at 200 San Antonio Road.
5. Recommendation that the City Council Refer the Percent for Art Policy and Procedure to the Policy and Services Committee for Recommendation to the City Council.
6. Resolution 9138 entitled "Resolution of the Council of the City of Palo Alto Authorizing the Exploration of Consolidated and/or Shared Services and Assets Between the Cities of Palo Alto, Sunnyvale, Mountain View and Los Altos."
7. Approval of a Contract with MV Transportation in the Amount of \$480,744 to Provide Community Shuttle Service for the Crosstown Shuttle Route for up to Three Years and Amendment to the Peninsula Corridor Joint Powers Board Agreement to Terminate Provision of Crosstown Shuttle Route Service.

**MOTION PASSED for Agenda Item Nos. 4-7:** 8-0 Yeh absent

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 7a. (Former No. 3) Adoption of a Budget Amendment Ordinance 5113 for the Fiscal Year 2011 in the Amount of \$57,761 to Allocate Funds to Capital Improvement Project PG-09002 for the Replanting of Trees at Eleanor Pardee Park.

Council Member Holman spoke on her appreciation for Staff's responses to her questions regarding this Agenda Item. It was her belief the description for the final design was an implementation of Phase Two, rather than a comprehensive design or fresh look at the site. When she compared the old design with the new one, it was Phase Two with a shifting of the valley oak tree toward the corner of the park, near Channing Avenue and Center Drive. She inquired on the possibility for one more community meeting to gain input on Council's proposal from their meeting on January 10, 2011. She indicated there was no mention on the effort to engage the community on contributing to the purchase of trees.

Director of Community Services, Greg Betts spoke on his understanding of the Council's direction from last week's meeting. He spoke on the placement of the valley oak tree, and the proposed adjustment of trees along Channing Avenue. The Eleanor Pardee Park Landscape Plan (Plan) was a result of two

public meetings held on December 1 and December 8, 2010. All donations received, through the Adopt a Park Fund, would be moved to the Infrastructure Reserve Fund. The hope for fundraising was three pronged as follows: 1) following up with participants at the community meetings on how they could contribute to the Palo Alto Parks; 2) display a project sign at the site that would include how to volunteer or donate; and 3) install a widget on the Eleanor Pardee Park webpage on how to make contributions via PayPal.

Mayor Espinosa inquired whether the Plan was originally the Master Plan, and whether it necessitated a return of a Phase Two.

Mr. Betts stated the Plan, presented last week as Attachment D, was the Master Plan. Last week Staff presented two drawings. One was a partial first phase depicting the removal of six trees along Center Drive, and the second one was the Master Plan depicting the removal of all the trees. The Plan, presented in the Staff report, was revised to incorporate comments made by the Council at the meeting held on January 10, 2011.

Council Member Scharff stated the revised Budget Amendment Ordinance proposed the removal of ten eucalyptus trees. It was his belief the Plan illustrated the removal of eleven existing eucalyptus trees.

Mr. Betts stated there was a total of sixteen eucalyptus trees along Channing Avenue and Center Drive. Six trees have been removed to date, and Staff's recommendation was to remove the remaining ten trees.

Council Member Scharff wanted to ensure that the Plan and Budget Amendment Ordinance matched.

Executive Director for Canopy Incorporated, Catherine Martineau, spoke on the community's involvement and fundraising efforts on the replanting of the eucalyptus trees. She was unclear whether the Plan had received enough attention, and urged the Council to extend the timeline to examine the location on the planting of new trees.

Council Member Schmid stated the valley oak tree was moved eighteen feet, and the distance between the valley oak tree and the corner of the park was approximately thirty-five feet. The existing trees being removed were 130 feet in height, and would be replaced by a row of trees twenty-five feet in height. It was his belief the Plan would create an abrupt and dramatic change. He recommended holding a public meeting on the Plan.

Council Member Holman stated the Plan was constrained in nature. The Plan would be intact for more than 50 years, and the public should have every opportunity to voice their input. She felt the valley oak tree would not

create a majestic corner because it was not close enough to the street's intersection.

**MOTION:** Council Member Holman moved, seconded by Council Member XXX to have Staff return the revised site plan to the landscape architect for reevaluation of the intersection located at Channing Avenue and Center Drive for development of a signature corner of planting.

#### **MOTION FAILED FOR LACK OF A SECOND**

**MOTION:** Council Member Scharff moved, seconded by Mayor Espinosa to adopt the Budget Amendment Ordinance for the Fiscal Year 2011 in the amount of \$57,761 to allocate funds to Capital Improvement Project PG-09002 for the replanting of trees at Eleanor Pardee Park.

Mayor Espinosa spoke on his appreciation for the interest in reexamining the Plan. It was his belief that sufficient opportunity on public commenting had taken place.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member XXXX to have Staff make an interactive website available that would include the Plan.

Mr. Betts stated Staff attempted to track all the actions and project plans developed in the community meetings, including the Arborist's report. He stated the City had a specially-designed webpage on the Plan.

Council Member Schmid stated his recommendation was to have an interactive webpage.

Council Member Scharff spoke on his disapproval for an interactive webpage.

#### **AMENDMENT FAILED DUE TO LACK OF A SECOND**

Mr. Keene spoke on the difficult budget decisions made last year. This project was an unbudgeted and unplanned Capital Improvement Project. He indicated that at least \$50,000 had been spent on Staff time supporting the community process. It was his belief additional time spent on this project took away from community programs.

**MOTION PASSED:** 7-1 Holman no, Yeh absent

## ACTION ITEM

### 8. Adoption of the Energy Risk Management Policy.

City Manager, James Keene stated this Agenda Item was Energy Risk Manager, Karl Van Orsdol's last presentation to the Council before his retirement.

Director of Administrative Services, Lalo Perez stated the Administrative Services Department oversaw the monitoring and risks associated with the City's commodity transactions.

Energy Risk Manager, Karl Van Orsdol stated the City's Energy Risk Management Policy (Policy) served as the overriding document for the management, monitoring, and hedging of risks associated with the City's commodity transactions. In line with the Policy requirement to submit the Policy to the Council for approval each year, Staff requested that Council approve the Policy. The Utilities Advisory Commission approved the proposed 2011 Policy. He gave a PowerPoint presentation that reviewed the approval process, Policy's importance, key risk management documents, key roles and responsibilities in risk management, risk management oversight structure, risk management objectives, and an overview of risk assessment.

Council Member Schmid spoke on Section III, Page 2 of the Policy - Energy Risk Management Philosophy. He stated dependable returns to the City was mentioned multiple times. He inquired whether dependable returns was more important than other factors mentioned in the Philosophy.

Mr. Van Orsdol stated the Utilities Department was fundamentally a business. Possessing no dependable returns, to the City, would require the rate payers to make up the financial difference in a loss. The key in emphasizing dependable returns was to ensure that there would be no rapid changes in rates.

Council Member Schmid spoke on the Policy's mission statement. Staff attempted to balance the value to customers, and financial return to the City. He inquired whether it was Staff's intent to keep these two principles balanced.

Mr. Van Orsdol stated that was correct.

Council Member Schmid stated basic premise, as stated in the philosophy, was a new term.

Mr. Van Orsdol stated the term basic premise was a fundamental underlying component of the Policy, and its intent was to ensure that the City was not exposed to unduly risks.

Council Member Schmid inquired whether the intent of the term basic premise would override preceding statements in the philosophy.

Mr. Van Orsdol stated it was absolutely fundamental that the City not expose itself to financial risks associated with energy commodities.

Council Member Schmid stated basic premise was strongly stated. Basic premise was defined as having no activity related to the energy purchases and sales that would unduly expose the City to the possibility of financial losses. It was his belief that everything the Council approved had some risk attached to it.

Mr. Van Orsdol stated commodity transactions had the greatest risk. In recent years, many municipal and private utility sectors have filed bankruptcy through Chapter 11.

Council Member Schmid stated it was the possibility of failure that was being explained in the Policy, and not a given year that may experience financial losses.

Mr. Van Orsdol stated that was correct.

Council Member Burt inquired whether Council Member Schmid's question was referring to the unduly exposure to risk.

Mr. Van Orsdol stated that was correct. He stated risk could not be completely eliminated in energy transactions.

Council Member Burt inquired why the Gas Utility Long-Term Plan (GULP) and the Long-Term Electric Acquisition Plan (LEAP) were not listed as key risk management documents. It was his belief there was a relationship between these documents and the Policy.

Mr. Van Orsdol stated the GULP and LEAP were the Policy's utilities implementation plans.

Council Member Burt stated the GULP and LEAP were significant Council adopted policies. There was a debate, on gas utilities, regarding the projection of declining gas prices. The City had used a laddering system in the past that may not serve well moving forward. He inquired whether the City had the right balance of long-term ladder purchases, and short-term purchases. He read from Section 2 – Preserve a Supply Cost Advantage - Staff will endeavor to reduce exposure to potential adverse energy price movements. He stated Section 2 did not affirm that Staff would take advantage of favorable energy price movements. He inquired how this was a supply cost advantage.

Mr. Van Orsdol stated taking advantage of favorable movement in supply costs was one action in reducing costs. This may increase risk. Risk management was focused on financial risks, opposed to costs associated with purchasing commodities. He stated there was currently no market view on the long-term laddering strategy. The laddering strategy was developed as a way to protect the City against risk.

Council Member Burt inquired how that was a cost advantage. He felt the laddering system was an avoidance of risk. He spoke on his concern on the tradeoffs of the laddering system. The Council may choose a risk-adverse approach as a policy position.

Mr. Van Orsdol stated a relaxed risk-averse policy that was hit with high costs associated with portfolio performance would lead to a higher cost to rate payers.

Council Member Burt did not see an alignment between the title and substance matter contained in the Emergency Risk Management Objectives No. 2 – Preserve a Supply Cost Advantage. The objective was focused on minimizing risk. With a long-term gas rate decline there would be an important policy issue to struggle with on how much risk should be taken, versus cost advantage. Council's proposed goal was to change that formula somewhat, and this was not reflected in the Policy.

Mr. Van Orsdol stated Council's new goal was presented subsequent to the preparation of the Policy. When a new strategic plan is approved, along with the GULP and LEAP, the Policy would be changed. Staff's intention was to recommend that the Council adopt the Policy, knowing that there may be changes made to the Policy.

Council Member Burt stated his concern was that Staff's work was out of sequence.

Mr. Perez stated contingent plans were needed on how to cover risks to the organization with the retirement of Mr. Van Orsdol. The Council had the discretion to postpone the Agenda Item, and hire an outside consultant to amend the current Policy to incorporate changes reflected in the GULP and LEAP. This option may require reconsideration if the project was delayed for an extended period of time.

Council Member Burt stated Staff's new recommendation acknowledged that the Policy may be modified shortly.

Mr. Perez stated the Agenda Item was originally scheduled to be heard in December 2010, and it was a matter of calendaring items that postponed it.



Council Member Scharff stated he had the same concerns that Council Member Burt spoke on. The Finance Committee discussed the laddering strategy, and whether it was beneficial to continue it. He inquired why Staff recommended the approval of the Policy before the discussion on the laddering strategy, and the GULP and LEAP were finalized.

Mr. Van Orsdol stated it was a Council policy to approve the Policy annually. Some years brought many changes to the Policy, and other years brought minimal changes. There were proposed changes throughout the year, from the Utilities Advisory Commission and Administrative Services Department, which returned annually for the Council's consideration and approval.

Council Member Scharff stated his intent was to ensure that the various documents were not misaligned. The Council could continue the Agenda Item until the GULP was approved, or the Agenda Item could be approved with the provision that the Policy would return with modifications once the GULP was finalized.

Mr. Perez stated, given there were no significant changes in the Policy, it would be satisfactory for the Council to postpone the Agenda Item.

Mr. Van Orsdol stated the Policy was just one document that he oversaw. An outside consultant would specialize in the required quarterly financial reports, assess exposure on the City's portfolios, and oversee the daily activities of the City's Risk Management Program.

Council Member Scharff inquired whether Staff recommended a postponement of the Agenda Item.

Mr. Perez stated yes.

Council Member Klein inquired whether the 2009 Policy would remain in effect.

Mr. Perez stated that was correct.

Council Member Klein stated he was uncomfortable with Staff's recommendation to hire an outside consultant to modify the Policy. It was his belief that an outside consult may be needed for the analysis and creation of the quarterly reports. He inquired why the Administrative Services Department generated the Policy, and why it was not generated by the Utilities Department.

Mr. Perez stated Staff wanted a segregation of duties.

**MOTION:** Council Member Klein moved, seconded by Council Member Scharff to continue this item to the same Council meeting that the Gas Utility Long- Term Plan (GULP) is scheduled.

**MOTION PASSED:** 8-0 Yeh absent

Mr. Perez thanked Mr. Van Orsdol for his years of service.

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Mayor Espinosa reminded the public that the next two meetings were the Council Retreat, at the Baylands Interpretive Center, and the State of the City Address, at the Cubberley Community Theatre. He adjourned the meeting wishing Vice Mayor Yeh a speedy recovery.

ADJOURNMENT: The meeting was adjourned at 10:12 p.m.