

Special Meeting
January 9, 2012

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:03 P.M.

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

Absent:

STUDY SESSION

Commissioners Present: Akinola, Bakhtian, Hohberg, Landauer, Moss, Palaniappan, Train

1. Joint Study Session with the Library Advisory Commission.

The Library Advisory Commission reviewed their activities for 2011, focusing on a virtual library branch available online, teen services and programs that support the Citywide Project Safety Net program, and capturing a dashboard that illustrates the library's value. Commissioners will continue the work in these three areas for 2012, along with continuing to monitor the library building projects and discuss strategies for long-term budget needs. City Council Members made comments and asked questions of the LAC and library staff.

CITY MANAGER COMMENTS

City Manager, James Keene spoke of the 1) The Lunar New Year Spectacular to be held on Saturday January 14, 10-3, at Children's Library, 1276 Harriett Street, sponsored by the Friends of the Palo Alto Library, the Think Tank Learning Studio Kicks and Palo Alto Arts Center, 2) Martin Luther King Jr. celebration on January 16, 2012, 11-3, Lytton Plaza, led by Youth Community Service, City of Palo Alto, YMCA, the Canopy, Break Through the Static and other community partners, 3) City Council Special Study Session with the Infrastructure Blue Ribbon Committee (IBRC), January 17, 2012, 7 p.m., at City Hall Chambers, 4) Annual Council Priority Setting Retreat, January 21, 2012, 9-2, Palo Alto Downtown Library, and 5) a Community Meeting was held on January 9, 2012, 5 p.m., on Cowper Street to discuss the fate of tree "George". A replanting has been scheduled.

Mr. Keene introduced new City Auditor, Jim Pelletier.

01/09/2012

City Auditor, Jim Pelletier said he was pleased to assume his new position with the City and congratulated the Mayor and Vice Mayor on their new assignment.

Council Member Shepherd asked if the IBRC Study Session Item on January 17 was an Action or merely a presentation and delivery of the item.

Council Member Keene stated that the Study Session would be an intensive discussion and education for the public on IBRC Report and findings and eventually Action would be taken.

ORAL COMMUNICATIONS

Jerry Hearn, spoke regarding the Sea Scout building renovation project giving updates on the progress after securing funds and delays in construction. The costs had escalated to over \$3 million but funds were raised through the generosity of donors. The vision for the new Eco Center was a resource for the community and a place for education. The Center was located next to a marsh and visitors would be able to view the wildlife through its open doors. Some of the Center's highlights were life in the marsh, native plants, and other elements of natural history, Green Building tours, learning stations, exhibits entitled "Earth, Sea, Sky and Human", and a glass see-thru hole in the floor where tide flow may be seen.

Joe Webb, spoke regarding the Palo Alto Players and voiced several complaints. He mentioned his attendance at the Human Resources Committee meeting at the December 8th and voiced his displeasure about the Chair, Claude Ezron, Mrs. Savage, and another member who walked out on him. He repeatedly made reference to The Brown Act and its protection from willful disruption and encouraged the Mayor to do something about the Palo Alto Players.

Omar Chatty, spoke regarding the number of Caltrain's train-related deaths and supported bringing Bay Area Rapid Transit (BART) to the area. There had been 177 deaths since 1995. Palo Alto had become too urbanized for this train system and to start plans to replace Caltrain stations with the BART up the peninsula.

Elizabeth Newfield, spoke regarding the community gardens and the proposed roadway between the Library and the Art Center. She said the main community garden was a tremendous asset to Palo Alto and cited the dedication of the gardeners and a long waiting list of gardeners wanting to get a plot in the garden. She urged the Council to consider another alternative to planning a road through the garden and vote no on the current proposal.

APPROVAL OF MINUTES

MOTION: Council Member Espinosa moved, seconded by Council Member Klein to approve the minutes of October 17, 2011 as amended.

MOTION PASSED: 9-0

CONSENT CALENDAR

MOTION: Council Member Shepherd moved, seconded by Council Member Espinosa to approve Agenda Item Nos. 2-8.

2. Review and Acceptance of Annual Status Report on Developers' Fees for Fiscal Year 2011.
3. Policy and Services Committee and Utilities Advisory Commission Joint Recommendation to Adopt a Budget Amendment Ordinance 5138 entitled "Ordinance of the Council of the City of Palo Alto in the Amount of \$200,000 to be Transferred from the Electric, Gas and Water Enterprise Funds in Order to Establish the Utilities Emerging Technology Demonstration Program".
4. Utilities Advisory Commission Recommendation to Adopt a Resolution 9220 entitled "Resolution of the Council of the City of Palo Alto Approving the City of Palo Alto Utilities' Legislative Policy Guidelines for 2012".
5. Ordinance 5136 entitled "Ordinance of the Council of the City of Palo Alto Amending Section 5.20.270 of Chapter 5.20 of Title 5 of the Palo Alto Municipal Code Pertaining to Maintenance of a Recycling Center".
6. Approval of a Public-Private Partnership Agreement between the City of Palo Alto and the Palo Alto Players for the Cooperative Use of the Lucie Stern Community Theatre.
7. Adoption of Two Resolutions (1) Resolution 9221 Amending the 2010-2011 Compensation Plan for Management and Professional Personnel and Council Appointees, and (2) Resolution 9222 the Memorandum of Agreement for Service Employees International Union (SEIU), Local 521 to Add a Total of Six New Positions Related to the Development Center Blueprint Project.
8. Confirmation of Appointment of James Michael Sartor as Public Works Director and Approval of At-Will Employment Agreement.

MOTION PASSED: 9-0

Mike Sartor stated he was proud and humbled to be chosen as the next Public Works Director to fix the Refuse Fund, repair Palo Alto's aging infrastructure, completion of the library capital program, closure of the landfill and much more. He said he looked forward to working with the community, the City Manager, the Executive Leadership Team and Staff on all initiatives.

ACTION ITEMS

9. Public Hearing: on Objections to Weed Abatement and Adoption of Resolution 9223 Ordering Weed Nuisance Abated.

Mayor Yeh announced that the Public Hearing opened and closed without public comment at 7:33 P.M.

City Clerk, Donna Grider advised she received no protests.

Mayor Yeh asked if there was anyone from the public that wanted to be heard. He said there were none and asked that the records reflect there were none.

MOTION: Council Member Shepherd moved, seconded by Council Member Schmid to accept Staff recommendation to adopt the Resolution ordering the Abatement of Weed Nuisances in the City of Palo Alto.

MOTION PASSED: 9-0

10. Public Hearing: Approval of Request for Removal of a Category 4 Single-Family Residential Building at 935 Ramona Street from the City's Historic Inventory.

Director of Planning and Community Environment, Curtis Williams, announced that Planning Manager, Steven Turner would be giving a presentation.

Planning Manager, Steven Turner stated the 1980 property was added to Palo Alto's historic inventory as a category 4 structure, an example of a Queen Anne architectural style prevalent during the time of its construction in 1895. Since this listing numerous exterior and interior alterations have occurred. He said the structure was purchased in 2007 by the current owners and did not know it was part of the Historic Register. Last year, the homeowners submitted a request to have their home removed from historic inventory. They hired Garavaglia Architectural Inc. to prepare a historic research evaluation and to assess the historic significance of the building.

The evaluation was based on the City of Palo Alto Municipal Code and other criteria. Integrity was also evaluated to determine if the structure had retained enough of its characteristics to remain historic on the historic list. Garavaglia's conclusion was that it did not appear to qualify for continued listing due to extensive modifications done over time. City Planner and Historian, Dennis Backlund reviewed the material and concurred with Garavaglia's conclusion. The Historic Resources Board (HRB) had reviewed and recommended that the Council retain the property on historic inventory as category 4 citing the building retained historic fabric at the front façade. There was a sense of feeling that in its original location it was apparent that when walking or driving by the house that the modifications were consistent with the Secretary of Standards for Rehabilitation. Staff felt that it would be appropriate to provide the Council with each recommendation at this evening's meet because of opposing recommendations between the City and HRB. Furthermore, the homeowner provided the Council with a peer review of the Garavaglia evaluation prepared by Page and Turnbull dated January 3, 2012.

Mr. Williams stated he would respond to questions about the process if a property was deleted from historic inventory list and subsequent development that occurred. He stated that the process would be the same as for any other residents in town: Individual review process with notice to neighbors, determination relative to privacy and accountability on the streetscape, and a building permit would be required.

Martin Bernstein, Historic Resources Board Chairperson, reported that the Historic Preservation Ordinance mandated exterior and not interior reviews. The HRB referenced the façade that faced the street and determined the existing character defined that the historic features were intact. The HRB's report cited eleven changes to the building's interior and the rear of the house. The report concluded the loss of the interior design.

Mr. Turner stated the Board had recently received the report prepared by Garavaglia and did not have the opportunity to review other historic evaluations and could not provide additional recommendations to the Council. The HRB's analysis of the existing historic characteristics and the unanimous Motion recommended to the Council that the 117 year old house at 935 Ramona Street be retained on the City's historic inventory.

Mayor Yeh opened the Public Hearing and that the procedure was to allow the applicant 10 minutes to give a presentation.

Public Hearing opened at 7:46 P.M.

Chris Pickett, Applicant, requested the Council's approval to remove his home from the historic inventory because it lacked sufficient integrity on the

list. He said the Planning Department had asked that he provide an expert report and was given a list of firms he could choose from. Garavaglia, Inc. concluded the Pickett home should be removed and was not historically significant at any level. The City's Planning Department agreed with Garavaglia and HRB disagreed. The homeowner believed the HRB had relied on the Interior of Standards for Rehabilitation, which was not a correct test for evaluating historic integrity. The homeowner engaged Page & Turnbull, a second firm from the City's recommended list for evaluation, to complete a peer review of Garavaglia's report. Their findings agreed with Garavaglia.

Christina Dikas, Page and Turnbull Architectural Historian, evaluated the historic significance and integrity of the residence at 935 Ramona. Page & Turnbull agreed with Garavaglia that the residence did not adequately maintain historic significance even as a category 4 resource and should be removed from the historic inventory.

Council Member Price noted there were differences of opinions to many aspects of the project regarding the appropriateness of using the Secretary of Standards for Rehabilitation and asked the Staff to comment.

Mr. Turner believed Garavaglia used the correct methodology. He felt it was appropriate to use the integrity findings and the HRB used the Secretary of Standards in looking at the sum of all of the alterations that have occurred over the years.

Council Member Shepherd asked if there was a moratorium on the demolition of houses.

Mr. Turner stated there was no moratorium on demolition of houses.

Mr. Williams said the house would remain on the list until an environmental impact report could be completed.

Council Member Shepherd asked what would happen if Council did not decide tonight.

Mr. Williams said it does not shelter it.

Council Member Shepherd asked if this applied to all Category 3 and 4 in the City.

Mr. Williams stated theoretically, that was true.

Council Member Shepherd confirmed it would still go through design review.

Mr. Williams said Category 3 or 4 would have the Architectural Review Board review.

Council Member Schmid asked if the public was aware that different standards were used.

Mr. Bernstein stated they used the same standards.

Council Member Schmid asked Mr. Bernstein if he disagreed with the process of using outside peer review.

Marty Bernstein stated he did not disagree with the process. They just came to different conclusions.

Council Member Schmid asked how the public should be answered when there are disagreements.

Mr. Bernstein replied that there are prescriptive criteria and subjective criteria and a challenge in deciding when there were cultural measures and valuing historic resources on culture.

Council Member Klein asked if there was any authorization and referred to the third amendment to Motion made by Commissioner Kohler regarding Bill Busey's ownership of the home.

Mr. Bernstein felt authorizations were handled in terms of non-living persons and stated the reference to Mr. Busey was just a comment. He did not take Busey's ownership of the home into consideration as a reason for significance of the project.

Council Member Klein asked Mr. Bernstein if he had read Page & Turnbull's Report.

Mr. Bernstein stated that he had not received or read Page & Turnbull's report and felt it was unfair for HRB to make a recommendation when they were using a report that they had not reviewed.

Council Member Klein asked Mr. Bernstein to explain why HRB, the architectural firms, and Staff Member Dennis Backlund came to different conclusions.

Mr. Bernstein stated that HRB's main focus was from the public's point of view and that they did not consider the interior changes important. The HRB dealt only with the front facing façade.

Council Member Klein asked Mr. Bernstein if he believed HRB professionals had the same professional certifications as Garavaglia's firm.

Mr. Bernstein stated he had not compared certifications, but believed they had similar credentials.

Council Member Holman asked Mr. Pickett what he knew when he purchased the property.

Mr. Pickett stated he purchased the property because it was close to his children's schools. He said he did not purchase the home because it was historic and had discovered it was on the Historic Registry when they remodeled after the first year.

Council Member Holman stated the likelihood of the home crossing a California Environmental Quality Act review appeared low and asked what would be the difference if remain on the inventory.

Mr. Williams stated there was a risk challenge as a historic resource.

Council Member Holman asked what level of impact would there be if additions were made to the rear of the home when an alteration review was done.

Mr. Turner responded that the rear was less important than the front but the house was looked at as a whole.

Council Member Espinosa asked why the peer review report had not been shared with the HRB.

Mr. Turner explained that the peer review was submitted in final form on January 3, 2012. HRB had made recommendation to Council on September 21, 2011. Staff felt even if HRB was given a copy of the report they could not comment in any official capacity unless Staff brought the project back to HRB.

Council Member Espinosa asked if there was any new compelling information or rationale in the peer review that would make sense for the Council to send it back to HRB for further review.

Mr. Williams felt that substantively it was finding the same thing. They were satisfied with the original report and on track to move this forward to the Council. The document from Page & Turnbull substantiated the prior report and it did not seem necessary to require the additional HRB review.

Council Member Espinosa disclosed that he met with the applicant and HRB and had not received any information that had not been shared this evening.

Vice Mayor Scharff asked if an error had been made when the property was placed on the historic list in 1978.

Mr. Turner said the City felt the building was historic at the time.

Vice Mayor Scharff asked Staff if the primary reason for their decision was because the 2005 remodel lost its integrity.

Mr. Turner stated that it was based only on the 2005 remodel but all the remodels that had been made since that time.

Vice Mayor Scharff asked how did the home lose its integrity

Mr. Turner could not comment on when exactly the structure lost its integrity. The changes proposed in 2005 were more ministerial and therefore not discretionary and did not require HRB review. They fell into the ministerial building permit category.

Vice Mayor Scharff asks if there were any issues about historic homes that were Category 4, if the City had the correct process and lost the ministerial basis. He believed this was cited in 2005 and commented that a lot was being made of the 2005 remodel. He asked the Staff to comment on the process issues.

Mr. Williams stated that the home event was a series of minor changes that had added up to very significant change over time. Each individual change was not significant. The City's Ordinance for category 3 and 4 was not highly stringent.

Vice Mayor Scharff asked if the City Ordinance included any item that was unspoken or not spelled out.

MR. Williams stated it would be part of the historic review report.

Vice Mayor Scharff asked if it was true that the way an Ordinance was viewed could give a different analysis.

Mr. Williams said yes.

Vice Mayor Scharff asked Ms. Dikas if her review would have changed if the Ordinance said that the public presence was the primary part of what made the structure historic from the streetscape.

Ms. Dikas said yes. They did not review the Ordinance and did not see anything about valuing the primary façade.

Vice Mayor Scharff confirmed if public presence was in the Ordinance the peer review would have come to a different conclusion.

Ms. Dikas replied yes, it was possible.

Mayor Yeh encouraged Council Members to speak to any disclosures before a vote on this item.

Council Member Burt disclosed that he met with the applicant a couple of months ago and did not receive materials other than those that were currently before the Council. He asked when the Council adopted the historic inventory based on historic surveys in 1978 and 1979 had the substantial remodeling project been approved but not constructed in 1977 at the time of the historic survey.

Mr. Turner replied yes.

Council Member Burt asked about the significance of the earlier remodel and to what degree did it affected Staff's current judgment that the home would not be a class 4 structure.

Mr. Turner stated that the earlier remodel took place in 1977 and the lots were officially combined into the current property. It appeared the project was in process during the historic survey.

Council Member Burt observed that this particular project and home had approval for significant changes that were approved right before the inventory and the changes were admissible without any additional approval after the inventory.

Council Member Klein disclosed he had met with applicants several months ago and did not receive anything at that time that was not before the Council.

Mayor Yeh disclosed he met with applicant several months ago, received several of the consultant's reports that are ultimately in public record and did not receive any additional information that wasn't publicly available. He asked who the keeper was of the original documentation for the historical inventory and whether it was a part of the consideration.

Mr. Williams responded that there were records that go back as far as how a house was designated or structure was initially designated. They do not get

that background information. They would have to go through microfilm on a file probably to find out if it was that long ago.

Mayor Yeh commented that since the focus was on external characteristics, for him, it came down to the documentation and if that was something that was not readily available then it became difficult to maintain and enforce. He understood HRB's focus and that they were just carrying out their designated job. He believed both consultants did a different type of review and understood why there was a difference in the conclusion from the consultants.

Mr. Williams thanked Mayor Yeh for his understanding and further attempted to clarify that both consultants' reviews were not based on interior changes, but based on external changes.

Mayor Yeh agreed and thanked Mr. Williams for the clarification. Mayor Yeh then addressed the four public speakers and invited them to the floor.

Michael Hodos was a back fence neighbor of Chris Pickett. He had been a resident of the neighborhood since the home was owned by the Buseys and the Wilkersons for several years. Mr. Pickett mentioned that HRB had based its decision on the façade of the building and that much of what was seen was done by Bill Busey after 1978. He informed the Council that the graphics above the front window, the railing on the stairs, the French doors that look out on the porch, a bay window and the front door were not there in the beginning. Mr. Busey kept as many of the architectural elements as he could, but enhanced the building significantly over time.

David Yen had known the Picketts for many years and was familiar with the discussions. Mr. Yen urged the Council to allow the Picketts to remove the house from the historic record. He also commented that Council should take this chance to clarify the process that the HRB uses to determine whether a house goes onto the historic inventory and how to take one off the inventory.

Justin Shuen was an 18-year resident of Palo Alto and a friend of the Picketts for many years. His family had gone through the Planning Department and had rebuilt in Palo Alto. He acknowledged that it is a long extensive process, which the Picketts were involved in at great time and expense. He encouraged the Council to approve the Pickett's request to remove the historical designation for their home.

Avachai Tayjasanant was a Palo Alto resident who had known Rebecca and Chris Pickett for the past seven years. She shared that through this process they had spent considerable time, effort and resources to fulfill the process

adequately and urged the City Council to take the house off from the historic register.

Mayor Yeh asked the applicant to make concluding remarks.

Mr. Pickett addressed an earlier question by Council Member Holman, who asked what the affect would be if it was left alone. He replied that the inventory should mean something. If you leave it on and it is not historically significant then the inventory means nothing. His family had tried their very best to follow the process as it has been laid out. They hired two experts recommended by the City as experts for historic preservation. He felt the HRB tried to do their best but used the wrong standards. They did not use the standards for integrity. They used the standards for rehabilitation. He had done his best to follow the process outlined by Palo Alto. He asked that the Council vote to remove his home from the inventory because the house lacked the sufficient historical integrity to be on the inventory and that should mean something.

Mayor Yeh closed the public hearing and brought it back to Council for any additional comments, questions, or motions.

Public Hearing closed at 8:46 P.M.

MOTION: Vice Mayor Scharff moved, seconded by Council Member Klein to accept Staff recommendation to remove the Category 4 residence at 935 Ramona Street from the Historic Inventory.

Vice Mayor Scharff believed the Pickett family had followed the rules and further believed outside consultant reports that are recommended by the city came to that conclusion. He was sympathetic to the HRB's concern especially regarding the public presence but stated that public presence is not in our ordinance. The Pickett family had followed the rules and thought the conclusion was that Council should go with the staff's recommendation.

Council Member Klein commented that the Picketts hired not just two outside experts but the City's own internal experts. Mr. Backlund came to the same conclusion that this home should be removed from the historical inventory. The City should not be putting people through this process unless there is good and sufficient record to justify the house being on the historic inventory. He felt that because the litany of changes to this house over time it was not surprising that it ended up with a reduction of its historical integrity. The Council should approve the removal of this house from the inventory.

Council Member Holman commented that she found it troubling that the applicant did not know their house was listed on the inventory when they

purchased it. She stated that just because a building is old does not mean it is historic and acknowledged that the staff report clearly states that for a building to be historic it has to satisfy criteria and it has to have its historic integrity. She hoped that Council could find a way in the near future to find a more consistent approach to historic buildings that would be fairer to the public. She agreed with Mr. Pickett that being on the inventory meant something.

Council Member Price supported the motion for many of the same reasons that had already been stated and believed the key issue was the integrity question. She was persuaded by the documentation and impressed with the thoroughness of the examination and the evaluation by both Garavaglia and Page & Turnbull as firms highly regarded by architectural historians and historic preservationist. She supported the Staff's recommendations and the Motion and thanked the HRB for their thoughtful work.

Council Member Espinosa stated he was a strong believer in property rights. He respected the work and expertise of the HRB and valued their opinion. He supported the Motion and felt the case had been made that the Pickett home should not be on the registry.

Council Member Shepherd supported the Motion.

Council Member Schmid supported the Motion and commented that he took history very seriously and believed it was a very important part of the soul of a community.

MOTION PASSED: 9-0

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Shepherd reported the school district demographics on enrollment and their projections for enrollment over the next five years. Council Member Price announced she was now an alternate to VTA board. She will be representing the northwest grouping and assigned to represent VTA to choose groups: Joint Powers Board, the I680 Sonal smart car pool lanes it meets in Oakland and the Dumbarton Rail Policy Advisory Board. She shared that at the recent VTA meeting there was discussion of express bus services. She further reported that there were twenty new diesel electric hybrid buses specifically designed for use as part of the VTA express service. At the Board meeting, there was discussion of various services changes and announced a vigorous marketing and communication plan to VTA users, passengers, potential passengers, and community. She provided a VTA update on US 101 and SR 85 where carpool lanes will be converted to express lane operations to provide congestion relief and operations benefits.

CLOSED SESSION

Herb Borock commented on a Sacramento Superior Court decision that a project should be terminated on issues where the court disagreed with the City and petitioners on issue ridership. He agreed with all ridership study. He reported that the Court made a correction in this case and ruled in favor of the city. Although he did not see why it was necessary to have further discussion in a Closed Session he looked forward to hearing what Council decides.

The City Council adjourned into the Closed Session at 9:11 P.M.

11. CONFERENCE WITH CITY ATTORNEY- EXISTING LITIGATION
Subject: City of Palo Alto et al. v. California High Speed Rail Authority
Superior Court of California, County of Sacramento,
Case No. 34-2010-80000679
Authority: Government Code Section 54956.9(a)

The City Council reconvened from the Closed Session at 10:00 P.M. and Mayor Yeh advised no reportable action.

ADJOURNMENT: The meeting was adjourned at 10:00 P.M.