



CITY COUNCIL DRAFT MINUTES

Special Meeting
April 9, 2012

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:30 P.M.

Present: Burt, Espinosa arrived @5:35 P.M., Holman, Klein, Price, Schmid arrived @5:35 P.M., Shepherd, Yeh

Absent: Scharff

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, Darrell Murray)
Employee Organization: Palo Alto Police Officers Association (PAPOA)

Authority: Government Code Section 54957.6(a)

2. 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 7:09 P.M. and Mayor Yeh announced that the City Council has authorized an appeal in the case of the City of Palo Alto et al. v. California High-Speed Rail Authority, Superior Court of California, County of

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Sacramento, Case No. 34-2010-80000679, Authority:
Government Code section 54956.9(a).

SPECIAL ORDERS OF THE DAY

3. Proclamation for National Library Week, April 8-14, 2012.

Council Member Schmid read the Proclamation into the record.

Library Director, Monique LeConge thanked the City Council for recognizing National Library Week. She introduced three of the Library Commissioners, Bob Moss, Noah Bakhtian, and Mary Beth Train. They were appreciative of the support and looked forward to continuing to serve the community.

Mayor Yeh thanked the Library Staff and the Library Advisory Commission Members for everything they did to support the libraries and the community.

4. Community Partnership Presentation – Chamber of Commerce and Whole Foods Market.

Community Services Director, Greg Betts introduced Palo Alto Chamber of Commerce Chief Executive Officer Paul Wright, mentioning to Council that in addition to featuring local non-profit partnership initiatives, staff will occasionally introduce local businesses who are working to make a difference in the community. Paul Wright outlined the Chamber's annual "Tall Tree Award" program that features an outstanding professional, non-profit, volunteer and local business. This year's Tall Tree recipient for outstanding local business is Whole Foods Market.

Whole Food's store manager Mike Price shared with Council some of the many ways that the company gives back to the community. In addition to their active support of the City's annual Moonlight Run and Chili Cook-off, Whole Foods also supports local organic farmers, promotes farm-fresh produce and

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works to provide school age children with tours of the store so that kids can get a better understanding of where their food and produce come from. Mr. Price also explained Whole Foods' "5 Percent Days" program. On designated days throughout the year a total of 5 percent of the day's net sales are donated to local non-profit organizations. Customers help support our selected organizations just by shopping on the 5 percent days. A recent recipient of these funds is Canopy and their tree planting program.

CITY MANAGER COMMENTS

City Manager, James Keene spoke about: 1) Safe Routes to School Program walk-a-about event and the upcoming events, 2) Mitchell Park Library and Community Center entrance and on-street parking on Middlefield Road, 3) all 5 library branches will be closed April 19-20, 2012 for staff training, 4) April 10th community meeting on the long range plan for Rinconada Park to be held at Lucie Stern Community Center, and 5) appointment of the new Project Safety Net Director, Christina Erena.

APPROVAL OF MINUTES

MOTION: Council Member Shepherd moved, seconded by Council Member Schmid to approve the minutes of December 5, 2011 and December 12, 2011.

MOTION PASSED: 8-0 Scharff absent

ORAL COMMUNICATIONS

Mayor Yeh clarified that if a member of the public was speaking on behalf of a group they could speak for up to 10 minutes if there were 5 people as part of the group. He stated that the first speaker, Mr. Cheavage, would be provided with eight additional minutes.

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Jay Cheavage gave a presentation regarding 3800 Middlefield Road. He showed the original configuration of Middlefield Road as released to the public in 2008. There was no turn lane at Mayview. He discussed studies which indicated there was no need for a left turn lane. He discussed the recently painted red curb. He said that it was striped red to provide adequate room for the turning lane and the narrow bike lane. The bike lane was too narrow for safety. Busses often encroached the bike lane because of the narrow automobile lanes. Additionally the old bike lane was part of the backup safety area for some residents. Because the barriers were created for the left turn lane, residents north and south of Middlefield Road could no longer make left hand turns into or out of their driveways. He stated there was not adequate public notice or participation regarding the red zone. A concession was offered to shorten the red zone and install "No Parking" signs. He said the residents were requesting the immediate restriping of the street and the reversion back to four lanes with no turning lane permanent at the intersection.

Lynn Tashbook spoke regarding 3800 Middlefield Road. She stated she lived on Middlefield Road for 25 years. She said because of the red zone no one could park at her house. She resented the fact that residents were not notified about the changes and noted that they had always been notified of work in the past. Many schoolchildren used the bike path and due to the uneven line she was deeply concerned that someone would turn into an oncoming car or bus.

Charlene Liao spoke regarding 3800 Middlefield Road. She said that she lived on Middlefield Road. She requested the Council restore the Middlefield/Mayview intersection to its original configuration. She also wanted the transit shuttle stop on southbound Middlefield Road restored. The 2002 and 2008 traffic reports commissioned by the City stated that the amenities to the shuttle stop should have been improved.

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Wynn Grcich said that she was at the Basque Water Board meeting in March. She hoped that every citizen of Palo Alto asked former Mayor Peter Drekmeyer about the Tuolumne River Trust and how they wanted to punch a hole in the O'shannassy Dam and restore Hetch Hetchy. She said that would be on the ballot in November 2012 in San Francisco. She was concerned that breaking the dam would lead to a quagmire and increased mosquitos, which would in turn lead to the use of more pesticides. Also, the State was low on funds, so she was concerned about the loss of the power created by the dam. She said that they claimed people would drink from local reservoirs, but those were already contaminated with trihalomethane from the chloramine when it mixed with the recycled toilet water. She also discussed hydraulic fracking. The Food and Water Watch had a petition to ban it in California. She suggested everyone learn more about hydraulic fracking at gaslandthemovie.com.

Harold Davis spoke regarding the California Avenue lane reduction. He said that he managed the property at 240 N. California Street for Norridge Cleaners. He observed a lack of communications between the retailers and the City Staff. There seemed to be many questions that the City Staff either did not have answers to or refused to answer. For example, the Staff had not conducted any study which showed the impact of the time of construction on business receipts. He asked the City Council to review the problem and conduct a study of what it would look like by temporarily removing two lanes to see what the effect was.

Bill Herbert spoke regarding spoke regarding the California Avenue lane reduction. He stated that he was a property owner on California Avenue. Over 18 months prior, property owners requested the City do something about where trucks would park to unload because many of the businesses on California Avenue could not receive deliveries in the back. The Staff said they would bring the matter to Council. He said that 18 months later it had not shown up on any of the plans and he thought it was

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imperative that the City Council provide the property owners with an alternative of keeping California Avenue at four lanes rather than reducing it.

Bill Burress spoke regarding the California Avenue lane reduction. He said that over 75 percent of the merchants on California Avenue opposed the two lane reduction. He stated his business was open until 10:00 p.m. and almost every night Starbucks and other trucks pulled up and stopped. Also during that period he saw numerous emergency vehicles going to the residences at the end of California Avenue. He said that he never had anyone from the City Staff ask him what he thought of the lane reduction and he did not think many of the other merchants had been approached either. He thought if the City blocked off two lanes and conducted a study it would find that it was a mistake. He thought reducing the street to two lanes would reduce the parking ability of the customers, emergency vehicles, and trucks for the loading and unloading of goods.

Philippe Lehot spoke regarding the California Avenue lane reduction. He said that he represented several tenants at 405, 407, 409, 411, 415, and 417 California Avenue which were four retail stores and eight residential units. He was very displeased with City Staff's behavior in the matter. To the best of his knowledge 75-80 percent of the residents in Palo Alto Central were opposed to the reduction of the lanes, including his eight residential and four retail units.

Jessica Roth spoke regarding the California Avenue lane reduction. She requested Council reconsider the lane changes on California Avenue. She said that she was a long time merchant on the street and that she did not believe that the lane reduction was good for the business district. Recently over 40 merchants came together and stated their opposition to the lane reduction and current plan. They wanted improvements to their street and were willing to go through down time during construction, but only if it made California Avenue a nicer, more inviting area for

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their customers. She asked that the Council instruct the City to develop a better plan, an alternative that kept the four lanes.

Cathy Lee spoke regarding the California Avenue lane reduction. She said if the four lanes were reduced there would be many businesses that would be hurt. The Council should consider a trial period and a realistic traffic study that included nearby projects in the area. There were many merchants who did not want the reduction of the lanes. She said that four lanes worked well and everyone seemed to be happy with them.

Jack Morton spoke regarding the California Avenue lane reduction. The merchants published an ad in the previous Wednesday and Friday's newspaper trying to get the attention of City Council. He said it had been very difficult to deal with Staff. The merchants met with Planning Director Curtis Williams and they made clear to him that they did not support the project. Effectively all the merchants on California Avenue opposed the lane reduction. On Friday the City Attorney's Office called the formal settlement conference. The attorney for the merchants indicated that they did not have the authority to call a formal settlement conference because Council had not authorized it. Nonetheless, they met with Staff to try to work out in good faith what would be a way of resolving the lawsuits. He said that Terry Shuchat, Bob Davidson, and himself, all of whom were party to current suits before the City asked Staff first to have a realistic trial and second to redo the traffic study so that it took into account the unique nature of the California Avenue situation and did in fact look at the traffic on the street. He said that if the merchants lost, they lost their business. If the City conducted a trial it simply delayed the project a year. He thanked the Council for its time.

Mike Francois spoke regarding water fluoridation. He discussed Paul Connett, the CEO of Fluoride Action Network. Many cities nationwide had stopped fluoridation. He suggested they look up fluorideactionnetwork.org to see the map of all the cities that had

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stopped fluoridation. Mr. Connett was interested in any symptoms people had of fluoride such as discoloration of teeth and vomiting. He read a story out of a book entitled, "The Slow Poisoning of America," written by John and Michelle Erb which went with the "Dumbification of America" by George Soros. The story was about a three year old child named William who was given fluoride by a dental hygienist, ingested it and died.

CONSENT CALENDAR

MOTION: Council Member Shepherd moved, seconded by Mayor Yeh to move Agenda Item 13 to become Agenda Item No. 17A.

Council Member Holman voiced a no vote on Agenda Item No. 14.

City Manager, James Keene said that there was a question from Council on Agenda Item No. 8. He stated that he thought it was appropriate to add the language from the body of the Report into the formal recommendation that Council would adopt. The language read as follows, "in addition Staff will work with College Terrace residents to explore public/private partnerships or other means to landscape the traffic circles and bulb-outs." He explained that was part of the report and recommendations Staff made.

Doria Summa spoke regarding Agenda Item No. 8. She said that she was a resident of College Terrace and was also the City Observer for the College Terrace Residents Association Board of Directors. She was also a member of the Traffic Calming Committee from the beginning, which was almost 10 years ago. The process began for the traffic calming with a petition to City Council from 225 residents in 1999. After that Staff confirmed the need for the Traffic Calming Program. Stanford's General Use Permit conditions provided \$200,000 in funding and a new office building at the corner of California Avenue and Hanover Street. Council approved the project in 2004. Although the process was lengthy, it was productive and resulted in a reduction of vehicle

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speeds and volumes in the neighborhood and which was approved by the large majority of residents via the City's postcard ballot. The Board supported the Staff recommendation to make the program permanent with the understanding that every reasonable effort would be made to find a way to landscape the circles.

Fred Balin spoke regarding Agenda Item No. 8. He said that he was speaking on behalf of the College Terrace Residents Association Board (CTRA) in the capacity of Vice President. He discussed the traffic circle landscaping. The issue arose last year after the City informed their neighborhood advisory committee that traffic circles were no longer landscaped and that to make the temporary structures of the traffic calming trials permanent the circles would instead be filled in with concrete. Mr. Barker expressed their perspective in a letter to Council in July 2011; it was included on Page 157 as part of Section 8B. Landscaping was part of the original traffic calming plans as presented to residents. The budget was for five circles, of which only two were implemented. He noted that was a considerable cost savings. The aesthetics of the circles were important to residents, especially relevant as they were also markers between the commercial and residential areas of College Terrace. Most important, as was discussed at the Planning and Transportation Commission in October, landscaping of circles was an effective traffic calming measure and integral to the overall design. Residents were pleased to hear Staff state that they would pursue alternative funding options to improve the circles. The Planning and Transportation Commission also incorporated the search for alternative funding options together with a two year limit for Staff to return with its evaluation. He said that the College Terrace Residents Association Board Members and other residents were at the Council meeting to reaffirm their support of the in the road elements tested over two traffic calming trials and approved by 80 percent of responding households to the City's postcard vote.

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Joy Ogawa spoke regarding Agenda Item No. 8. She said that she decided to speak regarding one of the College Terrace traffic calming devices in order to help provide some legal basis for any future pedestrian or bicyclist who was injured in an accident at the Yale Street/College Avenue intersection. She said that she lived a few blocks from the Yale Street/College Avenue intersection and she crossed College Avenue at Yale Street as a pedestrian several times per week. She thought that the traffic circle was a hazard for pedestrians and bicyclists. Vehicles were so distracted by having to maneuver around the traffic circle that most drivers paid no attention to pedestrians attempting to cross the intersection. Additionally, vehicles, especially larger vehicles continued to avoid going around the circle as they were supposed to in order to make left turns. There was no enforcement by the City to prevent the absolutely illegal behavior so it continued and added another element of danger to pedestrians and bicyclists. She said that element of danger did not exist before the traffic circle was added to the intersection. She altered her normal course to walk a block out of her way in order to cross College Avenue at Williams Street so she could avoid the hazardous conditions created by the traffic circle at Yale Street and College Avenue. She did not expect the many bicyclists who use Yale Street as their route to and from Stanford would make a detour to cross College Avenue at Williams so she would not be surprised if a bicyclist was ran into at that intersection.

MOTION: Council Member Espinosa moved, seconded by Council Member Price to approve Agenda Item Nos. 5-12 and 14-17.

5. Approval of Utilities Enterprise Fund Contract with Ranger Pipelines Incorporated in an Amount of \$4,220,699 for Water Main Replacement Capital Improvement Program WS-09001 Project 23 and WS-10001 Project 24 in Crescent Park, Duveneck/St. Francis, Old Palo Alto, University Park, and Ventura Subdivisions.

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6. Approval of a Contract Modification for \$10,510 for Alta Planning and Design to Complete the Bicycle and Pedestrian Transportation Plan Update.
7. Approval of a Construction Contract with Republic Intelligent Transportation Services Inc. in the Amount of \$924,740 to Supply & Install New Energy Efficient Light Emitting Diode (LED) Street Lighting Luminaires.
8. Approval of Permanent Traffic Calming Plan for College Terrace Neighborhood.
9. Approval of Two Contract Amendments with Baker & Taylor to (1) Add \$300,000 for a Total Amount Not to Exceed \$1,250,000 for Additional Library Collection Materials and (2) Add \$100,000 for a Total Amount Not to Exceed \$189,000 for Additional Library Collection Services Associated with the Mitchell Park Library Opening.
10. Approval of a Contract with Vellutini Corp., dba Royal Electric, in the Amount of \$865,393 for the Replacement of an Electric Power Transformer at Hanover Substation.
11. Budget Amendment Ordinance 5149 entitled "Budget Amendment Ordinance of the Council of the City of Palo Alto in the Amount of \$179,000 to CIP Project PE-12011, Newell Road/San Francisquito Creek Bridge Replacement, Approval of a Contract with Nolte Associates, Inc. in the Amount of \$519,177 for Design Services for the Newell Road/San Francisquito Creek Bridge Replacement Project, Capital Improvement Program Project PE-12011, Approval of the Inclusion of Public Art in the Design and Construction of the Newell Road/San Francisquito Creek Replacement Bridge, and Approval of a Cost Share Agreement with the Santa Clara Valley Water District Providing for Contribution of Local Matching Funds for the Newell Road/San Francisquito Creek Replacement Bridge Project."

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12. Approval of Amendment No. 1 to Contract No. C11135684 with Pacific Technologies, Inc. to extend Term Through June 30, 2012.
- ~~13. Recommendation From Policy & Services to Approve Labor Guiding Principles.~~
14. Ordinance 5150 entitled "Ordinance of the Council of the City Of Palo Alto Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Located at 2080 Channing Avenue (Edgewood Plaza) from Planned Community (PC 1643) to PC Planned Community Zone (PC_) tor the Renovation of Three Existing Eichler Retail Structures, On-Site Relocation of One of the Retail Structures, Construction of Ten New Single-Family Homes, And Creation Of A 0.20 Acre Park." (First reading March 19, 2012 – Passed 8-1).
15. Approval of Amendment No. 1 in the Amount of \$31,460 to Contract No. C09129898 with Golder Associates, Inc. for a Total Contract Amount of \$150,460 for Development of Alternate LFG Flare Stack Design on Water Quality Control Plant Premises - Refuse Fund Capital Improvement Program Project RF-10002.
16. Request for Authorization to Increase Existing Contract with the Law Firm of Stubbs & Leone by an Additional \$200,000 For a Total Contract Not to Exceed Amount of \$385,000.
17. Submittal of Mitchell Park Library and Community Center Monthly Construction Contract Report and Council Direction to Staff to Continue Construction Contract Monthly Reports.

MOTION PASSED for Agenda Item Nos. 5-12 and 14-17: 8-0
Scharff absent

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MOTION PASSED for Agenda Item No. 14: 7-1 Holman no, Scharff absent

17a. (Former Agenda Item No. 13) Recommendation From Policy & Services to Approve Labor Guiding Principles.

Council Member Shepherd said the labor Guiding Principles were important and the Finance Committee did not have the opportunity to discuss. The minutes related to Guiding Principle Number 2, read "the City should be able to meet the costs of any compensation commitment from current and projected ongoing City revenues." She knew that they discussed the concept about not having to reduce services in order to be able to reach this, and she asked if there was any consideration of putting something to that effect into the principle.

City Manager, James Keene suggested she read Number 1 as a Guiding Principle in conjunction with Number 2. He said that stated that their essential purpose was driven by services provided to the public and the linkage of compensation ultimately to supporting that primary ability.

Council Member Shepherd confirmed that Mr. Keene felt that they did not need to reiterate that in Guiding Principle Number 2.

Mr. Keene said if and when the Council adopted the Guiding Principles as a whole her point would be achieved.

Council Member Shepherd said there were many things that could be read into with any compensation commitment with current and projected ongoing City revenues. She hoped they would not have to pit it against an item that they would have to collapse in order to afford a labor contract. She said that Guiding Principle Number 2 was not clear. On Guiding Principle Number 3, the timing of negotiations read "The City shall" and then there was a comment "to the maximum extent possible." She asked if there was a reason why they put "to the maximum extent possible

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reach an agreement on a successor Memorandum of Agreement” in the Guiding Principle. She understood they were trying to do that, and asked if that language was necessary.

Acting Assistant Director of Human Resources, Marci Scott said Guiding Principle Number 3 was discussed the most at the two committee meetings. They also had input from the labor groups expressing concern about the timeline. The Committee Members were very clear that the City’s intent was not to truncate negotiations in any manner, but to move timelines earlier if need be to ensure that there was enough time to reach agreement. She said that there were a variety of factors at play in a negotiation process and while they could not have a hard deadline, their goal was to make it as clear as possible that they wanted to commit to a period of negotiations and complete those negotiations prior to the expiration of the current contract.

Council Member Shepherd said the reason why she thought it was important was because Council did not know how to set the budget without an agreed upon Memorandum of Understanding (MOU). She said that they targeted certain goals when they set the budget but did not really know if they would be achieved. She asked if Staff considered tying the process into the budget process.

Ms. Scott said that the budget process was discussed. She explained that the City usually completed its projects on June 30th, which was the last day of the City’s fiscal year. The budget was a primary driver in the bargaining process. It guided Staff with respect to the items they needed to negotiate. She said the budget process began at the beginning of the calendar year creating a challenge for the negotiation process. One of the largest concerns with Guiding Principle Number 3 was that they did not want to extend past the contract expiration date. Lately they were in a concessionary environment and negotiated changes had not gone into effect until well after the contract expiration. Their goal was to complete all the terms and have

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them take effect immediately following the expiration of the contract. She said that Staff did discuss the budget, but the key was not to have lengthy negotiation processes that kept the City in limbo for long periods of time and negatively impacted the budget process.

Council Member Shepherd said that she possibly had three or four words to add to the language, but would continue her questions first. Regarding total compensation, Guiding Principle Number 4 said "in making compensation decisions the City shall consider the total cost of position including salary, pension, all other benefits and shall communicate such information to all employees, Labor, and the public." She knew that it was difficult to determine the fact that even though the City had frozen salaries with its current active MOU's, they had a huge spike in obligations for health care benefits. At the beginning of the budget year they were provided a formula for how much benefits would increase throughout the entire system. She wanted the language that the City gave to the employees to be simple, understandable, and translatable to the way it would be in the private sector. She knew that sometimes the salaries and benefits also had other meaningful things such as sick days and vacation. She asked if they would put that package together to explain the total compensation or if it would just be benefits and base salary.

Ms. Scott agreed there were different ways to look at the different pieces that went into an employee's cost. The focus was on the salary and salary related benefit costs. Staff also worked on educating employees regarding what the City contributed and what the employees contributed toward the costs. Lately they started looking at the various leave categories and how those compared to the market. She stated that they were currently completing that analysis and it was an important factor that would be discussed in the future.

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Council Member Shepherd said in the private sector employees could not always cash out their unpaid benefits and that should be recognized. Then they could clearly articulate exactly how it looked and what non-typical benefits public employees had in their employment package. Her biggest problem was not understanding the differences and recognizing them so they could be explained to the community. She said those comments flowed through to Guiding Principles Number 7 and Number 8. With Guiding Principle Number 6, recruitment and retention, she had heard from some members of Labor management that they wanted to see an ability to improve their job and grow with the job instead of someone coming out of retirement and taking the job. They felt that was not conducive to a good working environment. She asked if that was what Guiding Principle Number 6 was trying to capture.

Ms. Scott said yes.

Mayor Yeh said that he wanted to check in about the potential language changes. He said that if there was an interest to review it in greater depth it made sense to refer the Guiding Principles to the Finance Committee. He was unsure if it was time sensitive that the Guiding Principles had to be passed at that evening's meeting. He said that it sounded like there were additional edits that Council Member Shepherd was interested in.

Council Member Shepherd said she had one edit. She said that she wanted to tie it to the budget process as opposed to how the language stood, which she felt was vague. She said that if Mayor Yeh wanted to send the Guiding Principles through Finance she was fine with that.

Mr. Keene said that if they were close to the end it was advantageous for Council to formally adopt the Guiding Principles as soon as possible. He preferred they adopt them that evening. The adoption did not preclude them from returning to the Guiding Principles and modifying them if desired.

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Mayor Yeh said that it sounded as though Council Member Shepherd was near the end of her list and asked if she had potential language suggestions.

MOTION: Council Member Shepherd moved, seconded by Council Member XXX to change the first part of Labor Guiding Principle No. 3 to: Because of budgetary needs, the City shall, reach agreement on the successor MOA with recognized employee organizations on matters within the scope of representation prior to expiration of their existing MOA. The City will work with employee groups to set an appropriate starting time for negotiations.

MOTION FAILED DUE TO LACK OF A SECOND

MOTION: Council Member Schmid moved, seconded by Council Member Holman to adopt the Labor Guiding Principles recommended by the Policy and Services Committee.

Council Member Schmid said that he thought the discussion was helpful and that he strongly endorsed moving forward with the Guiding Principles so that they were ready and available as the City moved into the budget year.

Council Member Holman said she was happy to have the Guiding Principles framed and adopted. She thought it was good to have a framework for discussions and the Guiding Principles provided that framework for the City and the Labor groups.

Mayor Yeh said he appreciated Council Member Shepherd's raising the issue. He said that this was a significant document as the City embarked on the next round of negotiations. He appreciated all the work the Policy and Services Committee did.

MOTION PASSED: 8-0 Scharff absent

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AGENDA CHANGES, ADDITIONS, AND DELETIONS

MOTION: Council Member Klein moved, seconded by Council Member Holman to move Agenda Item No. 19 forward to be heard before Agenda Item No. 18.

Council Member Klein said that it was obvious that they had more people present for Agenda Item No. 19 and that it should be moved in consideration of those people.

MOTION PASSED: 8-0 Scharff absent

ACTION ITEMS

19. PUBLIC HEARING: Approval of Site and Design Review Application and a Record of Land Use Action for a change in Use from Office to a Day Care Center at 2585 East Bayshore Road. * Quasi-Judicial.

Mayor Yeh noted that Mark Michael of the Planning and Transportation Commission (PTC) was in attendance. He disclosed that he met with the Applicant and visited the site. He also had several telephone calls with the Applicant, but all the information that was shared with him was available and in the public record.

Planning and Community Environment Department Planner, Amy French said the PTC voted 6-0 in support of the site and design review application to create a daycare center for 117 children within the existing building and associated site modifications. The daycare center was a permitted use within the Research, Office, and Limited Manufacturing District (ROLM). The site modifications involved the use of existing asphalt areas at the rear and side of the building as two fenced play areas. She said that Staff was prepared to answer any questions beyond those raised by Council Member Holman, which were answered via e-mail and at places. She noted that Page 630 of the Staff Report

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reflected the Emergency Preparedness Plan condition added during the PTC review. The Emergency Preparedness Plan also appeared in the Architectural Review Board (ARB) Staff Report as well. She said the condition would be added back into the final Record of Land Use Action reflecting Council action. Staff, the ARB, and the PTC were confident that traffic circulation and parking were sufficient for the project and that the project would not have an adverse impact on the environment.

Mark Michael, Planning and Transportation Commissioner said the Staff Report was comprehensive and accurate in all respects. The issues that received the most attention from the PTC were the traffic and safety issues. He said that the verbatim minutes of the PTC were included with the Staff Report and that Council could see the numerous questions asked by the PTC regarding the issues presented by the neighboring property owners who had commissioned a traffic study. That study was compared to the Applicant's study. He said that Jaime Rodriguez confirmed the Staff evaluation of those issues, which led to the PTC voting unanimously to support the proposal. The intended use of the site was permitted. The PTC reviewed neighbors' concerns at great length and balanced them with the Comprehensive Plan objectives which were all satisfied. He reiterated that the PTC unanimously voted to bring the project to the Council.

Kevin Jones, Applicant said he was with Kenneth Rodrigues & Partners Architects. He gave an overview of the project located on East Bayshore Road. To the left and right of the project were two existing office buildings, the Baylands were behind it and Freeway 101 was in front. The proposal was to provide for the Mustard Seed Center. There were no proposed revisions to the façade of the building. There were changes to the back which allowed for outdoor play areas. He said that it was largely a use modification. The proposed zoning ROLM zone allowed for licensed childcare use. The building was about 15,000 square feet and would provide service to about 117 children. He said it was a licensed daycare facility with the Department of Social

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Services. The current site was equipped with 44 parking stalls of which 18 at the rear would be modified to allow for outdoor play and activity areas. He said that modification was listed in Council's packet. Traffic and access to the site would be discussed in more detail later in the evening. There was a shared driveway to the right with the adjacent property owner and then a single driveway to the left which was on the Applicant's site. He showed a diagram which indicated the proposed play areas along the back and left side of the project. He said that there were minor exterior changes. They were adding a new trash enclosure as required by the ARB. There was also additional fencing for the play area and accessible ramps and parking features.

Council Member Burt asked Staff if the Applicant was a licensed daycare center.

Director of Planning and Community Environment, Curtis Williams said that he could not speak to what they were currently, but as a condition of approval of the project they were required to be licensed by the Department of Social Services.

Council Member Schmid said it was an exciting proposal, but he had a contextual question for Staff. He noted that of the City's ROLM district in that part of town that there were at least four buildings on West Bayshore that had been transformed from Research and Development (RND) into educational service organizations. He thought there were three now on East Bayshore. He said that was the beginning of a transformation of what was once an RND district into something else. That had impacts for how the City thought about economic development. He asked if Staff had any comments on the general context of change that was taking place.

Mr. Williams said that the East Meadow/West Bayshore Concept Plan indicated that in part of the area a conditional use permit for daycare would be required, and in some areas daycare would be

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prohibited because they wanted to preserve the nucleus of the commercial and RND businesses. He said that was not the case currently on the east side of the freeway, particularly in the project's location. There were four buildings with significant open space. There has not been a close review of what the general contextual changes would look like. Future discussions regarding the Municipal Service Center (MSC) would determine the direction that would take. He said that it was a permitted use that did not require a conditional use permit but did require the site and design review allowing Council to have the discussion.

Mayor Yeh asked if the shared driveway with the neighboring parcel was under the purview of the City.

Mr. Williams said the City's purview was to be sure that driveway operated and functioned adequately for the project as proposed in conjunction with the neighboring building. Staff believed that it did. He said that the easement and the rights between the property owners were private matters. There were claims about potentially overburdening the easement, which was a legal term that the City could not weigh in on but they understood that the argument was out there.

Mr. Yeh said that if the project was approved that it was the start of a new neighbor relationship. He said that Mustard Seed would have two adjacent neighbors. He asked what Mustard Seed planned in terms of relationship management as neighbor relations were important for the long term. He asked the applicant how Mustard Seed had approached the neighbors in order to discuss the use of the easement and the flow of traffic and how they intended to continue the relationship going forward.

Mr. Jones said the flow of traffic and being a good neighbor were important to the Applicant and Mustard Seed. Over the course of the past year they worked very hard to explore the concerns. That was part of the reason the process had been somewhat lengthy. They worked closely with Engineering and Public Works

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and looked at analogous situations in terms of traffic to get a better understanding of the traffic flow. They wanted to be a good neighbor and understood the concerns about the shared driveway. If the traffic became a problem, Mustard Seed would establish a monitoring system in which the school would monitor traffic moving in and out, notify the people inside that parents had arrived for pick up and expedite any problems. Mustard Seed wanted to be a good neighbor, serve the Palo Alto community diligently, and continue to be supportive of the families and the neighbors' concerns. He said that they continued to look for a dialogue of open discussion.

Council Member Holman asked Staff if there were traffic backups and if Staff would evaluate alternatives on how to address those backups. She reviewed the PTC minutes and saw the discussion about circulation of flow and entrances and exits. She did not see a discussion about staggered hours pick up. If Mustard Seed closed at 6:00 p.m. she saw a potential for traffic backups.

Mr. Williams replied the plan was to have a three hour window of pickup from 3:00 to 6:00 p.m. which should be adequate to avoid backup. He did not know if there was a reason that they could not have it included as a condition. He thought they tried to but as it was not a conditional use permit it was treated differently. It was a site and design review where they looked at the design. Council could put a review in that essentially gave them the discretion to evaluate periodically and return to the Applicant to work on staggering schedules if Staff perceived that there was a problem. He thought it was fine without that and noted that the PTC did not impose that restriction.

Council Member Holman said that while the school had a pick up period of 3:00 to 6:00 p.m., when parents came was dictated by work schedules. She said that the timeframe did allow flexibility and opportunity.

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Mr. Williams said Staff saw no harm in it. Again, they based much of it on the operational characteristics of the existing school and of some schools that had a similar type of combination daycare/after school programs. He said it was at the Council's discretion.

Mayor Yeh opened the Public hearing at 8:50 P.M. He stated that each speaker received three minutes.

Yanhong Lin said her daughter Emma was nine years old and they went through almost all of the Chinese afternoon schools before they found Mustard Seed. She was concerned about the current location of Mustard Seed as the lot was small and crowded. One thing that impressed her about Mustard Seed was the foundation of the teachers and directors and what they taught the children. They taught kindness, politeness and how to do the right thing. In addition to learning Chinese, her daughter started journaling, which was something she previously could not get her daughter to do. She said many other parents thought the school was great.

Lisa Jiang said she was the parent of a fourth grade student at Juana Briones Elementary School. Last year she was the Executive VP of the Juana Briones PTA. Ever since kindergarten her daughter Amy attended Mustard Seed for after school care. Over the last five years Mustard Seed became a part of their family. She noticed that was true for many other families whose children went to Mustard Seed. She said that over the past five years her daughter learned Chinese culture, emotionally matured, and became a good helper for the younger students. Mustard Seed provided a caring, nurturing, learning environment and had always been encouraging. Most importantly, Mustard Seed was good at character building. Mustard Seed's principal, teachers, and staff always kept the best interests of the students at heart. In the last five years Mustard Seed grew as many students and families were drawn there because of the excellent staff and

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teachers. She said the new building would help Mustard Seed to grow.

Allison Lee said that she was in first grade at Hoover Elementary School. She said that she liked Mustard Seed because it helped her learn Chinese words, journal, do homework, and math. She said they needed to move to the new building because they did not have enough space.

Amelia Mau said that she went to Mustard Seed since second grade. It taught her to be responsible, helped her with homework, and kept her on task which she needed. She said it was crowded with so many people joining and that the new building would help them.

Alan Huang said that he was a seventh grader at Jordan Middle School. He went to Mustard Seed for about six years. During that time he learned many things, not only academic, but also social and life skills. He thought he learned more about those things at Mustard Seed than in normal school. It helped him through his life. He said that his younger brother currently attended Mustard Seed and when he visited his brother he thought the building was crowded. He knew a larger building would help the students.

David Ng said he was a 13 year resident of Palo Alto. He said that his daughter was in first grade and attended Juana Briones and Mustard Seed. He thought it was essential that the Council approve the measure to proceed with the use on East Bayshore as Mustard Seed had outgrown its current site on Emerson. The new site had more capabilities and opportunities for Mustard Seed. Mustard Seed grew dramatically and needed the new facility. He said that having the facility on the other side of East Bayshore would make things better from a site usage and traffic standpoint as it was easier to get in and out at the new site. He said it was important for parents to have the new facility.

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Spencer Lin and Timothy Hung said that they loved Mustard Seed. They wanted to move because they needed more space.

Greg Klinsporn, Attorney at Mitchell, Hertzog and Klingsporn said he spoke on behalf of the Applicant. He previously spoke to the PTC and submitted a letter in support. Additionally, he wanted to add that both the tenants and the building owner were committed to being good neighbors. He thought Staff had worked hard to identify any potential issues and had not really found any, but if issues arose he believed that they could be worked out in a neighborly fashion. If they could not then perhaps there would be some further controversy down the road, but he did not expect that given the data and facts in the record so far.

Kyle Edwards said his daughter Emma was in first grade at Walter Hayes and went to Mustard Seed. Both of his children previously attended Heads Up which was in the same space currently occupied by Mustard Seed. They moved three months ago but were unable to find a home in Palo Alto due to the short inventory. This was unfortunate because Mustard Seed picked up from Palo Alto schools and was such an important place for his daughter. His son would attend Mustard Seed also next year. For their family Mustard Seed was very valuable. It was also vital to Palo Alto. He supported the new facility and the space it provided.

Kathy Edholm said she was a proud Mustard Seed parent as her son transferred to Mustard Seed the previous year. Her family was very happy with Mustard Seed and supported the new facility. She said that another use of the building could have been a Safeway store, which would have up to 2,000 cars a day, or they could have used it as an office building. She knew that similar size office buildings on Embarcadero had at least 200 full time employees which meant there were over 150 cars onsite full time. She did not understand why people worried about 117 children given the other options. She requested the Council approve the project.

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Edwina Cioffi said she was an adjacent property owner. Public Resources Code 2100 said that California Environmental Quality Act (CEQA) applied to permits for child care centers. There was an emergency plan that was asked to be in place; however, Mustard Seed was supposed to have the plan, not only review the plan which she found problematic. She said that there were 14 site conditions that were approved by the Board of Education under which Mustard Seed now was licensed. She said that the site failed 13 out of 14 requirements. She said that child care facilities handbook stated that CEQA was required. One objection the neighbors had was that the site was within a quarter mile of an airport. She said that a helicopter went down behind the facility only three weeks prior to the meeting. The facility was also in proximity to high voltage power transmission lines. The electromagnetic field testing showed that it was extremely high. Many studies showed that there was a 70% increase in child leukemia for children that were in premises with that high of EMF radiation readings. Toxic and hazardous substances were present because a quarter of a mile away was a 100 year old dump. There was also a 25 acre sewage treatment plant that had previously objected to childhood facilities in the area. There was only access to two sides of the building which created a fire hazard. There had been two spontaneous fires at the dump. There were also high pressure water pipes to Palo Alto underground in front of the building. She said that according to the guidelines facilities were supposed to be 1,500 to 2,500 feet away from a major roadway in case tanker trucks had an accident.

Mayor Yeh explained to Ms. Cioffi that further remarks could be submitted to the City Clerk for public record.

Yates McKenzie said he was with the property owner next door to the proposed daycare center site. He said they had the shared driveway with the proposed daycare center. They were not necessarily opposed to the daycare center use. He thought they

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had a great operation but was concerned about the intensity of the use. Their traffic consultant reviewed the Mustard Seed traffic consultant's report and had very strong concerns about the amount of traffic the school would generate on its site and on the shared driveway. If the school was approved at 117 students and the resulting traffic impacted his property as their traffic consultant expressed they were left with very few options. At that point all they could do was pursue some type of civil lawsuit against the property owner for overburdening the easement or restrict access to the parking alongside the building. They much preferred that the City Council limit the number of students that could be served at the daycare center or give them the ability to discuss with Planning about reducing traffic at some point in the future.

Ronald Cioffi asked Council to consider the information presented by Ms. Cioffi. He said that it was important they consider the safety of the children. The proposed location was not appropriate. He said that the area needed to be closely looked at over a long period of time in terms of what it was originally designed to support, which was industrial manufacturing. He said that the City of Palo Alto probably only had one warehouse left. He asked the Council not to push out the businesses that supported the community. His real concern was the issue of the children's safety.

Mayor Yeh closed the Public hearing at 9:13 p.m. He said that the Applicant had three minutes to respond to the comments made by the public.

Mr. Jones said he had no further comments, but thanked the families that came to support Mustard Seed. He said that Council could see the commitment and love the community had for the facility and he hoped that they would support the project.

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Council Member Burt asked if the Staff or the City Attorney wanted to address any of the issues raised about environmental process or risk.

Mr. Williams said Council was provided with a response and he noted that the use was a permitted use in the zoning district. He said it was not a conditional use, but there was the site and design review available. That was the criterion that was the basis of Council's decision. He said that it was not a school and was not subject to the State Department of Education requirements for schools where there was occupancy all day long. As previously mentioned it did require licensing by the State Department of Social Services. He said that there was a condition of approval that required the license be presented before occupancy of the building. Staff knew that many similar types of requirements were looked at by the Department of Social Services and Licensing of daycare facilities. Staff had discussions with them and was comfortable that the project was on a viable site. He did not know if the State agencies would impose additional conditions, but there did not appear to be significant obstacles to approval. The site was not close to any substantial toxic materials or storage. It was outside the various influence zones of the airport and was for the most part adjacent to the Baylands open space and parkland. He said that it was somewhat isolated from some of the more intense industrial uses east of the freeway. Some of the hazards that had been mentioned were equally applicable to the people who used the Baylands Park facilities or golf course. The improvements being made were limited to interior tenant improvements and very minor landscape and parking changes. He said that Staff believed CEQA exempted such use from analysis. He said that CEQA did not say that daycare center needed to have environmental review. In this case they believed that it fell into the exemption for the reuse of an existing building. They did not see significant changes to the environment caused by the facility which was what CEQA required. The Fire Department reviewed the site and determined that no environmental phase one report

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was necessary because they had knowledge of the history of the site and area and felt that was not necessary. The Transportation Division looked at the circulation issues and traffic issues and did not require a traffic study given the volume of traffic that would be generated. They did look at the circulation interior and ensured parking and circulation was adequate to prevent backups onto Bayshore Road or conflicts with the neighboring property.

Council Member Burt asked Mr. Williams to speak to the power line adjacency and the airport.

Mr. Williams said the airport was not within the primary zones where there was concern. He assumed the power lines were included in the review that the Department of Social Services would do. He said that they did not analyze that separately, but that Mustard Seed was currently next to high voltage power lines on the other side of the freeway. He said the City did not have process or standards for review of that. There were not specific techniques or impacts associated which the City relied on for that kind of review. The primary impact CEQA had the City review was whether the site use impacted something off site as opposed to the reverse. He thought the State would look at it with respect to the licensing, but Staff did not look at it.

Council Member Shepherd said she saw there was parking along the side wall. There was an easement for cars to swing in and out. She asked if there was a concern about there being an elimination of the easement. She was confused because there was a little bit of merged parking. There was a merged entrance and then between the buildings it was narrow. There was parking for daycare, but maybe not for the office building next door. She asked if the office building was properly parked or if the two sites shared spaces.

Mr. Williams said he understood that they did not share the spaces alongside the building. Those spaces were specifically for the daycare and in this case primarily used by the daycare staff.

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He said that there was adequate width in the driveway to accommodate people pulling into the spaces and for through traffic on the driveway. Under the previous office configuration use there was more traffic driving through to the back. With the proposed configuration, other than the staff parking, traffic would turn in front of the daycare which resulted in a reduced number of trips on the driveway to the rear of the building. He said the daycare facility would not be able to use the parking spots on the neighbor's property.

Council Member Shepherd said she had just wanted clarification that there was nothing mingled.

Mr. Williams said it seemed to the Staff that there would be no mingling. He said the neighbor had certain legal rights, but they did not know how far those rights extended. He said they could take action in the future but it would seem to be counterproductive to block off the parking spaces because they helped alleviate parking on the site.

MOTION: Council Member Price moved, seconded by Council Member Schmid to: 1) approve the Record of Land Use Action approving a Site and Design review to allow a change in use from office to day care center as well as other associated site improvements at 2585 East Bayshore Road.

Council Member Price said it was clear that they needed quality childcare in Palo Alto and she appreciated the public comments. She was comfortable with the quality of the analysis and the discussion in the Staff Report. She was also comfortable with the traffic, parking, and circulation studies conducted. She thought many of the issues were addressed that evening.

Council Member Schmid said he enthusiastically supported the needed community facility and thanked the people who came out and supported it.

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AMENDMENT: Council Member Holman moved, seconded by Council Member Price that should Staff determine traffic backups occur, Staff is to evaluate the situation and work with the Applicant to explore solutions such as staggered pickup schedules.

Mayor Yeh said one of the members of the public commented on the overhead electric lines. He asked to what extent the corridor and the neighbors could work together to petition or work with the City to underground the overhead lines.

Mr. Williams said Ms. French indicated that the lines were Pacific Gas and Electric (PG&E) lines and were high voltage so that was quite a challenge. He said they could ask Utilities, but he was not hopeful.

Council Member Klein said that he did not understand what authority the City had under the last portion of the Amendment. He asked what happened if the Applicant did not agree.

Mr. Williams said he did not know if the City had the same authority under site and design as it did with a conditional use permit.

Council Member Klein said that was the intent of his question as this was not a conditional use permit.

Mr. Williams said yes.

Council Member Holman did not think that whether it was a conditional use permit or not dictated what the conditions of approval were. She said that there could be conditions of approval on all manner of projects. She was not clear why the City would not have the authority to implement something such as the Amendment. What motivated the Amendment was the concern that while the PTC did not find a traffic impact they found

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that there was a potential for the backup. She wanted to address that in advance.

Mr. Williams said they generally had that kind of condition with a use permit or with a Planned Community (PC). If the Applicant was not in compliance he did not know that the City would have authority other than to say the Applicant was somehow violating the permit and suspending the use. He said that it was much greyer than a use permit where the City clearly had that authority in the code to review, return it to the PTC or the Council, or PC's where they had very specific explicit direction under the use provisions. He said that he had no objection to having the language there and trying to work with the Applicant if it came up, but he did not know that it was fully enforceable.

Council Member Holman said that perhaps what was appropriate was a change of the language. She asked if Staff felt if instead of "cause to be implemented" if "work with the Applicant to find solutions such as" was more appropriate.

Mr. Williams said he was comfortable with the language either way; it was just a matter of how enforceable it ultimately would be. He suggested asking the Applicant if they saw problems with the language. It made sense to him that they could talk to the Applicant about doing it, they could talk about whether there was a condition or not, and he suspected they would if there were backups. He said that it did not hurt to have the language.

Council Member Holman said it was a failsafe because the Applicant indicated that they wanted to be a good neighbor. This was a way for the City to help ensure that.

Council Member Schmid said he heard the Applicant outline a way of monitoring pick up times. The Applicant said they were traditionally spread out over time and that there would be a staff member outside monitoring and keeping track of it and making

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suggestions. He thought the “working with” worked very well with what the Applicant had stated.

Council Member Price said that what she sought from Staff was a mechanism that ensured the intent of the language. She said the question was if there was another mechanism that would result in the same outcome.

Mayor Yeh said he understood Council Member Price’s question that regardless of how it was handled procedurally that it still remained a necessary clarification.

Mr. Williams said that he did not see a better way to do it unless Council required the Applicant to set forth a staggered schedule to avoid any potential backup.

Council Member Klein was concerned about the language for several reasons. First, he thought that the Council should stay within its rules and he knew that the City Attorney was looking at the issue so he was awaiting her legal opinion. He saw a difference between a conditional use permit and a site and design review. Second, he felt that good neighbors went both ways. He was concerned that if Council used the initially proposed language it would perhaps give the adjacent property owners a weapon to use against the Applicant. Council might end up rehearing the matter when a neighbor said that there was a traffic backup. He asked what a traffic backup was and how often it had to occur to be a problem. He thought the Applicant deserved finality because it was just a site and design. He said that it was not just if the Applicant would be a good neighbor; it was if the neighbors would be good neighbors. He felt it was not just a trivial language question, but a question of how the City would proceed and what was really meant by site and design control.

Council Member Espinosa had similar concerns. He understood where Council Member Holman was going with the language, but was not sure if the City had the ability to enforce it. The word he

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was concerned with was “find,” he thought “explore” solutions was better. He said that “find” stated a requirement which could be used as a tool if neighbors returned with concerns.

Council Member Shepherd wanted to associate her comments with Council Member Klein. She wanted to know how it could be enforceable, how the City could get involved and craft solutions when the two working buildings should be able to figure out the problem and make their own accommodations. She understood that families were desperate for childcare and afterschool care. She said making those types of considerations between neighbors was in her opinion the best avenue for them to work the difficulties through if there were difficulties. She thought the site was a nice area for a daycare center because it was next to the Baylands. She said that she would not support the Amendment because it was unwise for the City to be involved in that kind of deliberation.

Council Member Holman stated there were several good suggestions that would amend the Amendment. One was incorporating Council Member Espinosa’s word which was to “explore” solutions. The other was that Staff was to evaluate the situation. With respect to Council Member Shepherd’s comments she said the reason that there were conditions of approval on any project was that while the City trusted people’s intentions it was responsible for helping to facilitate neighborliness.

Mayor Yeh said he would not support the Amendment. He understood the intentions and heard the comments, but he heard Staff’s remarks that there was not much purview for the City in that area. He did not feel it was wise to create an intervention. He did not know what the trigger would be for Staff. He assumed that it might be at the request of one of the neighbors and he did not like the rule that the City would have to supervise. He said it was a private matter between neighbors and he thought everyone heard the importance and desire for there to be good relationships between the neighbors. It was an ongoing effort

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that he hoped parents would be aware of as well as the existing neighbors.

AMENDMENT PASSED: 5-3 Klein, Shepherd, Yeh no, Scharff absent

Council Member Burt thought the daycare center was a use that met a community need and generally was in a location appropriate for the use. He was concerned about the high voltage power lines being almost immediately adjacent to the daycare grounds with small biologically susceptible children as environmental impacts were greater on children. He heard they did not have an answer regarding if there were any existing State regulations that addressed the high voltage wires. If there were State regulations or guidelines that recommended it, they did not know if the City's zoning was aligned with the regulations. He knew there were issues being dealt with in other areas of the City where they had zoning that existed at a prior time and use or uses that today were recognized as inappropriate. He asked how the City should deal with that and what would happen if subsequent to that evening they found out that there were guidelines that said it was not healthy to have a childcare center immediately under high voltage lines with fairly high EMF emissions. He also asked what would happen if at a future time there were new guidelines or regulations. He asked what the City would do in either of those circumstances.

Mr. Williams said Staff could look into what the guidelines were if there were any. He assumed that there were no guidelines because they recently had schools and daycares located proximate to the site that were licensed. Staff would check to be sure and report back to the Council if anything was missed. As to the rules changing in the future, he did not know what authority the City had at that point to change something or whether the potential that something like that could happen warranted not moving forward with the project in the present. He said that it

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sounded like something the City should become more aware of in terms of zoning.

Council Member Burt asked if at a subsequent time there were new recommendations that a daycare center was not an appropriate use if the use would be grandfathered in.

Mr. Williams said he thought it probably would be grandfathered in, but yielded to the City Attorney regarding if they could have a condition that informed them that if the regulations changed there was some period of time.

Council Member Burt said that he would not, but could cite numerous zoning changes that arose from the recognition of hazards that were historically thought to be acceptable and no longer were acceptable. He said that the City had incompatible uses as a result. He thought the Council Members needed to ask themselves what happened if at a subsequent time there was such a regulation or a guideline. He asked for the City Attorney's comments.

City Attorney, Molly Stump said that high voltage power lines crossed the State and existed in a variety of communities that were well built out. Presumably the issue would be faced in many communities if the concern developed in the future. She said that Council Member Burt was correct to point out that standards and understanding of science changed and it was difficult to know when or where changes might occur. She thought Planning Director William's comment was interesting. She asked if Council wanted to suggest or try to anticipate that this could be one such area. She did not know what it meant for the Applicant in terms of its pursuing the site, given the level of uncertainty that was a condition that the City wanted to place as a local land use matter contingent on some unknown future action taken by the County, State, or Federal government. She said one would anticipate that without some type of condition like that then the City would be in

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the position of other communities if there were a change in the standards in the future.

Council Member Burt said he expected that if there was a change then the lowest threshold would be young children as they were the most susceptible to a variety of impacts. He said it was not merely a case of thousands of miles of high voltage lines in the State, but the number of locations where there may very well be schools or daycare centers in close proximity to the lines. He said that Palo Alto would not be alone, but he would not expect that it would be immediately a universal issue that would affect everyone. It would probably be the lowest threshold. He said he was searching for a way in which if there was a new standard that they would not face the dilemma of not being able to protect the safety of vulnerable constituents even if the City would not have the enthusiastic cooperation of the user.

Ms. Stump said she understood the concern, but thought that although daycare was a very valuable and scarce resource there was also a market force at play. If something was deemed dangerous, both the parents and the provider needed to decide where they wanted to continue to locate there.

Mayor Yeh said that was a separate discussion from the particular project because there were multiple sites impacted by high voltage. He felt it was a valid issue to be raised in particular because of the potential uses for the sites long term. He thought there was some type of disclosure or something to be done at the local level. It was not lost on him that the neighbors had measured the EMF. He said whether or not they did it in response to the application or so they could disclose it to their own employees did not matter; he thought it was something that was worthwhile to consider in the long term within the City of Palo Alto.

MOTION AS AMENDED PASSED: 8-0 Scharff absent

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The City Council took a break from 9:52 P.M. until 10:00 P.M.

18. Recommendation that Council Adopt the Draft Cubberley Guiding Principles, Confirm the City Manager's Appointments to the Community Advisory Committee (CAC) and Review the Conceptual Site Plans Prepared Jointly by the Staff of the Palo Alto Unified School District (PAUSD) and City of Palo Alto.

City Manager, James Keene said Staff was not requesting the Council's confirmation of the appointments, but just receiving the appointments. Council directed the CAC be set up as a City Manager appointment process so that it could be guided but not bound by the Brown Act.

Deputy City Manager, Steve Emslie said Staff was present to follow up on the process Council established in late 2011 engaging the public, the Palo Alto Unified School District (PAUSD), and its own legislative bodies to prepare for the Cubberley lease which was set to expire at the end of 2014. He recapped that the Council set up two committees. The first was the Cubberley Advisory Committee (CAC), for which Staff prepared a list of members that would be engaged in the citizen's advisory role. The second committee, the Cubberley Policy Advisory Committee (CPAC), was comprised of PAUSD and Council Members. The CPAC members were Council Members Shepherd and Klein, Mayor Yeh, and Board Members Barbara Mitchell and Camille Townsend. It was anticipated that the CAC would begin meeting in May 2012 and then the CPAC would begin meeting in June or early July. The complete work of the CAC was anticipated to last nine months to one year. The timing would enable the full Council to receive the input of the CAC prior to any discussions with PAUSD on the possibilities of renewing or changing the lease terms. The lease was set to expire at the end of 2014, but both Council and PAUSD agreed to use a deadline of one year prior to the culmination of the lease. The CAC input phase would be completed prior to that one year mark, leaving

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most of 2013 to engage in specific negotiations with PAUSD. That left a full year before the expiration of the lease for ease of adaptability in case there were budgetary or policy changes resulting from the renewed lease. He reminded Council that to the extent possible the Brown Act was adhered to. All meetings of the CAC were open to the public and the public would receive a chance to comment and be provided access to materials, much like how Council held open public meetings. At Council's direction the draft Guiding Principles were prepared. The Guiding Principles were intended to reinforce transparency as discussed by Council in its fall 2011 meetings. He said that because it was a Staff appointed committee, it was not subject to the Brown Act chapter and verse, but to the extent possible it was adhered to with respect to the public aspects.

Mr. Keene added that he thought the main purpose was for Staff to bring the Guiding Principles to Council because that was a specific request made by the Council as a prelude to embarking on the CAC meeting. He said almost a year prior they were considering Foothill and its request to locate at the Cubberley site. There was much concern and interest by various groups and stakeholders in the community. Staff worked with PAUSD and the Superintendent to begin sharing data and information about population and school projections. He said that Mr. Emslie would show that the preliminary site planning was all designed to be draft concepts. They were sharing the draft concepts with the Council because Council had requested Staff return with the Guiding Policies and Principles. He said that Staff had envisioned the Guiding Policies and Principles as resource documents for the CAC. They took the different perspectives and how much acreage they had and reviewed what could be accommodated. That was the start of having the building blocks which enabled them to deliver meaningful options for a future vision. He felt that was important because of the work the City was doing following up with the Infrastructure Blue Ribbon Commission (IBRC) recommendations; Council specifically put the question of Cubberley and its infrastructure needs aside. The IBRC made

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some recommendations related to funding, but those were not included. The process unfolded the way it was designed and they had the potential for a defined vision for the future of Cubberley. That allowed the Council to align those needs better with the existing infrastructure recommendations. It was considerably better for the City to know the demands on Cubberley and what the possibilities were. Staff wanted to share with Council where it was to that point, but they were not bringing any of the concepts to the Council as anything more than points.

Mr. Emslie said that everyone was familiar with the site; it was the primary Cubberley campus. The property recently acquired by PAUSD, 525 San Antonio, was located with frontage on San Antonio. It abutted the Greendale School site, which while adjacent to the Cubberley campus was not part of the lease area. The 8 acres the City acquired through a purchase agreement with PAUSD approximately 15 years prior was in the northerly section of the site. He said there was a current run down of the square footages and the existing space compared to what could be done in a revised program, the master plan program, which was the vision document that City Manager Keene described. He thought one of the lessons learned from the Cubberley Foothill discussions in 2011 was that there were certain assumptions about what could be there and that PAUSD could not expand their facilities in a way that led to the exclusion of the community uses on the site. Staff found that there would be issues with how things were arranged and that there would most likely be two story buildings involved but both programs could be accommodated as well as PAUSD's elementary school expansion, middle school and high school. The elementary school was primarily on non-Cubberley land, both on Greendale and the 525 site. The 600 student middle school and 500 student high school could coexist without the need for shared facilities. Option one showed that the two facilities could coexist on the site without taking any playing fields. The options evolved into a total of four and increasingly took advantage of more collaborative or joint use of space. The fitness and recreation space was proposed to be jointly used in

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the future in options two, three, and four with four having the most shared facilities. Several issues developed from the exploration of shared facilities. The costs went down, but the primary cost that was reduced between the stand-alone and the shared options was parking. Stand-alone facilities required structured parking in order to meet the minimum parking requirements. Shared facilities freed up more land for surface parking so it could be parked without parking structures in the other options. He said that was a significant reduction of costs. Shared facilities also meant less building and less building costs per square foot, which would reduce the overall cost. There roughly estimated construction cost figures, which were preliminary and intended only to stimulate discussion. He said that option three was a moderate sharing of facilities and a relocation of the City's eight acres, the acres moved to the south of the site and was indicated in red on the map. He said the option anticipated a relocation of the eight acres. The maximum shared facility in the joint use space was the recreation and the community space theaters, joint use of classrooms in the evenings for adult education, and other uses that the City had on the site. That was the smallest footprint with the greatest use of joint facilities. He said that the plans were intended to dispel some of the preconceptions and to be used as a starting place for the CAC. They were not intended to be in any way limiting, Staff fully expected the plans and the vision to change as more information was developed. He said Staff believed that it was an advantage to start discussions in reaction to a proposal. It helped to flesh out issues earlier in the process since they were working with a limited amount of time to negotiate the status of the lease by the end of 2013. In November 2011 the Council discussed connectivity. They reached out to the Palo Alto Bicycle Advisory Committee and designated a member to participate in the CAC, which was an update from the Staff report. He said that while they were using a PTC Commissioner as a liaison the Council wanted to leave open its role of expanding the PTC later on in the process, so Staff wanted to acknowledge that was an

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option. If Council decided to increase the role of the PTC they would have had a liaison in place to provide continuity.

Mr. Keene added that they needed a specific decision at minimum on the Guiding Principles.

Mayor Yeh said that there were several items for discussion. He suggested they start with the Guiding Principles and then proceed to feedback for the CAC and conclude with discussion on the site plans.

Council Member Shepherd said she wanted to ask broad questions before just going straight to the Guiding Principles. She said that she noticed the Guiding Principles were the "City Council Guiding Principles." She asked how it was integrated with PAUSD and if the Superintendent was taking the same Guiding Principles to PAUSD.

Mr. Emslie said they were and that Staff had shared the Guiding Principles, both draft and final versions, with PAUSD Staff. It was PAUSD Staff's intention to take the Guiding Principles to the School Board on April 24th for adoption. He said that PAUSD could either adopt the Guiding Principles or make changes, but that they would have their own PAUSD Guiding Principles to work from as well.

Council Member Shepherd said she knew PAUSD was looking at enrollment projections in order to determine how large the high school should be. She asked if PAUSD's input to the space planning was their best information as to what their needs would be, or if it was the City forcing the fact that PAUSD would only need a 500 count high school and a 600 count middle school.

Mr. Emslie said that the numbers PAUSD gave the City were induced by PAUSD's projections. The City asked PAUSD to provide their long term needs and they responded with that size of facilities. The City expected the CAC to look into the

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demographic information that PAUSD used. He said for preliminary planning purposes the numbers were taken from PAUSD, the City did not force any size limits on PAUSD. He said that the numbers could change over time.

Council Member Shepherd said that she knew PAUSD always said that it depended on what the City was doing regarding housing units. She asked if the proposed housing units were definitive from Association of Bay Area Governments (ABAG). She heard the numbers were greatly reduced, but was not aware if they had been publicly announced at Council. She said that she knew the City had asked Stanford to take away the Stanford sphere of influence. She asked if they were given to Stanford since it was part of PAUSD boundaries.

Mr. Keene said he thought the Council had its own Housing Committee that was working through those issues and that it was too early to say other than they had seen some reduced numbers. He would not say that they were dramatically reduced but there was some reduction. As it related to Cubberley he said they had some discourse about a range of numbers both from the City perspective and how it related to school enrollment. He would not say that it was definitive. He thought there was plenty of time as they worked through the process with the CAC and CPAC for people to provide their perspectives on what was viable. In any case there was both the question of what size facilities would be needed and when they would be needed. They were mostly ignoring the when issue and focusing on the where issue. He said that there could be many variations on how everything went and the scale of the buildings based on the assumptions that PAUSD shared about its enrollment numbers and discussion amongst the community members. In no way did Staff mean to say that anything was definitive, it was a preliminary cast that provided much more information than was available in summer 2011.

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Council Member Shepherd said those were global questions and that she was finished.

Mayor Yeh said that one thing discussed at pre-Council was what questions the Council wanted the CAC to answer. The question was at the end of the entire process, what did Council want to ensure was vetted by the CAC.

Council Member Burt said in general the Guiding Principles were thoughtful and seemed to cover many issues that they wanted to address. One area he thought they might want to consider was having a Guiding Principle around funding. He said that they could do significant work related to planning but if there was no mechanism for funding they would be stuck. He wanted his colleagues to consider whether a Guiding Principle that had an idea that any future reduction in Utility User Tax funds that were currently paid to PAUSD that may at some point in the future not be paid to PAUSD because the City leased less space or because there was no longer a basis for a covenant to not develop that those funds would be used primarily to provide the community services and recreational facilities that might be lost as a result of the PAUSD re-obtaining control of a portion of the Cubberley lands. To him that was a balance that he thought held true to the principles of the original Utility User's Tax and yet it evolved toward the future and the City's needs. He wanted to make that suggestion so his colleagues could consider it over the course of the conversation.

Council Member Holman agreed that it was a good basis for the community process. She read Guiding Principle Number 10 and said she thought if they were valued then the language should be strengthened to say "enrich the community and every effort should be made to preserve and enhance wherever possible." She said they were dynamic services and tenants at Cubberley and the language was too weak. "Wherever possible" was weak, so "every effort should be made to preserve and enhance" was important. She was pleased about Guiding Principle Number 12,

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but noted that it did not include intervals. She asked what the thought was about the frequency of the intervals.

Mr. Keene said that they had not had that conversation yet as it seemed a bit preliminary. He imagined that in short order the CAC would identify what the logical reporting time would be. He thought Council would want the CAC to let them know when roughly the reporting could go back to Council, but it would not preclude a spontaneous report back if there was timely information. He said that their job was to let the committees get going and then look at how the reporting schedule would be put out.

Council Member Holman said that Mr. Keene mentioned how a Guiding Principle having to do with funding should be added. She agreed with that and also would appreciate a Guiding Principle being added about transparency and a transparency policy. On Page 2 of 5 about the Staff Report stated "will be subject to the Brown Act, regular meetings and the agendas will be posted 72 hours prior to regularly scheduled meetings 24 hours ahead of special meetings, minutes and Staff reports will be attached to agendas and made available to the public at or prior to meetings." This did not feel like a good commitment to transparency.

Mr. Keene said he thought it was just reflecting on the requirements of the Brown Act, and that those were the minimum standards.

Council Member Holman understood, but the City's expectation of itself was better than the minimum Brown Act requirements. She asked if Staff was assuring Council that the City would do better than what was indicated.

Mr. Keene answered yes. He thought it was included to contrast the CPAC to the CAC, but he thought it was clear that they wanted to have effective meetings so the earliest possible notice

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of meetings would be given. He thought for there would be a regular schedule, or certainly by the end of the prior meeting the scheduling of the next meeting would take place and that information would be put out.

Council Member Holman asked if the Staff reports would be available a week in advance.

Mr. Keene answered yes.

Council Member Holman said she had several questions related to Guiding Principle Number 7. Since there would be shared property it seemed to her that equally was probably not the equitable outcome, but that each entity should pay its own fair share. She asked if there was a reason it was to be shared equally. Additionally, she assumed there would be more buildings on the PAUSD side, so taking into account that the Council was responsible for spending taxpayer money maybe they meant fair share rather than equal share.

Mr. Keene said that fair share could work, but thought that they were going to be generalized planning, conceptual planning. The thinking was that in the spirit of collaboration they would identify what the tasks would be and share in the costs. They wanted to continually support a joint project and a collaboration rather than having things devolve into this is our territory and this is your territory.

Council Member Holman said that she was concerned about architectural design because she thought PAUSD would have more buildings than the City. She said that she was trying to be fair and responsible with both as sharing equally seemed to go far beyond the site planning and was in the building design.

Council Member Schmid said that the Guiding Principles were very important in what they said and how they were interpreted. Guiding Principle Number 5 discussed both entities having

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significant financial interests and that they should be evaluated as equal priorities. He said that they were not equal and that PAUSD had four times the amount of property on the site than the City. The City paid 100 percent of the income on the property, so those were not equal. He did not understand what was meant by equal priorities. He asked how that could be a Guiding Principle when nothing was equal.

Mr. Keene asked if Council Member Schmid had alternative language.

Council Member Schmid said financial interests were certainly important for the City. He said that they were interested in paying for value, so if those were City Guiding Principles they should say something about what the City had and how it paid the bulk of rental and upkeep payments. He assumed that Staff was talking about working toward an equal burden of those types of payments.

Mr. Emslie said that the intent was in the spirit of collaboration and not to point out the inequity. He thought the point was to say that one economic interest or budgetary interest did not supersede the other. The services the City provided at Cubberley through nonprofits and through childcare were on the same footing as the educational needs. It tried to create an underpinning of one concern did not supersede the other that both education and community service were on equal footing.

Council Member Schmid said he admired everything that they had given about the role of the City and City services. He said that was important, but that "equal" was a strong word that could lead to contentions. He suggested they think about a word that engaged both bodies' valuable services from both sides without saying they were the same financially.

Mr. Keene suggested that they shift it to the concept that both entities had significant financial interest in the Cubberley campus

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and that they wanted each party to be open and sympathetic to the perspective and concerns of the other. In other words, they would not set what the ratio was or the balance, but that there was recognition that both parties had interests that needed to be addressed.

Council Member Schmid agreed. He said that Guiding Principle Number 7 was brought up by Council Member Holman. He assumed what Guiding Principle Number 7 meant was during 2012 for the current meetings of the CAC and the CPAC that they would share equal costs.

Mr. Emslie said that was true and that as they moved into more specific negotiations they would identify City costs and PAUSD costs. He said that the City would want its own advisors.

Council Member Schmid suggested they say through 2012.

Mr. Emslie said he thought they would agree to that.

Council Member Schmid said that Guiding Principle Number 9 was important regarding school capacity as a significant citywide issue. He suggested adding "school quality and capacity." He stated that one third of the City's revenue was from property taxes and that had grown twice as fast as any other revenue source. Much of that came from young families filling displaced housing in the community. He thought stating that the City had an interest not just in the number of classrooms, but in the quality of schools was an important City statement. Guiding Principle Number 12, "representatives on the CPAC shall provide regular reports," the question was raised and a statement made that they would determine what the regular reports were. He was concerned that the reports would be lost, much as with the Mitchell Park Library reports had been. They had set up a system calling for monthly reports on the library. The report received that evening was the second one in three or four months and was on the consent calendar. He was concerned that the Cubberley

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reports might have the same issues. He wanted a specific recommendation that they have monthly reports of action items and progress. A key period was during the Council break. There would not be any reporting during that time but it might be just the point and time where many important decisions would be needed. He said that Staff should tell the Council what it would receive.

Mr. Keene said he thought all of the Guiding Principles were ultimately the Council's prerogative and that the Council should indicate what it wanted. Staff would support the production of whatever report, written or verbal.

Mayor Yeh said the CPAC had not set up the frequency of its meetings. He assumed that they might be monthly, but as a committee they had to set its base agreements. He said that as a member of the CPAC he was comfortable returning to Council and stating what the frequency of the meetings would be and some ideas on how they would report back to the full Council.

Council Member Klein agreed with the comments made on Guiding Principle Number 7 and thought that the change of referring to just 2012 solved the problem even though 2012-13 was more likely. He had several questions regarding cooperation with PAUSD on what was before the Council that evening. He asked Mr. Emslie if the report was shared with PAUSD.

Mr. Emslie said yes.

Council Member Klein asked if PAUSD had comments or suggested changes.

Mr. Emslie said no.

Council Member Klein said that the committee was being appointed by the City Manager and asked if it was also being appointed by the School Superintendent.

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Mr. Emslie said the slots that were stakeholders of the school community were given to the City by the Superintendent. He said that the City did not affect any recruitment in the school areas.

Council Member Klein was concerned that PAUSD considered the committee as much theirs as the City's.

Mr. Emslie said it was clearly the intent for the committee to be joint and the Superintendent was supportive of the City taking the lead as long as PAUSD was able to give the City the appropriate PTA members for the committee. PAUSD felt it was their group as well and that the composition of the committee reflected their interests and had the appropriate level of representation.

Mr. Keene did not recall the specifics of the Motion, but he thought Council had gotten caught up in the mechanics of making the committee a City Manager appointment to allow for it to be set up, the noticing, and minute taking and the advertising aspect of it. They defaulted to the courtesy of sharing it with the Superintendent as Mr. Emslie stated. He did not have any problem with the Council making an explicit direction to make it clear that it was a jointly appointed committee. He said that the City Attorney said that it stayed within the format if they were advising the City Manager and the Superintendent and they had the opportunity to work through the PAC. If the Council would like to do that, Staff would welcome the directive.

Council Member Klein said he favored that and thought it was important that it was a joint committee that reported to both bodies.

Mr. Keene thought that there was a little risk that at some point in the future PAUSD would feel that they only appointed a subset

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of members to the committee and that they City handled the rest.

Council Member Klein noted that the City Manager had indicated that Council had no say over who was appointed to the committee.

Mayor Yeh agreed, but stated they would discuss the CAC later.

Council Member Klein said that Guiding Principle Number 10 was an opportunity for evaluations of Cubberley that had never previously been done. He discussed the ability to ask the community which uses would be most valued. He thought there might be a time when they would not have space for everything at the campus. He did not think that they had an obligation to provide space for everything there and he recognized that was difficult, but Guiding Principle Number 10 bothered him in the sense that it seemed to indicate the existing tenants had some right to be there. The City had never completed an evaluation of the tenants. He said the financial matters were also important and the Guiding Principles did not fully address them. For example, the CAC should be asked about the methodology going forward regarding who was to pay what. The Staff report said there were \$10 million in repairs needed over the next four to five years. He asked who should pay for those repairs and where the money would come from. Those were tough questions, but they needed to be acknowledged in the Guiding Principles. He said he agreed almost entirely with Council Member Burt that they needed to discuss what the City paid and what use was made of the monies. He added that the City did not pay a portion of the Utility Users Tax to PAUSD. That tax went into the General Fund and became an unidentified portion of the General Fund. He was aware that they had discussed it when it was passed 24 years prior, but it was not a direct payment from the Utility Users Fund. He asked when the CAC intended to have its first meeting.

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Mr. Emslie said that PAUSD requested that they wait until after the School Board meeting on April 24th so they were looking for the first or second week of May for the initial CAC meeting.

Council Member Klein asked if there were a set of agendas.

Mr. Emslie said that there would be, but the first meeting would be spent electing leaders, deciding frequency of meetings, meeting locations, and time of day.

Council Member Espinosa hoped that even though they were not under Brown Act parameters they would recognize that this was an area or topic that community members and neighbors had an interest in. He questioned if online streaming of the meetings was possible to engage the public in the process. He said it was not something that Council needed to mandate, but suggested that Staff explore it. If there was no discussion regarding use then they were inherently designing a committee where people would advocate for the same uses since they represented their particular interests. He thought that Staff needed to have a discussion on a broad basis about community services in general and the available facilities. He was also interested in how the City and the PAUSD Guiding Principles would be reconciled. He said that some of the Guiding Principles were City specific and he was curious what happened if the PAUSD Guiding Principles included something they disagreed with or wanted to provide feedback on. He asked if there was a way to combine them and noted that it seemed as though they were moving into the process in a very separate way. He thought the Guiding Principles should have been connected. In terms of the leadership of the City and the appointments by the City Manager he worried about not only how it was set up in the beginning but how it was staffed and run moving forward. He thought they needed to make sure that the School Board and PAUSD felt like they had an equal share in the committee. He said it was easy when everyone agreed, but if PAUSD felt it was not staffing the committee at the same level or having the same role at the

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leadership level he worried that they would not feel it was their plan and that the City was potentially railroading them.

Council Member Price thought the Guiding Principles were well done and that many of her comments had been addressed. She had some wording suggestions and then several issues that needed to be explored. With respect to Guiding Principle Number 7 one of the recommendations was that they specify it by a time period, but she suggested the last sentence say "during the various phases cost sharing agreements will be implemented to insure fairness to all parties." She knew that was more of a process piece, but given the complexities of the site and the different elements it made sense. With respect to Guiding Principle Number 9 she had a wording modification that complemented Council Member Schmid's points. She suggested "Essential to the maintenance of educational opportunities and excellence and the overall health and wellbeing of our community." She appreciated the comment made about the economic impacts of a high quality school district, which was touched on earlier in the meeting. Guiding Principle Number 14 was important in terms of the residential neighborhoods. The way it read was that residential neighborhoods were a factor, but she suggested something like "the perspectives and engagement of the residential neighborhoods surrounding Cubberley" with the rest of it remaining the same. Guiding Principle Number 15 on transportation issues, she would modify to "transportation issues and access/egress to Cubberley shall be considered in evaluating possible" with the rest remaining the same. In an ideal world she felt the Guiding Principles would begin as a joint document. If they were discussing massive complex plans for a site, they needed to start with Guiding Principles that had both entities tied together. She recognized and was concerned that the Guiding Principles could be the stalling factor in the process. However, she did not know if that statement was made to PAUSD. She thought joint Guiding Principles would work more in the spirit of collaboration up front, which was something everyone wanted. She thought this would be exciting and creative and that it would

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reflect positively on everyone if it was done properly. She asked if there was a way to address it and a timeline for it if there was interest in a joint document.

Mr. Keene said he thought that the idea for the Guiding Principles was to have them available at the start of the committee process. He said it could have been done many ways, but he thought this way was the most effective. He suggested that from the existing CPAC that the Mayor could appoint several members to do so. He said that seemed easier than nine Council Members and five Board Members attempting to work through them. He said Staff wanted to put something forward and get the Council's comments then they may need a reconciliation committee to work through the Guiding Principles.

Council Member Price said that they should do whatever was expedient. She asked if she could discuss items to be considered and discussed by the committee.

Mayor Yeh said she could address that during overall comments. He said that there were edits suggested to the Guiding Principles, and asked if Council wanted to go through each and propose changes.

Council Member Shepherd appreciated her colleague's questions and thought the Guiding Principles were great. She was very pleased that PAUSD was also looking at the Guiding Principles. She noted that they had used Guiding Principles with High Speed Rail, which was very controversial and they had changed them twice. She said she wanted to add a Guiding Principle Number 16 with the following proposed wording: "As the process moves forward and interests become better focused, the CPAC shall bring forward changes to both bodies that will revise and update these principles."

Mayor Yeh heard her point and said that they had the opportunity to go through each Guiding Principle for revisions and then they

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would move forward to other proposed Guiding Principles. He asked if the Council wanted to do so.

Council Member Burt suggested that he had heard items fairly close to consensus and that the Mayor should read off what he thought he heard and then delegate it to the three Council Members of the CPAC to finalize the language and bring to the Council agenda for the following Monday.

Council Member Klein said that if the School Board was considering the Guiding Principles on the 24th they should have the Council's final copy before that meeting. Therefore the Council would need to have it done by the 16th or the 23rd, but he thought the 23rd was late.

Rachel Samoff said she ran the children's preschool center at Cubberley. She was encouraged by the commitment to transparency as there was interest in the community on Cubberley and many people had critical interests in the process. She discussed the importance of maintaining the variety of activities at this critical piece of infrastructure. She said that this had potential to be a really exciting process and she looked forward to participating in the project.

Diane Reklis said she moved to Palo Alto just before the Cubberley High School closed and she was deeply involved in defining the lease and covenant along with Council Member Klein. She said her grandson attended the Cubberley nursery school. There was the potential for a very good process for the project. She suggested they discuss a 20 year time frame to better plan needs for schools. The proposed list of committee members included 4 PTA representatives, 1 City/School Traffic person, and 16 others representing various other neighborhoods, committees, and stakeholders. She did not see a balance between the education specific people and the 16 others if more than half of the site would end up as schools. She thought they needed more

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school people involved and not just PTA people. She suggested that they add former School Board Members.

Joseph Hirsh said he was representing the President of the Cardiac Therapy Foundation. They served the community for 40 years and served thousands with cardiovascular disease in the mid-peninsula over that time. The average age of people in the program was 76. They had been at Cubberley for 10 years. It was an aging facility he knew of no other facility in the Palo Alto area that they could afford which would meet their needs. He said the individuals and small nonprofits that made up the tenancy would like go out of business if they lost their space. He thought it was imperative that the City was responsible for looking at the legitimate community needs, and particular senior health needs, to remain mindful of what would happen to current Cubberley tenants if the master lease was not renewed. Currently he saw a number of mixed signals coming from the process. On February 28th the school officials recommended postponing consideration of school facilities on the property until 2019. The process was starting with four different options of how to redevelop the site. He asked if the site was not needed until 2019 why they would go through the process. He said that full transparency and meaningful consideration of the needs of the tenants and the people who used Cubberley was necessary. He was surprised that the Staff Report said the Council and PAUSD would reach consensus by the end of 2012, but that the CAC and CPAC recommendations would not come back to Council until early 2013. He said they would make their decision before the recommendation came back. He thought questions and responsibilities for the CAC needed to be clearly spelled out or that process would be misguided. He said that joint use of the Cubberley site was not good use for his organization. They could not be on the school site as adults when school was in session.

Bob Moss wanted to provide another example of a problem of a shared site between PAUSD and the City. Over 10 years ago when PAUSD took back Terman Middle School and closed the

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Terman Branch Library the Principal at Gunn proposed having a joint City/School library at Gunn. He said requirements to clear the campus after school had killed the project demonstrating that sharing a City/school site was difficult. Some of the site plans presented the City property in the middle of Cubberley between the grammar school, the high school, and middle school. PAUSD would have issues people moving from the City property to school property. He said they would have to be very careful when they negotiated joint use or any kind of sharing of the site that PAUSD did not in any way interfere with public use, community groups, or people going to the City facility. Council Member Burt was correct that they should stop paying the fee not to develop. He had advocated that for 20 years and said it was time that they stopped paying that money as PAUSD was not redeveloping any sites. One minor point was that on all of the options the building that housed the Friends of the Palo Alto Libraries was not shown. He asked where that organization would go and said that was important to consider. Finally, the use of the playgrounds and fields had to be established early on as part of the process.

Mayor Yeh recapping the Guiding Principles said that in Guiding Principle Number 1 he had not heard any significant changes, but would like to ensure the meetings were recorded and minutes completed for both the CAC and the CPAC committee meetings. He did not have suggested language, but wanted that to be considered.

Mr. Keene suggested that the minutes be sense or summary minutes or they would slow things down and add to the cost significantly.

City Clerk, Donna Grider said that sense minutes took quite a bit of time to complete. She said that they staffed the executive level meetings but not the community ones.

Mayor Yeh said the CPAC was a Brown Act meeting.

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Ms. Grider said that for CPAC she would have Staff write sense minutes, but she did not have the Staff for the CAC.

Mr. Keene said that issue needed to be discussed as the whole project was not budgeted for 2012. He thought Staff would have to provide Council with an estimate of what level of support was needed.

Mayor Yeh thought it should be considered as part of the transparency efforts. He said that it was an important committee that would inform the future discussions of the CPAC and both full elected bodies. He said that for both bodies to benefit from the CAC he thought it was important. He knew that there were Council contingency funds that were not fully committed and he was interested in understanding what the potential costs for providing sense minutes for the CAC would be.

Council Member Burt suggested they alternate the cost with PAUSD.

Mayor Yeh suggested the minutes could be cost shared as part of Guiding Principle Number 1. He stated that he had no changes for Guiding Principles Number 2, Number 3, or Number 4. Guiding Principles Number 5 the end of the sentence would read "which should be open and sympathetic to the interests of the other party," in place of "they should be evaluated as equal priorities." He stated he heard no changes for Guiding Principle Number 6. He stated that for Guiding Principle Number 7 he added "through 2012-2013," and the language "During or as an alternative during various phases a cost sharing agreement shall be developed to the mutual satisfaction of both parties."

Council Member Price said "to insure fairness to all parties." She said that was a similar idea.

Mayor Yeh said there were two alternatives.

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Council Member Burt suggested that they keep the first sentence that applied to 2012-2013 and then Council Member Price's sentence going forward.

Council Member Klein said he hoped the process would be over by the end of 2013, so he did not favor including Council Member Price's language. He felt that would delay things. He thought it was better to have a clear guideline of 50 percent each through some specific date.

Council Member Holman was concerned about the fair share component of it and stated she left it to the committee to decide. She did not know if architectural design should be included.

Mayor Yeh stated he did have "fair share/proportional" as opposed to "equally." He suggested a vote in the form of a straw poll. For "2012-2013" six Council Members voted yes. Two Council members favored various phases. He indicated they would include "2012-2013."

Council Member Burt thought they had addressed it by the prior sentence.

Mayor Yeh stated that it was still equal but was time limited. He had no changes for Guiding Principle Number 8. Guiding Principle Number 9 was "school quality and capacity is a significant citywide issue considered essential to the maintenance of educational opportunities and excellence, and the overall health and well-being of our community." Concerning Guiding Principle Number 10 he had "the types of programs offered by the City and its contractors and subtenants at Cubberley enrich the community and every effort should be made to preserve and enhance." The alternative suggestion was language along the lines of "prioritization of existing and identification of potential community services."

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Council Member Klein suggested adding an additional sentence "the City through this process needs to identify which uses have the greatest priority in terms of City policies." He said that they needed some method of determining which uses were most in keeping with City policies. He did not think they were in the position to judge at the moment as they did not have such criteria but that they would need to in the future.

Council Member Holman had a clarification. She was agreeable to a second sentence being added, but wanted to know if they were referring to what was new or what was existing.

Council Member Klein was concerned with both. He assumed that there was always some turn over and he also that at some point they might have less space than they had currently. If that was the case, he questioned how they would decide which ones stayed, which ones would not be accommodated, and which ones they felt an obligation to. For example, he said that they might feel that they had an obligation to Mr. Hirsch's organization but that it was best placed elsewhere.

Mayor Yeh said he heard a potential replacement for the development of criteria for community uses at Cubberley site as a generic statement which could be applied to the existing or potential tenants.

Council Member Schmid wanted to make sure there was an opening for new and expanded services. He thought each of the four scenarios presented had an increase in City space so they ought to look for potential new possibilities.

Council Member Burt concurred with intent that it be more open and it include looking at current uses and other prospective uses, that this was the City's opportunity to rationalize what was there. He thought that they should abbreviate the first sentence because the latter portion saying that it should be preserved and enhanced wherever possible predetermined some of what was

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looked at. He suggested they say the types of programs provided at the center were enriched and valued within the community. He thought it was good to put in an affirmative statement that they were valued programs so that was established as a baseline but did not preclude other considerations. The intent was two things, to look at best uses and look at prioritization because those would be two separate actions. He thought Mayor Yeh's language was good, but he wanted to describe the intent.

Mayor Yeh read the revised version Guiding Principle Number 10 as "Cubberley programs enrich the community and criteria should be developed to prioritize existing and assess prospective uses for the site." He said that he would replace all of existing Guiding Principle Number 10.

Council Member Holman said that language was acceptable except it did not mention making a strong effort to retain such uses at the site. She thought that was the only thing missing.

Mayor Yeh suggested "Cubberley programs enrich the community and criteria should be developed to prioritize and/or retain existing or assess prospective new uses."

Council Member Holman said she wanted to see the statement strengthened.

Mayor Yeh read it as "Cubberley programs enrich the community and criteria should be developed to prioritize and/or retain existing uses as well as assess prospective new uses."

Council Member Burt was concerned with that language because it sounded like they were necessarily intending to retain and potentially add, but that might not be what the choices were. He favored the original language and said that there could be certain uses that were no longer a priority and he wanted to make sure the language was consistent with that possibility.

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Mayor Yeh said that the original language was "Cubberley programs enrich the community and criteria should be developed to prioritize existing uses and assess prospective new uses."

Council Member Burt suggested they say "prioritize uses."

Mayor Yeh suggested that all Council Members should give their input on possible language for Guiding Principle Number 10. He stated he had no changes for Guiding Principle Number 11. The suggested change to Guiding Principle Number 12 was "The City Council representatives on the CPAC shall bring back the frequency of the CPAC meetings following the first CPAC meeting and report the frequency of regular reports to the full Council on Cubberley planning activities." He said that did not capture everything. He said, "The Mayor shall bring back the frequency of CPAC and report on the frequency of reports to the full Council on Cubberley planning activities."

Council Member Klein said that they did not need to be that complicated. The concerns would be satisfied if they said, "The City Council representatives on the CPAC shall provide regular reports, not less often than bi-monthly, to the full Council on Cubberley planning activities."

Mayor Yeh said that the proposed language was "not less often than bi-monthly, to the full Council on Cubberley planning activities."

Council Member Klein said bi-monthly was once every two months. He said the wording should be semi-monthly.

Mayor Yeh asked for other comments on Guiding Principle Number 12. He thought the challenge was that the CPAC had not yet set the frequency of its meetings. He asked Council Members who were not on the CPAC for their thoughts. He said that monthly was proposed.

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Council Member Burt thought that monthly was too frequently. Since Council did not know the frequency the CPAC would meet, he thought a quarterly report was sufficient as it provided a regular check-in period.

Council Member Holman questioned the timing. From the schedule it seemed that Staff thought that the planning portion would be done by the end of 2012 and that most of 2013 would be used to negotiate the contract. If that was the case then Council would only receive two reports if they were given quarterly, which she did not believe was enough.

Council Member Price supported Council Member Klein's comments. It was a significant site with many issues, it did not have to be a written report, it could be verbal, but to keep Council and the community informed she thought the language proposed made sense. She said that if they wanted it more frequently they could request it. She felt they were making the issue harder than it needed to be.

Mayor Yeh said that he heard two Council Members supporting "not less often than bi-monthly."

Mr. Keene said that Council wanted to be transparent and that it was a simple thing to provide regular reports on the meetings that took place. If there were ten meetings over two months and the Council had not received a report that was certainly an invitation for any non-member of the committee to ask for a report. He thought they would have future options beyond the Guiding Principles if it was not working well. He said that the meetings were public.

Mayor Yeh said there would be minutes. He proposed that there would be a report provided and given and he assumed that it could be done at the end of the meeting during Council comments. He suggested that "a report will be offered to the full

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Council following any meeting of the PAC.” If Council was not interested in the report they could opt out at that time.

Council Member Holman was concerned that if the report came at the end of the meeting it would be late and the report would be short and not be taken in or digested well. She thought they needed to find another means; she liked the idea of a report after each meeting, but did not like it at the end of the Council meetings.

Mayor Yeh said he would leave that detail out and returned to the original language for Guiding Principle Number 10 proposed by Council Member Klein. He said the language was “The City Council representatives on the CPAC shall report, not less often than bi-monthly, to the full Council on Cubberley planning activities.” He said that the majority of Council indicated agreement. He stated he had no changes for Guiding Principle Number 13 or Guiding Principle Number 14.

Council Member Holman said that for Guiding Principle Number 13 she would keep the first sentence and add a second sentence “PAUSD and the City should work to continue community access.”

Council Member Klein said that it was the first time they had said that the City and PAUSD should work toward a particular goal. The other Guiding Principles said what the City ought to do. He stated that he was not objecting to it, but it went to a comment that he wanted to have at the end of the conversation regarding another alternative for the Staff to put everything into language that PAUSD could adopt as well.

Mayor Yeh said they would look back on that issue later.

Council Member Burt agreed that they should have the Guiding Principles worded in language that would be proposed to PAUSD. he agreed in principle because they wanted to try to have something that PAUSD would be comfortable with.

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Mayor Yeh said the added language was "PAUSD and the City should work to continue community access to the extent possible."

Council Member Shepherd wanted to support Council Member Holman's added language. When referring to the recreation facilities she asked if they meant the tennis courts and the fields. She thought they needed to establish in the Guiding Principles that they would somehow secure those fields for shared community use. She said she understood it would go to the City Council's members of the CPAC to get the wording back for the packet for next week. In which case there would be time to work on the wording so that it did not have to be exact at that evening's meeting.

Mayor Yeh said that the Council Members on the CPAC would receive the revised draft of the Guiding Principles for review and inclusion in the packet for the next Council meeting.

Council Member Shepherd asked if they could have the three members of the CPAC elaborate on the recreational facilities.

Mayor Yeh asked if the proposed language was acceptable to her: "PAUSD and the City should work to continue community access to the extent possible."

Council Member Shepherd said yes, but thought that they might want to go into that more deeply.

Mayor Yeh asked if there were any other changes to Guiding Principle Number 13. He stated he had no changes to Guiding Principles Number 14 or Number 15.

Council Member Holman said that philosophically she had concerns about language such as "where possible" and "where feasible." She understood the intention, but language that talked

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about working towards something, or trying to achieve something did not dictate an outcome. She thought that the language diluted the intention of trying to get somewhere. They should work toward community access. She said that it was almost understood that if it could not be done that it would not be done.

Council Member Espinosa understood the intent but disagreed. He thought it was dictating. He said that it was not a commentary on the recreational uses but he thought that the reality of creating a joint statement was that they wanted to be realistic about the fact that people from the outside would read that you had to work toward a certain use as a mandate from the Council. Putting that parameter "if possible," or "where possible," provided the flexibility and still gave the clear intent of the direction that they would like the conversation and decision making to go.

Mayor Yeh asked for a straw vote on Guiding Principle Number 13. He said the proposed language was "PAUSD and the City should work to continue community access to the extent possible." He said that a majority generally favored the language.

Council Member Price said she was no longer proposing changes to Guiding Principle Number 14.

Mayor Yeh said there was no change to Guiding Principle Number 14 or Number 15.

Council Member Holman suggested adding the following words to Guiding Principle Number 15, "Transportation issues and access to and within Cubberley shall be considered."

Mayor Yeh said that he saw nods.

Council Member Price added "to serve current and future needs."

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Council Member Burt thought everything there was for that purpose.

Council Member Price said that was correct, but that they had not mentioned the future at all, which was part of her next set of comments.

Council Member Burt said that it would not be buried in just the transportation Guiding Principle.

Council Member Price dropped her changes.

Mayor Yeh said that the only change to Guiding Principle Number 15 was "access to and within Cubberley." Regarding a potential Guiding Principle Number 16 he had "Funding options including existing and potential new funding sources should be evaluated." He said that was a broad direction to the CAC. It was not listed because it was a potential new Guiding Principle Number 16.

Council Member Burt said that his original statement was consistent with what Council Member Klein had stated. He was referring to the funds that were currently going to PAUSD and that when those were no longer due for purposes of the lease and covenant not to develop, that those funds would be used to provide community services and recreational facilities similar to those currently provided at Cubberley.

Mayor Yeh said "funds that are currently going to PAUSD were no longer going for purposes of the lease or covenant not to develop, shall be."

Council Member Burt suggested finishing the verbiage with "used primarily to provide community services and recreational facilities similar to those currently provided at Cubberley." He said that was not intended to be final wording but only a statement of principle.

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Council Member Klein said he was not ready to support that although he did not necessarily disagree. He thought that there was a competing proposal and that was that those monies, if any, could be used for infrastructure. He was not prepared to make that policy decision without more input and thought. He thought they ought to ask the committee to advise Council and PAUSD on what they thought the lease extension, if there was one, should look like financially. He said that was not a Guiding Principle, but a question that they would like the CAC to provide input on.

Mayor Yeh said that was a good question. He proposed that the members of CPAC create an initial list of questions that could be shared after the Guiding Principles were in place. He suggested that they bring the list back to the full Council for review before it was finalized.

Council Member Klein said if it was in the broader context it was fine with him. He thought it needed to be in place prior to the CAC's first meeting.

Mayor Yeh asked if there were any Guiding Principles proposed around finances. He said that the one that was proposed was "The funds that were currently going to PAUSD were no longer used for purposes of the lease or covenant not to develop shall be used primarily to provide community services and recreational facilities similar to those currently provided at Cubberley." He said that was a potential Guiding Principle Number 16.

Council Member Shepherd was not prepared to make that a Guiding Principle yet or to put together words to that effect. She thought that was part of the revision that she thought they might need to make. She thought it was also inappropriate in a Guiding Principle to tell how the monies would be spent. She hoped that was something the CAC could give Council some input on in addition to possibly the PAC.

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Mayor Yeh asked if there was a preference for an additional Guiding Principle Number 16 around funding or finances.

Council Member Espinosa asked if there were two options on the table, one that the language became a Guiding Principle and if not, that it became a task.

Mayor Yeh said that was a separate question. He thought that the CPAC members had agreed to create a draft task list from the input which would be brought back to full Council for approval in conjunction with the revised Guiding Principles. He said that he was only asking if it should be a Guiding Principle. He called the straw vote and only two Council Members voted for it to be a Guiding Principle. He called for a straw vote about a task being included around finances.

Council Member Espinosa said he was in favor of seeing it explored more broadly by the PAC.

Mayor Yeh asked if there were any additional potential Guiding Principles.

Council Member Shepherd had proposed a Guiding Principle about how to change the Guiding Principles as the CPAC moved forward and decisions were made. She thought that it could be simple about how the CPAC would propose new Guiding Principles and bring them forward to Council in their reports as the process developed. She said that was not the final wording, but something to that effect.

Mayor Yeh said that "The CPAC will propose new Guiding Principles as the process necessitates."

Council Member Holman asked for clarification on the specific language having to do with funding that was not recommended because it received two votes. She said Council Member Espinosa mentioned that they should have a Guiding Principle

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having to do with general funding but there was no vote or straw poll.

Mayor Yeh said he heard Council Member Espinosa say that a task should be developed around funding, but not that there should be a Guiding Principle. He said he wanted to get through the Guiding Principles and then if there were proposed tasks, for purposes of time he thought those should be e-mailed to Staff so they could be shared with members of the CPAC on Council so they could create a comprehensive list and then bring that back to full Council for discussion, review, and vote.

Council Member Holman said she was not discerning what the difference was between a task and adding a Guiding Principle. She asked if it would be a task to the CAC to bring back a Guiding Principle having to do with funding.

Mayor Yeh said no, that the task would be a very specific directive from the Council to the CAC stating that it was part of their work plan.

Mr. Keene added that the idea of the CPAC all along was to serve as a conduit between the respective governing bodies and the CAC. He said that there was nothing that precluded the committee from generating additional tasks or requests for work product all through the process.

Mayor Yeh said that on potential Guiding Principle Number 16, "the CPAC will propose new Guiding Principles as the process necessitates." He asked if that was generally agreed to by the Council.

Council Member Burt thought it was redundant.

Mayor Yeh said that the Council was deadlocked and said that it should be taken into consideration. He asked if there were any other additions to the Guiding Principles. He said that the Council

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would have the Guiding Principles on their agenda for the next meeting with the revisions based on that evening's discussion. He said that there were two other items, one being the CAC panel and general comments and the second being the site plans. He said the revised Guiding Principles were on the next agenda and asked if the Council wanted to continue through the CAC panel and leave the site plans for the following week, or if the Council wanted to handle both that evening.

Council Member Price suggested they continue the remainder of the item to the next meeting.

Council Member Klein agreed with one exception. He thought that former School Board Member Reklis was correct and that they needed to have more people with a school orientation and that they should take her up on her offer to volunteer for the committee and perhaps find several other people with similar backgrounds and school affiliations.

MOTION: Council Member Shepherd moved, seconded by Council Member Holman to have Staff evaluate the expansion of the Community Advisory Committee by at least two additional school representatives and return with the information at the April 16, 2012 Council meeting.

Council Member Burt said that Council Member Klein had originally spoken about a broader school orientation and Council Member Shepherd referenced PTA. He was more comfortable with the language as written.

Council Member Klein said he was voting against the Motion even though he agreed with the idea. He said that it was not the Council's committee, it was the City Manager's committee and he thought it was inappropriate for Council to describe things in detail as to who the City Manager should appoint. It was appropriate for Council to make suggestions for the City Manager to follow up on. He stated that he could not vote for the Motion.

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Council Member Schmid said they had heard repeatedly that if they wanted to make the committee work that they needed to make sure that PAUSD felt that they were involved. He said that currently there was a tremendous imbalance between school members and City appointed members and that it made sense to reach out to the school community and expand by at least two.

Council Member Price agreed with the comments. She was also concerned that there was a real difference between school representatives and people with educational expertise. She was concerned that people who had knowledge about the delivery of educational services served, not to say PTA individuals did not have that, but she wanted educational professionals as well such as college professors and others.

Council Member Espinosa said he did not think that it was under their purview, but since they were commenting he knew the City Manager had stated that he had heard from people on the list that they were not aware they were on the list. He hoped that with the extra week they were sure that everyone listed knew they were listed and wanted to be on the list.

Council Member Holman said that she did not believe the Motion was intended to tell the City Manager to find two PAUSD representatives; it was a joint process, so the City Manager would talk to the Superintendent to identify who the other school representatives were.

Council Member Shepherd said that the way she remembered the list being composed initially was a gathering of stakeholders, some being neighbors that were next door to Cubberley, others at-large and so she did not understand why it seemed odd that two more school representatives be included.

MOTION PASSED: 6-2 Klein, Price no, Scharff absent

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Mayor Yeh indicated that they had not discussed the site plans. He asked for a Motion.

MOTION: Council Member Price moved, seconded by Council Member Shepherd to defer the discussion of the Conceptual Site Plans to April 16, 2012 Council meeting or as soon as possible.

Mr. Keene said that the site plans were only meant to be illustrative and not definitive. He said that the CAC could decide to start over. The plans were just a starting point and were not meant to draw any conclusions. He did not think the Council was bound to comment because the plans were preliminary.

Mayor Yeh said if it was on the Council agenda for the next week it did not mean that the Council had to comment on it.

MOTION PASSED: 8-0 Scharff absent

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Price said she attended the Project Cornerstone event the previous week. The Project Cornerstone focused on 41 developmental assets and honored individuals who stood up for the rights of others. She also attended the Santa Clara Silicon Valley Leadership Group Housing Trust presentation and she toured with the Palo Alto Housing Corporation properties they managed throughout the City of Palo Alto.

ADJOURNMENT: The meeting was adjourned at 12:12 A.M.