

CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting October 15, 2012

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:05 P.M.

Present: Burt arrived @ 7:55 P.M., Espinosa arrived at 5:10 p.m.,

Holman, Klein, Price, Scharff, Schmid arrived @ 8:06 P.M.,

Shepherd, Yeh

Absent:

CLOSED SESSION

1. Conference with Legal Counsel

Conference with Legal Counsel - Government Code Section 54956.9(b), (c)

Potential Litigation Relating to the Mitchell Park Library and Community Center Construction

Significant Exposure to Litigation Pursuant to Subdivision (b) of Section 54956.9: 1 Potential Case

Potential Initiation of Litigation Pursuant to Subdivision (c) of Section 54956.9: 1 Potential Case

The City Council reconvened from the Closed Session at 6:00 P.M. and Mayor Yeh advised no reportable action.

Council Member Price left the meeting at 6:00 P.M. and returned at 7:00 P.M.

STUDY SESSION

2. City Council Study Session with Assemblyman Gordon Proposed Topics of Discussion.

The City Council participated in a study session with Assembly Member Rich Gordon. Assembly Member Gordon discussed the State budget and cuts that may be made if some of the ballot legislation does not pass in November.

This past year the State Legislature took action on several items, including Worker's Compensation and a pension reform package. He gave an update on the San Joaquin Valley Browns Water Project and the proposed bond measure. Assembly Member Gordon spoke about reform efforts for the Regional Housing Mandate requirements, and the California Environmental Quality Act (CEQA). He stated one of his main concerns is the State budget, how much has been cut and the programs that have had to be cut. In the coming year, he sees water, education reform, and CEQA as the main topics for discussion.

CITY MANAGER COMMENTS

James Keene, City Manager spoke regarding; 1) the Energy Compost Facility Considerations Public Meeting on Wednesday October 17, 2012 from 5 p.m. to 7 p.m. at the Palo Alto Downtown Library, 2) Palo Alto Firefighters would host a pancake fundraiser on October 20, 2012 at Fire Station 6 with proceeds going to Project Safety Net, 3) Friends of Palo Alto Junior Museum & Zoo would host Halloween Zoo Night on Friday October 26, 2012, 4) a backyard compost workshop would be held at the Eden Garden on October 26, 2012, and 5) San Francisquito Creek Joint Powers Authority would meet on October 18, 2012.

MINUTES APPROVAL

MOTION: Council Member Espinosa moved, seconded by Council Member Klein to approve the minutes of July 16, July 23, September 4, and September 10, 2012.

MOTION PASSED: 7-0 Burt and Schmid absent

ORAL COMMUNICATIONS

Deborah Klughers, spoke regarding Palo Alto progressive stance on recycling and her support of Proposition 37.

Tony Kramer, spoke regarding Palo Alto noise code and the AT&T DAS project. He had concerns with a letter that he has received regarding this project from Curtis Williams, Director of Planning and Community Environment.

Rita Vrhel, spoke regarding an application by Mr. John Miller to be heard by the Council on November 5, 2012. She had concerns with the application for Elizabeth Seton School regarding vehicle traffic and noises for her neighborhood.

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Stephanie Munoz, spoke regarding developments and the consideration of over five-story buildings.

Rob Moore, spoke regarding 1095 Channing Avenue and he also experienced noise and traffic as previously noted by Ms. Vrhel.

Irene Kane, spoke regarding 1095 Channing Avenue and her support of comments by Ms. Vrhel. Alternative routes should be set including the encouragement of carpooling. It is not fair that the neighbors on Channing would absorb all the traffic for this application.

CONSENT CALENDAR

MOTION: Council Member Espinosa moved, seconded by Council Member Price to approve Agenda Item Nos. 3-8.

Council Member Klein advised he would not be participating in Agenda Item No. 5 because he has previously represented the Casa Olga organization.

- 3. Resolution 9292 entitled "Resolution of the Council of the City of Palo Alto Relating to Amendments to Utility Rate Schedule E-16." (Unmetered Electric Service).
- 4. Approval of Contract in a Not to Exceed Amount of \$545,338 with Forrest Richardson & Associates for Design Services and Preparation of the Environmental Impact Report for the Golf Course Redesign and the Potential Expansion of the Baylands Athletic Center and Adoption of the Budget Amendment Ordinance 5166 to Reallocate \$545,338 from the Infrastructure Reserve Fund to the Recreation Division Operating Budget.
- 5. Approval of Amendment No. 2 to an Agreement Between the City of Palo Alto and Casa Olga Relating to the University Avenue Area Off-Street Parking Assessment District.
- 6. Adoption of (1) Resolution 9293 of Intent and (2) Ordinance to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Palo Alto to Implement California Government Code Section 20475: Different level of benefits provided for new employees, Section 21363.1: 3.0% @ 55 Full Formula, and Section 20037: Three Year Final Compensation for Safety Police Employees.

- 7. Approval of Contract with Muzak, LLC, in the Amount of \$201,992 for Media Broadcast System for the Mitchell Park Library and Community Center (CIP PE-09006)
- 8. Request City Council Designate Voting Delegate for the Upcoming National League of Cities Annual Business Meeting.

MOTION PASSED for 3, 4, 6-8: 7-0 Burt, Schmid absent

MOTION PASSED for 5: 6-0 Klein not participating, Burt, Schmid absent

AGENDA CHANGES, ADDITIONS AND DELETIONS

None

ACTION ITEMS

9. Public Discussion of Employee Pension, Health Care, Compensation and Other Benefits and Strategies for the Future.

James Keene, City Manager, said that evening's session was focused on a Staff provided overview of the information on pension and healthcare benefits. A separate meeting related to the pension issue was scheduled for November 13, 2012. A focused discussion on the healthcare benefits and cost issues was scheduled for December 10, 2012. A number of cities in California bond ratings were reduced while Palo Alto retained its AAA bond rating. More than any other state, California restricted the ability of local governments as it related to their taxing revenue fiscal management policies. The Council wanted to discuss the State's role and the State control that existed on cities and how much flexibility a city had to chart its own course. There were significant benefit enhancements made before the 2008 financial crisis, but the significance of that event was clear to the Council which focused on the structural issues that had surfaced. actions taken, the trend lines on pension costs and the way California Public Employees' Retirement System (CalPERS) allocated those costs to cities and the healthcare side rose and would continue to do so in the future. The public discussions were held to increase public awareness. During the last summer's discussions, the Governor had proposed a 12 point plan which had not been enacted. The Governor worked with the State Legislature and passed statewide pension reform legislation which made a number of significant statewide pension changes. Staff planned to summarize that legislation in its presentation. He thought the evenings and subsequent discussions were a reflection of the Council's commitment to open government and transparency. Staff felt it was important to focus on the

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employee culture, productivity, and engagement. There were more details on California Public Employees' Pension Reform Act (PEPRA) that remained unclear and were being studied. Staff believed that by November they would be able to provide more informed results. Managing costs was very important but was only a means to an end. The end was determining how the City supported a high quality of life with the resources it had. He said they needed to determine how they supported and maintained a committed and competent City Staff. Generally there were things that were clear such as the City would have fewer employees on Staff in the future. Some of that was because the embedded costs of fulltime staff were significant. meant that how the City recruited and maintained Staff was an important factor. He stressed the importance of public/private partnerships. He said that the kind of governmental organizations that evolved over time had to adapt in order to ensure they could provide value to the community and the City employees. That required a more flexible, less bureaucratic atmosphere that was clearly focused on responsibilities and outcomes. Staff's goal for the Council Meeting was for the Council, Staff, and the community to understand the issues. Benefits and cost cutting were not the sole focus even though those decisions were necessary. The slowness of the cost savings that accrued on the pension side would not relieve the City of the pressures. Lastly he thought that the City needed to look at fiscal and tax reform in conjunction with what they did on the cost side. They would see that they had to manage costs and how they were constrained by the State. At the same time the City was also constrained by the State and what they could do on the revenue side.

Kathryn Shen, Chief People Officer, said Human Resources was passionate about how the City attracted and maintained talented employees. They faced economic and social pressures as employment costs had grown in terms of pension and healthcare and that was in large part due to the generous CalPERS enhancements that were offered over the years. The City had a legacy of being in the CalPERS system and did not have any alternatives like San Diego, San Francisco, and San Jose.

Mr. Keene believed what Ms. Shen meant was that the other cities had independent pension systems. They had to go to their voters, but Palo Alto was part of the statewide system.

Ms. Shen agreed. She stated they were pressured to decrease the number of employees which could lead to fewer City services and a reduction of funds into the system. That was a value judgment the City needed to make about what kind of services it wanted to offer with its core employees. There were a greater number of retirees than active employees. Retirees lived longer lives and could live 20 to 40 years after retirement. The fastest

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growing age group in the United States was those 85 years old and older. Retirement and pension liability carried over for a greater number of years than it had in prior generations. Cost savings achieved from pension reform accrued slowly because current employees kept their current pension plans. Pension reform only applied to new employees, which is the reason for the slow accrual. The PEPRA law created inequality between new and current employees in that there was a new pension tier and lesser benefits. That was a problem for the work culture of the City. With respect to employment demographics, Generation Y, workers age 33 and younger, valued a career path and a work/life balance. They were also civic minded and interested in giving back to their community. She explained that different generations of employees required different benefits and employees valued choice and flexibility. Palo Alto was an innovative city so employees expected the latest technology and best systems, which was not always the case. needed to increase its effectiveness through technology. She explained that changes to non-economic benefits such as rewards and recognition could provide value to the City employees. Alternate and non-financial work arrangements such as flexible hours, the 9/80 schedule, remote access, job sharing had value for employees and should be further explored. Palo Alto was proactive in that all employee groups were already on a two tiered pension system, employees paid the full employee share of their CalPERS expense, the highest cost healthcare plan was eliminated, employees and future retirees paid some of the healthcare benefit cost, there were pay freezes and cuts, variable pay was eliminated, and they eliminated the spiking caused by the final year reversal. Benefit costs were still increasing. In 2002 the percent of benefits to salary was about 23 percent. Currently it was 63 percent and growing. In 2022, Mr. Perez projected it would be about equal. As indicated by Mr. Keene, CalPERS restricted the City's options. The City could not influence CalPERS rate of investment return. CalPERS rules were all or nothing and the cost of leaving CalPERS was prohibitive. CalPERS healthcare system offered limited options and did not contain a high deductible option. CalPERS did not provide patient experience and the City could not understand what healthcare was accessed by its employees. There were no wellness program incentives. The marketplace alternatives to CalPERS were expensive. She showed a chart containing the City's active and retired employees but noted it did not include employees that worked for the City and were vested but were currently working elsewhere. When those employees retired they would pull from the CalPERS retirement system. Overall there were more retirees than active members.

Mr. Keene said the City's retiree base was significantly larger than its active employees. He explained that the larger the gap between what CalPERS had and what it needed to provide for the retirees was made up by billing the cities, which meant that the City's cost would fall on the active employees.

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With a static workforce and a growing retiree group the City needed to understand the financial implications.

Ms. Shen added that the retirees had a two percent inflation factor built into their pension. The active employees received no such raise.

Mr. Keene said that under the PEPRA law that Cost of Living Adjustment (COLA) for retirees was not eliminated. Active employees had not received adjustments, but retirees automatically received a two percent increase annually. He said the City did not want to incent people to retire so they would receive raises.

Ms. Shen said the PEPRA established new pension tiers, which applied to new employees only. The new tier paid two percent at age 62 while the current tier was two percent at age 60. Employees shared the normal pension costs. The pension was based on a three year final compensation versus a one year, which eliminated the spiking and applied to new employees. PEPRA prohibited the purchase of additional service time called "air time." It also lowered the cap on compensation that was pension eligible and sought to follow a Social Security template in which payments were limited by earnings.

Mr. Keene said that only applied to a selected group of employees where the cap existed and would raise other implications.

Ms. Shen agreed. Other changes included: benefits were calculated on base pay; increased disability for certain Public Safety employees; a limit on post retirement public employment; and replacement plans were eliminated. The City's legal team planned to provide an in depth analysis for the Council's November pension meeting. She provided a 10 year look at the pension cost. From 2002 to 2012 the pension grew over 500 percent. The City needed to ensure the pensionable employees were the core it wanted to provide the services to the community.

Mr. Keene said that with respect to the chart the drop in 2009 was due to a reduced workforce size. Some of the outer years were projections that were not based on actual CalPERS projections. He said that by 2013 the employee portion of the pension costs, which was seven, eight, or nine percent was picked up by the employees. The chart excluded the employee paid portion, which needed to be taken into consideration when you determined the acceleration of costs.

Ms. Shen said PEPRA was the new pension law. With respect to healthcare over the past 10 years it had the same increased cost trajectory. Retiree

medical was increasing at a faster rate than the active employee insurance as older people tended to use more medical services. She read a Kaiser paper which suggested a six percent healthcare inflation factor over the next 5 years. Healthcare was the area she saw the City having more flexibility on in terms of the benefit package offered and money saved. Palo Alto had decreased its Staff over the years. The General Fund staffing was reduced by over 30 percent. The total including the Enterprise Fund and the General Fund showed a Staff reduction of 10 percent from 2002 to 2012.

Mr. Keene said most of the reduction was due to cuts, but they had shifted some General Fund employees to an internal service fund. He said the 30 percent shown on the chart was only for the General Fund.

Ms. Shen said the citywide reduction was 10 percent. They looked at turnover in City Staff because of retirements. Currently 30 percent of the Staff were age and service eligible to retire. That number increased to 50 percent in five years. The continuing retirement turnover presented an opportunity to recruit new employees that needed to be highly skilled and dedicated to the public good. Recruitment, training, and employee development were key for having and retaining good Staff. A taskforce for training and employee development was created. They knew employee development was very important and that employees looked forward to having their skills developed. She showed research that illustrated why employees stayed with an organization beyond having a market salary. The City had a great market salary rate. The top three reasons employees stayed with an organization were that they liked their work, the job conditions were great, and they trusted management and leadership. Aside from salary and benefits the top three reasons employees left were because there was no opportunity to advance, they could not see that their work made a difference, and they did not trust management and leadership. The City's key focus was to maintain and grow purpose and the integrity of the workforce. It was important not to bifurcate employees and to provide a satisfying and innovative work environment. Staff requested Council direction over the course of the next several meetings. They wanted to explore the dynamic between the salary, benefits, and other employee motivators. Staff wanted to educate the public and the employees about the pension reform and alternatives to offer savings, retirement, healthcare, employee wellness, paid time off, and flexible benefits. They wanted to create or update a set of policies and plan for pension and health benefit contingencies. They also wanted direction to explore strategies to retain, attract, and engage employees.

Mr. Keene said that in 2008 there was a need for a dramatic reset and Palo Alto made leading changes in the region. He noted that Labor made

sacrifices through negotiations during that period. In the future they could not remain in the mindset of making cutbacks; they had to reshape the work environment in all the ways discussed by Ms. Shen. When employees retired the City lost experience and institutional memory, but it created job opportunities for people in the organization. The right work culture afforded all employees the opportunity for new work experiences. He said the City did not need to pay more to do that, it just needed to invite employees to have those opportunities. Many people would take that as there was a benefit in the work itself. A career perspective about expanding one's own skills had its own rewards. There were challenges, but from Management and Labor's perspective there were opportunities to move forward and reshape the organization.

Ms. Shen stated they met with the different employee and Labor groups including the Management Professionals several weeks prior and reviewed the colleague's memorandum. They were advised of the three meeting format and other people would have further involvement at the November and December meetings.

Mr. Keene said the colleague's memorandum was constructed to raise a series of questions. They did not go through the questions point by point, but they were prepared to work through them in the form that the City Council wanted.

Mayor Yeh said that the meeting was a public session and was an important part of the discussion on the issues.

Tony Spitaleri, representative from the International Association of Firefighters Local Chapter encouraged the Council to consider its employees as co-partners in the discussions. The meeting attended by Labor several weeks prior was hastily called. They were unsure of the format of that evening's meeting. He stated he would make his statement and then wait for the November 13th meeting where he hoped there was a discussion with the employee groups similar to when they looked at the medical benefit He stressed the importance of facts in the discussion as the statements were made in public. He offered the cost of living as an example. The CalPERS COLA was up to two percent annually; it was not automatic as implied. He looked forward to the November and December meetings and hoped that they had a positive atmosphere similar to the one they had during the medical discussions. Labor was anxious to know the format of the November 13th meeting. He said if they were only able to make statements that were not a good discussion and that might put Labor in a position that was resistant to change.

Council Member Espinosa indicated that the sharing of information with the City's entire labor force was very important and asked how the information was shared.

Ms. Shen said they intended to create a communication plan that included meetings with all employees. Human Resources (HR) Staff discussed an HR forum for engagement on the issues.

Mr. Keene said they would distribute the information via the internet and other internal vehicles. He acknowledged there was a lot of complicated information and stated an effective dialogue was important. Communication was part of the larger focus on employee culture and collaboration throughout the organization as a whole.

Council Member Espinosa asked about the format and the content of the November and December meetings.

Mr. Keene said that was partly up to the Council. Staff scheduled the meetings in response to the Council's request and would take any direction the Council wanted, but it seemed that there was a survey discussion that the Council needed to be involved in. He said Staff tried to compile the facts and challenges to lay the groundwork for any other forum or approach the Council deemed necessary.

Ms. Shen said HR Staff considered inviting pension and healthcare experts to guide the discussions. They wanted Council direction regarding how to involve members of the public and the employee groups.

Council Member Holman followed up on Council Member Espinosa's question regarding the format. She thought that evening was to be more of an informal meeting or study session which involved more dialogue. She agreed the Council needed the survey information and thought it was important to communicate with Staff and engage them directly in the process, but was not sure the appropriate way to do that.

Mr. Keene said a nighttime meeting would not be effective as many employees commuted home in the evenings. If there was a real interest in employees meeting with Council they needed to conduct daytime meetings.

Council Member Holman said it was time to have honest dialogue with the community and Staff. She heard from some Staff that there was a general feeling that the Council Members did not care about Staff that they only cared about saving money. She stated that was not the case and Council needed to engage with Staff and dissuade that perspective. Council had

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fiscal responsibilities and was obligated to the public to manage a sound fiscal organization, but it did not behoove the City to have an unhappy workforce.

Ms. Shen said City Staff was honored to engage with Council and know that Council was concerned about their career paths, well-being, and contributions to the City.

Council Member Holman stated that both employees and the Council needed to believe the other party was working in good faith for the health of the organization. She said the presentation was informative but noted she did not see the terms relationship, relationship with the public, job performance, job ownership, meaningful participation in problem solving and initiatives, teamwork, and the responsibility of managers to manage such that employees who were not good were evaluated as such. She said that retaining employees that were not good greatly diminished morale. She asked about the outreach they had with Staff regarding those topics.

Mr. Keene welcomed the kind of comments made by Council Member Holman. He thought the terms were essentially included, but they only used representative aspects for the sake of brevity. The discussion included the changes in the benefits and pay of Staff, the public perception and opinion of public employees, and issues in the City's workforce. Those topics were frequently discussed in many venues within the City. Earlier that day they held a manager's meeting and discussed the public perception of public employees and motivation. He saw fostering conversations as part of Staff's responsibility and that Ms. Shen was formalizing and embedding that process into the organization.

Ms. Shen had looked at the organization of the HR Department and how it partnered with other departments. They were moving to a model where HR professionals served the departments in small teams. Those teams became embedded in the department's business, understood the issues, and could provide better advice and counsel to employees and managers. She said that part of what Council Member Holman wanted was having HR spend more time delivering those services than processing transactions. HR was restructuring so that it could ensure managers and employees were the best they could be. She had spent time with the Executive Leadership Team and their direct reports discussing what development and learning needed to occur. Most of it was around how to lead a team, provide actionable feedback, and ensure productivity. She said HR's comprehensive employee development plan would include those items.

Council Member Holman asked Staff to make recommendations on how to best engage with the Staff through daytime meetings or other means.

Council Member Price said the City provided goods and services to a community that was invested in its success, both fiscally and otherwise. The conversation included the public and needed to provide information so that the public was more aware of the constraints and opportunities the City had. She observed the discussion of leadership and organization had to work within a political environment which meant the behaviors and engagement of elected officials was part of the discussion. Everyone was responsible for being thoughtful and aware of the kinds of decisions they made. The 1990's had "Reinventing Government" and she felt this was "Reimagining Government." She was interested in the delivery of goods and services in the future and asked what the assumptions were related to that. She looked forward to hearing from the pension specialists and panel on healthcare, but also wanted to hear from people who specialized in looking at the evolving workforce and its needs. Both she and her husband were retired public employees, but the likelihood of their children working in the public sector or for a nonprofit was small. She wanted a work environment that was engaging for Generation Y. She asked if social media was being used to work with employees that could not attend public forums or nighttime meetings. She also asked to what degree the community was allowed to make its opinions known. She asked if there were things they did within their digital city that captured additional opportunities for civic engagement and employee involvement.

Ms. Shen liked the idea of combining social media and the forum for healthcare and pension. She said Staff would recommend to Council how that might work. Work culture changed and people no longer worked at the same place for their entire career and younger generations moved between the public, private, and nonprofit sectors and contributed where they could. The model where an employee stayed with an employer for their entire career was changing and as the City attracted younger workers to replace retirees they had to acknowledge that. The future workforce did not have to look like the current workforce. The City had to accept some turnover and that new employees and ideas were good things. The City wanted to provide consistent services and continually improve, but it was acceptable if employees contributed and then moved on.

Mr. Keene said that choosing to enter the public service workforce was the barrier in many ways. As a member of the Board of the Institute for Local Governments, one of the big initiatives they looked at on behalf of the California League of Cities was about how to attract people to municipal

work. Most younger people who were service oriented wanted to work for nonprofits where they could immediately be hands on with a clear mission.

Council Member Schmid appreciated the data that compared global and city governments with the private sector. He thought it was striking how well Palo Alto had done. The City was a model for the country. He noted the private sector wanted more participation from employees on all levels and afforded more mobility related to pensions. He saw three critical issues to address. First was the issue of risk. The City was in a situation where the State set the rules and the local communities bore the entire risk. meant that State Assembly Members, State Senators, the legislative committees in Sacramento, and the Chief Aides needed to be critical participants in the discussion and needed to work with the City. The second issue was that the cities had regressive income streams. The City's two major revenue sources were property tax and sales tax. Property taxes were capped by Proposition 13. Pensions and benefits were service oriented and grew faster than tax revenue. He asked which revenue sources should be dedicated to pensions and benefits. The third critical issue was the age structure of the City's workforce. More than half of the workforce was 10 years from retirement, which was unsustainable. He asked where the young people were and if the retirement age structure would level out.

Ms. Shen said the City bore the brunt of the risk. She liked Council Member Schmid's idea to invite State legislators to the discussion and indicated Staff would look at revenue sources. She felt the City could also do a better job of recruiting and attracting young professionals. Because the City always received large numbers of applicants it had usually been passive in terms of recruiting, but that could change. The City could partner with universities. The intern program was very active with 30 to 35 interns per summer. They wanted to increase the program and capture interns as hires when they graduated.

Council Member Burt said the coauthors of the colleague's memorandum wanted several things in the evening's meeting that they had not yet heard. Specifically they wanted to know the boundaries of the discussion. Of the various forms that could be considered he asked what was allowed by law and what was outside of the current legal alternatives. He also asked what changes needed to occur if the City wanted to look at those alternatives. He wanted that summary at the beginning of the next meeting to the extent possible. Second they wanted to know what the rules were within the current CalPERS system and employee laws. Because of previous closed session labor negotiations Council Members understood the laws were complicated. They saw the meetings as an opportunity for the public and employees to understand what existed in those structures both in and

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outside of CalPERS that restricted and governed what cities could and could not do. That set the boundaries for the conversation and then they could discuss if the boundaries could move. There was no perfect answer because of the many variables, but they needed to balance services and the long term obligations of healthcare and pensions. One variable was the rate of return for CalPERS. The City was governed by what CalPERS set as the rate of return, but many experts believe that to be very optimistic. Out of the City, the citizens, the City's workforce, and the State the City and the citizens bore the long term liability of the system. That was a problem, but how they changed that was challenging both in discussion and implementation. What they needed to do and what they could do was the real matter for discussion.

Ms. Shen said Staff needed time to explore Council Member Burt's questions. She summarized that he wanted to know what was allowed by law and what the rules were of the current CalPERS system. He also wanted a broader discussion which possibly included the League of Cities or other experts to determine when they achieved equilibrium between the retirees and the active employees.

Mr. Keene said they needed to understand the financial picture each year and over time so they could see the tradeoffs involved when they were not at equilibrium.

Council Member Burt clarified that Council was interested in what was allowed before the legislative changes so the public was informed on that as well. Understanding the rules of CalPERS and the labor law would answer many of the public's questions. He clarified that by labor law he meant legislation and court rulings. The other part of the discussion around constraints was what changes needed to be made legally to enable the City to take constructive action.

Council Member Shepherd said that although the issue was raised in a colleague's memorandum it had been a topic of discussion for some time, specifically the rules mentioned by Council Member Burt. She requested Staff return with an answer on what it meant to be a unionized workplace as that would form some boundaries of the conversation. They had projected discounts with CalPERS at 7.5 percent, which was what CalPERS thought it would make on investments. CalPERS actually manifested itself in either negative percentages or one percent, which created what the City actually owed for its current pensioners. Labor was distressed that fell on the current workers. The decisions made in 2002 and 2007 regarding changing the pension schedule affected how the City currently functioned.

Mr. Keene thought Council Member Shepherd said that most of what happened fell on current workers. The changes that had been or needed to be made would exclude or grandfather current workers from that.

Council Member Shepherd said they had asked concessions of current workers. They shared the medical costs. There was nowhere to go other than current employees and new hires which put the City into angst and disruption in having a consistent thoughtful way to work with the workers. She was interested in Council Member Schmid's comments regarding the age structures. She heard current infants had a life expectancy of up to 100, which meant there needed to be a Social Security tier two nationally. She appreciated Ms. Shen's attention to crafting public sector careers. City Staff was often more involved than the Council Members because they served the public. Even though the City offered market rate or near market rate salaries they demanded and expected intelligent workers. She was glad for the reset and the opportunity to think broadly about what it meant to be a public sector worker.

Ms. Shen said she and Mr. Keene discussed an open employee program where employees could bid on task force and projects in other departments so they could see possibilities within other departments. She thought implementing such a program could make a career with Palo Alto exciting and cutting edge.

Council Member Shepherd said it was amazing what the City had to offer employees. The range of available jobs was spectacular. The City kept its credit rating and had reserves and effectively tried to maintain its equilibrium, which was of real interest to people who wanted to be mobile in their careers.

Council Member Klein said the City and public were dependent on high quality City employees. Earlier in the year he spoke with a venture capitalist who asked why Public Safety employees' salaries could not be cut in half. He told him that the City would lose those employees because of the market rate, which shocked the venture capitalist. The community and its workers faced a conundrum. They wanted to offer appropriate scale wages and benefits, but were unable to pay for them at the scale at which they were presently increasing. Because of that he thought the next meetings needed to focus on the Bureau of Labor Statistics figures which indicated that employees with over 1,000 employees paid 77 percent of the cost of family medical plans. Palo Alto had over 1,000 employees and paid 90 percent. He understood that few cities offered family coverage and that was something they needed to focus on. He was not automatically saying they should cut it because they wanted to maintain a high quality workforce. He wanted more

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data regarding the issue to determine if they needed employees to pay a higher percentage. Assemblyman Gordon said he was informed that PEPRA solved roughly 50 percent of the unfunded pension liability issue. He was astonished by that because the number he heard was approximately 10 percent. He wanted further analysis of what PEPRA did and purported to They needed to examine vested rights for existing and retired solve. employees because without doing that he felt it was close to an insoluble problem. He hoped to hear from the City Attorney as well, as the private sector did not have vested rights. The current draconian solution was for cities to file bankruptcy to reduce pension obligations. He agreed with Council Member Burt that they needed a better understanding of CalPERS rules and hoped that had always been part of the process. If vested rights were a major part of the problem, the City needed to know what it could do He asked if there was potential for buying out benefits. Different employees had different needs but the City was unable to offer different packages like the private sector could. For example, a younger employee could prefer a higher salary to pension benefits. He wanted to think on a broader scale and promote an atmosphere of change.

Ms. Shen said she noted the Council wanted to focus on healthcare and data regarding the employer cost. Her past employer went to 20 percent employee paid healthcare in the 1990's with the understanding it would probably be 30 percent within ten years. Private employees were more used to paying a greater share of healthcare costs. With respect to pensions they would look at the percent of unfunded liability and what had and had not been solved by PEPRA. She stated they would look at the issue of vested rights and buying out benefits with the City Attorney. PEPRA was going to be thoroughly reviewed. It was more complicated than first anticipated.

Mr. Keene said Staff wanted a better understanding of PEPRA before the pension discussion with Council. Generally related to pension Palo Alto had done almost everything it had the discretion to do without significant changes or rule flexibility. He thought some PEPRA requirements would move the City backward due to the way they were written. He thought Council Member Klein's point about balance and what changes were needed was necessary.

Vice Mayor Scharff said the City had either given its employees no raises in the last four years or they had given them over a 40 percent raise. Pension and medical benefits went up 40 percent over the past four years. However, if he was an employee he would view it as he had not received a raise while the cost of living increased. The City made many changes, but the trend line on the pension benefits was still increasing by 10 percent or \$3 million per year. Finance Committee looked at it and said there was a \$4 million budget

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gap which they closed that year. The following year there was another gap. The City needed to break that cycle as services and employees suffered. That was unacceptable and he would have preferred to have given the employees a 20 percent pay cut in 2009 and then raises going forward. He said that having budget gaps every year with no foreseeable end was a huge problem. He wanted a solution and understood the constraints. He asked if they could provide income that was not part of CalPERS. To determine solutions they needed to understand the rules. He said the evening's meeting gave him no understanding of the rules. If the rules were known they could determine ways around them and could advocate for changes in the legislature. The City had to be solution oriented or it would continue to pay the employees less each year and reduce services thereby degrading the overall quality of life. There were many unanswered questions in the colleague's memorandum. He wanted Staff to address every issue.

Mr. Keene said that was Staff's intention. They explicitly said they wanted to provide initial context and discuss the work environment. Staff understood the structure Council wanted them to return with, but even then some questions would remain unanswered. He thought they could explain the boundaries the City faced, possible workarounds, and anything that required legislative or constitutional change.

Ms. Shen added she spoke with the benefit broker, Wells Fargo, whose spokesperson would engage with Council in November. Wells Fargo took other cities through the benefit buy out process and had knowledge and history with that.

Vice Mayor Scharff said Palo Alto was out of the recession as sales and property taxes were increasing. He did not expect income to increase much more on a year to year basis, but expenses were still rising. He suggested outsourcing as a solution in order to sustain the benefits for the core group of pensionable employees. Productivity increased with a more flexible work environment and technology. There were limited options as to how to get the same work done with less money. He wanted solutions for how those things could be achieved.

Mayor Yeh asked for a response to the Vice Mayor's comments.

Ms. Shen said they had no response but that she had captured what he wanted looked at. Staff was going to consider outsourcing, technology, and what the core group of employees looked like. HR Staff's effectiveness was limited by the current system so she planned to work with IT on a request for new HR technology.

Mayor Yeh wanted workplace culture as the starting point. He had worked for local governments and experienced opportunities in the private sector and one of the areas he appreciated that Staff focused on was making local government a destination career. That 50 percent of the City Staff was eligible for retirement in 10 years was shocking. The potential loss of institutional knowledge was something that needed Workplace culture could be handled separately from compensation, but as resources for compensation were limited it was of paramount importance. He believed that if people enjoyed their work, compensation was somewhat He knew it was a large discussion and everything Staff presented on creating flexibility for people to explore other departments was a good step and expressed his support. In the pension meeting he wanted to discuss CalPERS governance. It was essential for the Council and the public to understand what happened from the governing board perspective. He appreciated Assemblyman Gordon's initiative which enabled the CalPERS Board meetings to be webcast. It was important people saw how investment decisions were made and policy direction from the legislature was implemented. CalPERS was the largest pension fund in the world. He was open to ideas regarding compensation flexibility and what was and was not part of CalPERS. He framed healthcare as a fundamental human right and it was tough for him to embrace reform on since there was much reform on the federal level. The Affordable Care Act was a moving target for local governments. When the dependent age increased to 26 it increased the City's long term liabilities. In future meetings he wanted opportunities to brainstorm and have true dialogue. He wanted an active solicitation of Labor about how the discussion was framed. He was open to something that was public, facilitated, less formal, during the day, and included social media. He wanted to know what each Labor group's preliminary thoughts were on the questions raised in the colleague's memorandum. The discussions were challenging but essential because he believed in the services and knowledge City Staff provided the community and that employees understood the difficult financial realities faced by the City. He was pleased with the tenor and tone of the conversation so far and hoped it could be sustained throughout the remaining sessions.

Ms. Shen pointed out that the static that 50 percent of the employees in five years would be eligible to retire was simply a statement of eligibility. She did not expect 50 percent of the employees to actually retire. Much depended on the status of the economy and the employee's alternatives. Even if half of the eligible employees retired it would be difficult for the City if there was not a plan in place.

Council Member Holman asked about the tenure of employees and if the City was not attracting younger employees. She asked if there were

departments with higher turnover and how the age of the City's workforce compared to other Bay Area communities. She also asked of the cost of living in Palo Alto and housing in particular was a barrier to younger employees. She understood that some larger cities were not in CalPERS and were self-funded and wondered if Palo Alto could remove itself from CalPERS.

Ms. Shen said they would look at employee tenure and provide the information. The City did not have a retention issue. The turnover rate was between one and two percent depending on the employee group. Staff was also compiling a report that compared the City to neighboring communities.

Council Member Klein said the larger cities had not opted out of CalPERS, they had always had their own systems. With few exceptions they had been less successful than CalPERS. He said San Diego's system was scandal ridden and he did not see the larger cities as a better model than CalPERS. Every pension system struggled with increased costs and stagnant income.

Mayor Yeh asked Staff for final comments.

Ms. Shen pointed out that Council was provided binders because Staff intended to provide additional supplemental information. She asked that any requests for specific references be directed to her attention.

Mr. Keene said Staff was returning in November with the pension and December with healthcare and he wanted to set the expectations. Staff understood the framework of the colleague's memorandum and its questions. They also had to consider Council's suggestions over the coming three weeks. Palo Alto was considered a leader in the State with what it had done and its knowledge of the situation. Staff's inability to answer questions was a matter of the capacity to do research. He needed Council to know that Staff was working on the information but could not provide everything by the November meeting. However, he said Staff could ensure the community had a better understanding of what the City could or could not do and what was necessary to pursue other options.

NO ACTION REQUIRED

10. <u>Interim Urgency Ordinance 5167</u> to Place Temporary Moratorium on use of "Exempt Floor Area Ratio" Parking Exemption Contained in Section 18.52.060(c) of the Zoning Ordinance in the Downtown and California Avenue Assessment Districts.

Curtis Williams, Planning and Community Environment Director recommended City Council adopt an interim urgency ordinance that established a moratorium on the use of an exempt floor area provision in the zoning code related to parking exemptions. The Council previously considered on multiple occasions issues surrounding downtown parking and directed Staff to look at measures that evaluated parking supply, parking demand, Zoning Ordinance provisions, and Downtown Development Cap The exemption provision, Section 18.52.060(c), of the zoning ordinance had the potential to further exacerbate downtown parking problems if it continued to be applied to projects. Section 18.52.060(c) allowed exemption from parking for any property within the downtown or California Avenue districts that had up to a 1.0 Floor Area Ratio (FAR). The language was adopted in the 1980's when the Downtown Plan was adopted and shortly after the assessment district was in place. Staff believed it was done to encourage downtown development. Staff suggested the moratorium because the provision outlasted the economic circumstances of downtown development and existing and potential parking deficiencies continued to Staff intended to study the issues and return to Council. explained the measure was an interim urgency ordinance. State law allowed a Council to adopt such an ordinance without the review of the Planning and Transportation Commission (P&TC) and full public hearing notice, but only if there was a four fifths vote, or 8 of the 9 Council Members approval. It also required Staff to return to Council within 45 days with details on a comprehensive parking ordinance. Mr. Rodriguez and Staff planned to provide that report by November 5, 2012. With respect to the pending projects in the development review process, the ordinance did not provide for specific exceptions. It was the Council's option to include exemptions. In the past the Council generally exempted projects in process from Ordinance changes. The only exception he remembered was the Green Building Ordinance, which only exempted projects currently in the building permit process. There were two projects currently in the review process that utilized the 1.0 FAR exemption. The first was 135 Hamilton Avenue, which had been in process for over a year and went to the Architectural Review Board (ARB) six weeks prior. The Applicant was currently reviewing design changes and would return to the ARB. He noted that the site had a project approved but not built in 2009 for a one story building that utilized the 1.0 FAR parking exemption. The second project was 636 Waverley Street, which was submitted in September 2012 and was scheduled to go to the ARB in November for the architectural review application. suggested that if Council chose to exempt either or both of the projects that they contain a robust Transportation Demand Management (TDM) Program requirement that the assessment district funds be placed in the in lieu parking fund instead. He said that the Applicant for 135 Hamilton Avenue submitted a request that the application be amended to include review and

approval of the single story project that was submitted and approved in 2009 but had since expired. That did not qualify as an amendment, but the Council could consider it if it made a determination that there was a distinguishing characteristic from that project as opposed to new applications.

Molly Stump, City Attorney added that many people asked if there was an expectation or right of downtown property owners to continue with the current zoning rules in place. Legally the answer was clearly no. She said the Council could choose to allow projects to continue utilizing the rule and to change it in the future, but legally it was clear. Property owners acquired a vested legal right to continue on with the status quo rules only once a final building permit had been issued and substantial work took place that relied on the building permit. Once a building permit was issue and work began, the vested right was limited by the building permit. Once a permit expired so did the legal right. She said it was important that the Council treat similarly situated individuals in a similar way. When distinctions were made they needed a rational basis for the different rule. That was a standard that required careful thinking and articulation.

Chop Keenan of Emerson Street said he was a long time parking zealot in Palo Alto. He was Chair of the Downtown Parking Committee in the 1990's. They met monthly and discussed a variety of parking issues. parking equaled prosperity. 90 days ago he proposed a public/private collaboration on Lot P to build 190 additional spaces. He acknowledged that was separate from the evening's conversation but stated he mentioned it to show his commitment for parking in Professorville. On 135 Hamilton Avenue in 2007 he has a 7,700 foot building approved on a 10,000 foot lot with a 1:1 FAR exemption. The ARB stated it was an important corner and wanted it built to the maximum FAR with residential units. Consequently he returned in December 2011 with a 20,000 square foot building that met the criteria with the 1:1 FAR exemption. There was over a half a million dollars invested in the project. In January 2012 they received a notice of incompletion, which was promptly answered and turned around. On August 29, 2012, the Mitigated Negative Declaration was published. meeting was held on September 30, 2012, and they were currently working on the ARB's comments. He asked that the project be exempted from the moratorium.

Jim Baer said with the exception of the project at 135 Hamilton Avenue he fully supported the urgency Ordinance eliminating the 1:1 FAR exemption both downtown and on California Avenue. He stated he was involved in 75 projects between those two areas. The 135 Hamilton Avenue project needed an exemption because of process, fairness, and equity. The 40

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spaces which were relieved under the exemption represented less than one percent of the parking deficit identified in Mr. Alsman's handout. The project was initially approved in 2007 by the ARB, with the ARB Chair demanding a larger project. Until 2007 he and Mr. Keenan were unaware of the 1:1 FAR exemption and were astonished it existed. The 1980's zoning ordinance update included no lobbying by downtown owners. The 2007 approval would have lasted until the submittal of a building permit was required by January 2010. The new project was submitted in December 2011. Prior to that he met with Mr. Williams and Staff had had dialogue about 101 Lytton, which looked at the 1:1 FAR exemption. Planning Staff issued a notice of incompletion in January 2012 but nothing was included about parking or the 1:1 FAR exemption. 135 Hamilton Avenue was an actively pursued project that included rental units and used TDR as allowed and was fully parked other than the 1:1 FAR exemption.

David Kleiman spoke regarding 636 Waverley Street, which was a smaller project about 10,000 square feet in total. They were only weeks away from the first ARB hearing. He requested clarity as soon as possible on the parking issue. Passing the moratorium without granting an exception for his project was unfair because there was a reasonable expectation based on past history of Council's action for already started projects. They spent substantial money and time readying the project. The parking was to code; the project did not ask for exceptions to any zoning. He felt it was unreasonable for the City to ask them to pay an in lieu fee or to purchase TDR's when the existing code clearly exempted the project.

Ken Alsman was concerned about all the issues surrounding parking in downtown. He urged Council to accept Staff's recommendation on the moratorium with no exceptions. He thought 135 Hamilton Avenue would generate at least 70 unparked cars upon completion. He completed an analysis of the 18 projects Palo Alto had approved, under consideration and construction but not occupied and estimated they would generate in excess of 700 additional unparked cars.

Richard Brand stated he was a member of the University South Neighborhood Group Board. Following the residential parking permit meeting in July he thought the process was broken, but there was a proposal and he applauded Staff's efforts to correct the root problem. He thought the 1980's ordinance was created to revitalize the downtown and it was extremely successful. He respected the developer's points regarding their investments, but the City had worked on the downtown parking problem for over a year. He thought if there were exemptions granted they needed to have financial conditions that required parking near the

development. Parking needed to be located where the development occurred and not five blocks away.

Robert Moss urged the Council to adopt the urgency Ordinance recommended by Staff without any exceptions. He said when Staff returned to Council in 45 days the conditions for exemptions could be discussed at that time. He said people in Downtown North and Professorville had complained of spillover parking for many years. Most garages in downtown had been built in the last 15 years as a result of the parking impacts. If the proposal at 27 University Avenue was built, he thought it created a huge parking overflow. He recommended the Council adopt the urgency Ordinance and consider the exemptions carefully.

Council Member Schmid left the meeting at 10:21 P.M.

John R. Shenk, Thoits Family Board of Directors, stated that he wanted to make sure there was clarity around if this moratorium were to go forward that projects or properties that have paid into the assessment district are not somehow harmed. He believed 135 Hamilton Avenue and 636 Waverley Street should be looked at with a deferential eye and given an exemption.

Mr. Williams said the ordinance change did not affect any other provisions of the parking and downtown regulations. Projects that had paid into the assessment district were allowed to build to their assessments or rebuild to the level they existed at currently.

Council Member Klein said his questions were related to whether 135 Hamilton Avenue and 636 Waverley Street were subject to any amount of assessment. He heard different things from the Applicants than what was stated in the report. Page four of the report indicated that people who paid into the assessment district were able to obtain the benefit of the 1:1 exclusion, but there was a sentence which read, "there's also some ambiguity to whether applicants who have never paid into the assessment district can qualify for the exemption by paying into the district retroactively and if so how to calculate the payment." He asked if there was no moratorium and the projects moved forward under the exemption if they would have been required to make any payment. If so, he wanted to know how the payment was to have been calculated.

Mr. Williams said the concept of buying into the assessment district was confusing. The projects would have had to do so and that was a condition of the approval at 135 Hamilton Avenue in 2009. No method had been determined at that time, but Staff suggested one way to do it. He did not know if Staff spoke to Mr. Kleiman about it, but they had talked to Mr.

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Keenan and Mr. Baer previously about the condition. It was also attached to the most recent conditions for approval for 135 Hamilton Avenue when it went to the ARB.

Council Member Klein said Mr. Kleiman stated he did not believe he should have to pay any amount. He asked if that was correct.

Mr. Kleiman said he raised the question during a meeting with Amy French and Mr. Williams. He was not sure there was a mechanism in the Municipal Code or by practice to allow a later assessment of a property like his that had not been assessed in the parking district. He was open for discussion, but the code stated that properties that had not been assessed were exempt. Based on that there was no rationale for an exempt property to pay into the district. He asked what the rationale was for a property to be assessed aside from the City's standpoint of revenue.

Mr. Williams said Staff's interpretation was that it only allowed a project to take advantage of the 1:1 if it was assessed.

Council Member Klein recalled that in 1987 there was a different system for assessments on the parking district. There were no bonds at that time. Staff recalculated annually on the basis of who was in business.

Mr. Williams agreed. There was a mechanism at the time it was adopted for changing the assessments annually.

Council Member Klein said the bonds came later. He asked how much that would be compared to what was charged at the Lytton/Alma project.

Mr. Williams said the calculation under the assessment district was much less. For 136 Hamilton Avenue depending on the methodology used \$150,000 to \$350,000. That was six spaces under the in lieu fee. If the in lieu fee was applied for all 40 spaces it was \$2.5 million.

Council Member Klein said he needed to think about that.

Vice Mayor Scharff thought the ordinance needed to be passed, but he had questions related to the potential exemptions. He did not believe the projects should be completely grandfathered in, especially the one story building. He thought they should apply the TDM to the four story building and that some parking was necessary. He agreed that parking equaled prosperity.

MOTION: Vice Mayor Scharff moved, seconded by Council Member Shepherd to adopt the Interim Urgency Ordinance establishing a moratorium on the use of the Exempt Floor Area parking exemption set forth in Section 18.52.06 (c) of the Palo Alto Municipal Code in connection with any permit, entitlement or development project, pending further study of Downtown and California Avenue parking issues. Return to Council within 45 days regarding the potential exemptions.

Vice Mayor Scharff believed the City owed Professorville, Downtown North, and other areas a commitment to resolve the parking issues and solve the problem. The difficult parking issues that required serious thought related to the exemptions.

Council Member Shepherd was conflicted about the projects in process. She was prepared to go forward with the urgency ordinance but not with the exemption. The TDR exemption was easy; it was the 40 parking exempted at 135 Hamilton Avenue that concerned her.

Council Member Espinosa noted that if the item returned in 60 days he would probably no longer be on the Council. He believed in fairness and equity and thought the Council often forgot the time and money spent on moving projects through the City's system. The Council avoided changing rules during the process in the past for good reasons. He believed it was inappropriate for the Council to change the rules related to projects in process.

Council Member Holman was unclear about the 60 days mentioned in the Motion because the ordinance lasted for 45 days.

Vice Mayor Scharff said they were not exempted until they returned to Council for discussion.

Ms. Stump said the urgency ordinance provided that the use of the 1:1 was under a moratorium effective on the Council's vote that evening. That applied to all projects, including the projects in process unless the Council specifically exemption them. The Motion as stated applied to all projects and considered an exemption in 60 days.

Vice Mayor Scharff agreed to 45 days if Staff believed that to be appropriate. He had wanted to give Staff time and had not been sure 45 days was enough.

Mr. Williams believes they were required by State law to have a public hearing in 45 days.

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Council Member Holman said the projects were included according to Staff so her only concern was the 45 days.

Vice Mayor Scharff called a point of order that the Motion was seconded by Council Member Shepherd.

Council Member Price supported the Motion and concurred with Council Member Espinosa regarding the issues of fairness and the process laid out.

Council Member Klein confirmed that the two in process projects could not move forward for 45 days.

Mr. Williams said it was not unusual to have a preliminary design review without all of the compliance details worked out.

Council Member Klein asked if the 45 days would delay the final approval of the projects.

Mr. Williams thought it would delay them, but indicated the projects could move forward in the interim at their own risk in terms of ARB review. He said that either project could solve the issue by paying in lieu fees, but was not sure that either developer was interested in moving forward until the parking issue was resolved.

Council Member Klein stated he reluctantly supported the ordinance because he wanted to exempt the projects in process. He also agreed with Council Member Espinosa's comments because the Council's job was to be fair and equitable. He generally supported the Motion because the City needed a definition of "in process" for future ordinance changes. Secondly Staff had to return to Council with a recommendation of what the projects in process needed to pay. He believed that the Council made it clear in 1987 that they should pay some amount, and urged Staff to use a formula other than the bond formula, which did not exist in 1987.

James Keene, City Manager said Staff would review that, but indicated the opposite could be argued. In 1987 the thinking was to redress the situation as it was then and currently they attempted to redress the current situation which was more complex.

Council Member Klein was open to suggestions, but stated the bonds did not make sense because it was a static amount. 2012 Inflation or property values needed to be taken into consideration.

Mr. Keene said that was why Staff needed the 45 days.

Vice Mayor Scharff agreed with Council Members Burt and Espinosa that it was necessary to treat people fairly, but the question was how much of an in lieu fee the projects in process needed to pay and how to calculate that figure. He did not believe the projects needed to be delayed through the process.

Council Member Burt asked if Staff needed the full 45 days.

Mr. Williams said yes.

Council Member Shepherd was opposed to moratoriums because they ended up with bad projects. She cited Alma Plaza as an example. However, she noticed that there was a consideration that there was an exemption from any in lieu or parking assessment for the buildings.

Mr. Williams thought there was an understanding that a fee was to be paid to the assessment district. An in lieu parking fee was a separate thing in the process. Staff suggested that it was more purposeful to provide money to the in lieu fund. The question was how much was reasonable and under what standards. Staff planned to return with a recommendation.

Council Member Shepherd confirmed they were not looking at a complete redesign on the projects.

Council Member Holman said the possibility of providing additional onsite parking had not been discussed. She suggested they look at that as well.

Mayor Yeh supported the Motion because Staff needed additional time for analysis and discussion with the project applicants. He was unclear about the projects in process eligibility for the 1:1 and wanted clarity.

Council Member Burt requested TDM be included in the Motion.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that the staff report in 45 days will contain a proposal for the exemptions to include the preparation of a robust Transportation Demand Management (TDM) program for the projects.

Mr. Keene said the way the Motion was crafted allowed Staff to return within 45 days with more information. Because Council Member Schmid was no longer in the meeting, the Council needed a unanimous vote to pass the Motion.

MOTION PASSED: 8-0 Schmid absent

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Price reported on attending a fundraiser for Outlet, which is a member of Project Safety Net. The Mental Health Board held a meeting regarding Veterans services. She also attended a crisis intervention training program conducted at Stanford University.

Council Member Holman asked about a letter from a citizen regarding a construction project. She asked Staff to provide information to Council regarding the letter.

Council Member Shepherd reminded everyone that the League of California Cities is recruiting for several of their policy setting committees.

Mayor Yeh noted that three members of the public had commented on Elizabeth Seton School item and asked when it would come back to Council.

Curtis Williams, Director of Planning & Community Environment stated that that item will be on Council's agenda on November 5, 2012.

Mayor Yeh asked if it was standard timing to come before Council.

Mr. Williams answered yes and stated that Council could set a Public Hearing for a later date.

Mayor Yeh asked about the DAS process and an individual appeal process.

Mr. Williams stated that was also coming to Council on November 5, 2012 and would be the same process as the Elizabeth Seton School item.

Mayor Yeh appointed Council Member Burt to the new Caltrain Policy Maker Committee. Each January the new Mayor will appoint to this committee. He thanked the Council and public for their participation in Bike Palo Alto.

Adjournment: The meeting was adjourned at 11:03 P.M.