

Special Meeting  
May 11, 2009

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:33 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Schmid, Yeh  
arrived at 6:35 p.m.

Absent: Morton

#### STUDY SESSION

1. Joint meeting with Congresswoman Anna Eshoo Concerning Federal and Local Issues.

Congresswoman Eshoo provided updates on Federal environmental and transportation issues. She reviewed the status of Federal stimulus package funding and noted that her office was considering submitting projects in the district for funding. She discussed her awareness of issues related to High Speed Rail as well as the serious impact it could possibly have on the peninsula.

Mayor Drekmeier mentioned the work that Ms. Eshoo has taken to lead in the area of sustainability, mentioning that her district office is a model of green building.

Carroll Harrington, 830 Melville Avenue, congratulated Ms. Eshoo for having the first certified green congressional office. She overviewed the green efforts of Wave One and Community Environmental Action Partnership.

Bob Moss, 4010 Orme Street, spoke on protecting Moffett Field's Hanger One at Nasa Ames and preserving the International Traffic in Arms Regulations (ITAR).

2. Joint Study Session with Utilities Advisory Commission Regarding Smart Grid.

Don Von Dollen, Program Manager at the Electric Research Power Institute gave an overview of Smart Grid Infrastructure, Smart Grid applications, the state of the technology and the status of Smart Grid deployments across the United States. He explained the current challenges with Smart Grid deployment.

Utilities Senior Resource Planner, Shiva Swaminathan gave an overview of reasons for embarking on a Smart Grid strategy and the status of various City efforts on automated meter reading, energy monitoring programs, and distribution system controls.

SPECIAL ORDERS OF THE DAY

3. Appointment of Candidates for the Public Art Commission for One Unexpired Term Ending April 30, 2011 and Three, Three-Year Terms Ending April 30, 2012.

First Round of Voting for One Unexpired Term and Three, Three-Year Terms on the Public Art Commission:

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| Voting For Terry Acebo-Davis: | Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Schmid, Yeh |
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| Voting For Dean Bunderson: | Barton, Schmid, Yeh |
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| Voting For Nancy Coleman: | Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Schmid, Yeh |
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| Voting For Kenneth Huo : | Burt, Espinosa, Kishimoto |
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| Voting For Christina Pahl: | Drekmeier, Klein |
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| Voting For Einar Sunde: | Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Schmid, Yeh |
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Assistant City Clerk, Beth Minor announced that with 8 votes each Terry Acebo-Davis, Nancy Coleman, and Einar Sunde were each appointed to the Public Art Commission for three, three-years terms ending April 30, 2012.

Second Round of Voting for One Unexpired Term and Three, Three-Year Terms on the Public Art Commission:

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| Voting For Dean Bunderson: | Barton, Drekmeier, Schmid, |
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Voting For Kenneth Huo: Burt, Espinosa, Kishimoto, Yeh

Voting For Christina Pahl: Klein

Ms. Minor announced that no candidate received the required five votes.

Third Round of Voting for One Unexpired Term and Three, Three-Year Terms on the Public Art Commission:

Voting For Dean Bunderson: Drekmeier, Schmid

Voting For Kenneth Huo: Barton, Burt, Espinosa, Kishimoto, Klein, Yeh

Voting For Christina Pahl:

Ms. Minor announced that Kenneth Huo with 6 votes was appointed to the Public Art Commission for one unexpired term ending April 30, 2011.

4. Appointment of Candidates for the Library Advisory Commission for Two Unexpired Terms, One Ending January 31, 2010 and One Ending January 31, 2011.

**MOTION:** Council Member Burt moved, seconded by Council Member Schmid to reopen the recruitment for the Library Advisory Commission for the three current vacancies, with the two applicants already interviewed to be considered in the new recruitment.

**MOTION PASSED:** 7-1 Barton no, Morton absent

**MOTION:** Mayor Drekmeier moved, seconded by Council Member XXXX to reconsider the earlier vote for the two current candidates for the Library Advisory Commission (LAC) due to the lack of quorum for upcoming LAC meetings.

**MOTION FAILED FOR LACK OF SECOND**

CITY MANAGER COMMENTS

City Manager, James Keene spoke on the following topics: 1) The Gas Pipeline Safety Awareness brochures, which would be provided to all utility customers in their utility bills; 2) City's Earth Day clean-up event that was held on May 6, 2009 at the Baylands Foothill Park; 3) The upcoming May 19, 2009 community meeting on the design of the new Library and Community Center at Mitchell Park, and the Downtown Library Renovation Project at the Mitchell Park Community Center; 4) The recruitment of Utilities Advisory

Commission Members; 5) High Speed Rail information to be distributed on May 18<sup>th</sup>; 6) The honoring of City firefighter John Rosinski at the 3<sup>rd</sup> Annual Red Cross Silicon Valley Hero's Award Breakfast; and 7) The passing away of Community and Services Department employee Jean-Paul Blanchard.

Mayor Drekmeier asked whether City sponsored events supporting the Bike to Work Day scheduled for Thursday, May 14, 2009 were shared with residents and City employees to encourage participation.

Interim Deputy City Manager, Steve Emslie stated informational material was delivered to City employees on Bike to Work Day Energizing Stations. He indicated these Energizing Stations would be set up around the City and would have promotional material for Bike to Work Day participants.

#### ORAL COMMUNICATIONS

Richard Cassel, 621 Wellsbury Way, spoke on his concern of the poor visual and audio quality seen on AT&T Cable government access channels 26 and 29.

Fred Balin, 2385 Columbo Street, spoke on the 2180 El Camino Real Project. He stated the importance of why Staff should follow the Municipal Code exactly when proposing the Project's considerations to the City Council.

Robert Moss, 4010 Orme Street, spoke on his disapproval of the approved zoning of the 2180 El Camino Real Project.

Victor Ojakian, 526 Addison Avenue, stated he would be voting no on Proposition 1E, due to its take away of funding for teen mental health and suicide prevention programs.

Dr. Stanley Mayerson, Palo Alto, spoke on financial possibilities that may assist the City's deficit.

Susie Thom, Chair of the Library Advisory Commission (LAC), spoke on the LAC's lack of a quorum at a scheduled joint meeting with the Public Art and Parks and Recreation Commissions scheduled for May 27, 2009. She indicated two LAC Meetings in May may need to be cancelled, due to the lack of a quorum from the LAC Members.

Sara Armstrong, Palo Alto, spoke on the on-going work carried out by California Advocating Reasonable Design (CARD). She indicated CARD was an advocating group that was formed to protect transparency, accountability, and oversight by the High Speed Railroad Authority.

Mary Brodbeck, Palo Alto, requested that the City Council formally adopt a procedure to follow the High Speed Rail legislature moving through Sacramento, and to utilize a lobbyist to keep the City's best interest intact.

Nadia Naik, spoke on CARD's philosophy of Context Sensitive Solutions (CSS) in regards to High Speed Rail.

Herb Borock, PO Box 632, spoke regarding the 2009 Summer National Senior Games. He questioned why the City was not publicized as an official sponsor in the 2009 Summer National Senior Games brochures.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Barton to approve the minutes of April 13, 2009, including the addition of pages 17, 18, and 19.

Council Member Schmid inquired if the Motion included the missing page that was missing from the original packet.

Assistant City Clerk, Beth Minor stated page 18 was inadvertently left out of the original packet and was provided to the City Council prior to the Meeting this evening.

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

#### CONSENT CALENDAR

Council Member Barton advised that he would not be participating in Agenda Item Number 5 as he will become a Board Member of the Board of Directors of the Housing Trust at their next board meeting.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Klein to approve Consent Calendar Item Numbers 5-8.

5. Approval of Amendment No. Two to Agreement With the Housing Trust of Santa Clara County to Provide a Contribution in the Amount of \$100,000 from the Residential Housing Fund for Fiscal Year 2008-09 and to Allow for Expenditure of City Contributed Funds for Qualifying Loans and/or Grant for Housing in Palo Alto through FY 2013/14.
6. Ordinance 5038 entitled "Ordinance of the Council of the City of Palo Alto Amending Section 18.18.070(e) (Floor Area Bonuses) of Title 18 (Zoning) of the Palo Alto Municipal Code Regarding Protective Covenant in Favor of City."

7. Ordinance 5039 entitled "Ordinance of the Council of the City of Palo Alto Repealing Chapter 5.30 ("Chlorofluorocarbon – Processed Food Packaging") and Adding a New Chapter 5.30 ("Expanded Polystyrene and Non-Recyclable Food Service Containers") to Title 5 ("Health and Sanitation") of the Palo Alto Municipal Code."
8. Approval of Amendment No. 2 to Contract C05110846 with Maze & Associates to Provide a Contingency of \$42,605 for a Total Contract Amount Not to Exceed \$866,142.

**MOTION PASSED FOR ITEM NOS. 6-8:** 8-0 Morton absent

**MOTION PASSED FOR ITEM NO. 5:** 7-0 Barton not participating, Morton absent

#### AGENDA CHANGES, ADDITIONS, AND DELETIONS

#### UNFINISHED BUSINESS

9. Public Hearing: Adoption of an Ordinance Amending Chapter 5.24 of the City of Palo Alto Municipal Code (Requirements to Divert Construction and Demolition Waste from Landfill) to Increase Diversion Rate and Expand Applicability to Projects in Excess of \$25,000; Environmental Assessment: Categorically Exempt Pursuant to Section 15308 of the CEQA Guidelines.

Manager of Current Planning, Amy French stated the Construction and Demolition (C&D) Debris Diversion Program was a key component in implementing the City's Zero Waste Program, and a component of the City's climate protection goals. She indicated over one hundred thousand tons of C&D debris has been diverted since the original Ordinance was adopted in 2004. She indicated that in March 2009, the landfill stopped accepting commercially generated waste. She stated this requirement presented an opportunity for Staff to amend the Ordinance to require all C&D debris be diverted to approved reuse and recovery facilities, and to increase the salvage and recycling requirements. She stated the proposed Ordinance would increase the C&D debris diversion requirements, increase the number of covered projects, improve compliance, relate penalties to amounts to be diverted to encourage compliance, and clarify definition and general language for consistency with State and National regulations and programs.

Council Member Yeh indicated the current fee structure covered 75 to 80 percent cost recovery. He inquired what the cost recovery would be with a reduction in the threshold and staffing two full-time employees.

Ms. French stated she expected the fees, related to the proposed Ordinance, would be cost recoverable. She indicated a long-term goal of the City was to increase staffing in this program.

Council Member Yeh inquired, that when full staffing was reached, was it the City's intention to recover costs up to 75 to 80 percent to Staff both positions.

Ms. French stated yes.

Council Member Schmid posed a scenario on the total fees that may impact a small home remodel project. He indicated four percent was added to the total cost of a small remodel project which may significantly impact a home owner. He stated many buildings and driveways in the City will need to be structurally rebuilt within the next few years and incentives to renovate these structures should be reviewed. He inquired whether the City had a plan regarding the housing stock over the next decade. He was not opposed to effective recycling of C&D debris; however, he felt the proposed Ordinance may persuade homeowners to postpone remodeling due to the extra costs involved.

Interim Deputy City Manager, Steve Emslie stated the State mandates the City's Housing Element to evaluate and establish conservation policies to existing housing stock before additional housing can be built. He stated the new Comprehensive Plan would include a reexamination of the City's housing stock and the risks of existing housing.

Ms. French stated the City's Green Building Ordinance provided incentives by rewarding additional points to applicants that comply with the City's Green Building Check-List.

Council Member Schmid stated that when the new Comprehensive Plan comes before the City Council, residents can anticipate a new and fresh look to the document. He indicated it would offer more building options.

Mayor Drekmeier stated in addition to recycling materials, products should be purchased from recycled materials. He inquired whether Staff had given thought to a resource recovering center where residents could recycle salvage materials.

Ms. French stated Staff discussions have taken place on this topic.

Associate Planner, Kristin Heinen stated two facilities exist for recycling salvageable material exchanges within the City that are heavily used. She indicated there has been an increase in alternative ways that residents are exchanging salvage goods.

Council Member Burt inquired whether links were posted on the City's website that reference centers for residents to recycle debris material.

Ms. Heinen stated approved recyclers and salvage facilities were posted on the City's website and referenced on City applications.

Mayor Drekmeier stated the Green Building Ordinance rewards the use of salvage materials.

Council Member Espinosa stated he understood the notion of creating a Staff position within the Department, with a 75 to 80 percent cost recovery, and then adding a second Staff member at a later date. He stated that with a lower cost recovery, whether the City's plan would be for the program's cost to cover the debris program too.

Mr. Emslie stated, with the lowering of the threshold, Staff expected an increase in permits which would keep the fees from rising. He indicated additional Staff would not be added until data was collected on what type of permit revenue was being collected.

Public Hearing opened and closed without public comment at 8:49 p.m.

**MOTION:** Council Member Barton moved, seconded by Council Member Kishimoto to approve the amendments to the Construction and Demolition Debris Diversion Ordinance comprising Chapter 5.24 of the Municipal Code.

Council Member Barton stated his initial concern was that the City would be creating greenwashing by shipping recyclable material to a location that sorted the material. He stated some of that material would end up in the landfill. He felt although the City may comply, no real action may be seen. He felt Staff did a good job explaining that recycling was the cheapest way to go; he further stated the market would eventually correct his concern. He indicated the proposed Ordinance made a great deal of sense.

Council Member Kishimoto felt the proposed Ordinance would have an impact on the land use of landfills, and was a positive step in creating climate change.

Council Member Burt stated the most important justifications for the proposed Ordinance was seen both economically and environmentally. Economically, he indicated that recycling debris was cheaper than disposing of debris. Environmentally, he stated a reduction of CO2 was an important element of the proposed Ordinance.

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



## REPORTS OF COMMITTEES AND COMMISSIONS

10. Policy and Services Committee Recommendation to Approve Proposed Procedure for Appointment of Santa Clara Valley Transportation Authority (VTA) Board Members from the Six North County Cities.

Council Member Kishimoto stated she had been the Valley Transportation Authority's (VTA) representative for the last eight years. She provided a brief history and the organizational structure of the VTA. She indicated the Staff report was initiated due to a concern on the lack of quality decision making. She stated this was due to the current three-year term length; and that once a representative came up to speed on issues their terms were up. She indicated the Policy and Services Committee recommendation addressed the board turn-around issue and expertise issue. She stated the Policy and Services Committee reviewed the proposed procedures for the appointment of VTA Board Members, made modifications, and recommended that the City Council approve the policy as modified in the Staff report.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Burt to approve the proposed procedures (CMR: 238:09, Attachment A) for appointment of Santa Clara Valley Transportation Authority Board Members from the Six Northern County cities with the following four additional points: 1) Clarification that the representative bring forward to the full Board all of the concerns from the entire North County, 2) The North County grouping must meet a minimum of four times per year, 3) The elected representative shall make diligent efforts to attend the North county groupings meetings, and 4) The policy regarding procedures for appointment of Board Members should be reviewed after six years.

Council Member Burt inquired on any new processes if the Cities within the North County Cities group did not fully agree and adopt all the elements of the proposed procedure.

Council Member Kishimoto stated the procedure for this scenario was not clear. It was her belief that conflicts of this nature would be settled by the VTA Board.

Council Member Burt inquired if the VTA Board would make decisions on cases where recommendations were not endorsed by all parties involved.

Council Member Kishimoto stated she could take revisions of the adopted procedure to the North County Cities group and ask whether they were willing to adopt the recommendations. She indicated every North County City agreed with recommendations 2 and 3 of the proposed procedures. She indicated there was no consensus on items 1 and 4.

Council Member Espinosa stated significant changes would need to take place for a change in regional transportation decision making and its governance. He felt legislative changes may be needed in order to create significant change. He stated discussions were held regarding how to create a system that was equitable and provided a good training ground for better decision making.

Council Member Schmid stated that in the March 16, 2009 Policy and Services Committee minutes, the length of the term period for VTA representatives was discussed. He stated the recommendation was to change the process of terms from rotation to a weighted vote system based on City population size. He stated the City of Palo Alto was the fourth largest City in population size, and might not have the political standings of the top 3 cities within the North County group. He recommended a review every two years on the proposed procedure for the appointment of VTA Board Members.

Council Member Klein stated cities do not typically team up against one another. He felt the more changes made to the process, the less likely policy changes would occur. He felt a ten-year review period, as defined in the proposal procedure, was sufficient.

Council Member Burt inquired whether the procedure could be revisited if changes were needed before the ten-year review period.

Council Member Kishimoto stated the VTA Board can revisit necessary changes at anytime. She provided a City of Los Alto case example where their VTA representative was given authority by the VTA Board to vote on local procedural policies and adopt them informally.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER TO** change number 4; The policy regarding procedures for appointment of Board Members should be reviewed after ten years.

Council Member Barton felt the recommendation was convoluted. He felt there was a simple and more direct way of handling this recommendation.

**MOTION PASSED:** 7-1 Barton no, Morton absent

#### COUNCIL MATTERS

11. Adoption of Resolution 8926 entitled "Resolution of the Council of the City of Palo Alto Opposing the State Department of Finance's Proposal to "Borrow" Local Government Property Taxes to Reduce the State's Budget Deficit for FY2010."

City Manager, James Keene stated the League of California Cities alerted Staff on the State Department of Finance's recommendation that would trigger Proposition 1A, passed in 2004, which would allow the State Department of Finance to borrow money from local cities. He stated this could happen once every ten years, and the State would be required to repay, with interest, the money to local cities within a three year period. He stated the proposal has not been approved by the Governor of California. He stated the language in the proposed Resolution was recommended by the League of California Cities. Staff incorporated the specific impacts on the City within the proposed Resolution. The proposed Resolution additionally opposes unfunded State mandates and other revenue shifts from local cities. He stated that if the proposed tax was approved, the impact on the next fiscal year would create an additional \$2.43 million deficit.

**MOTION:** Council Member Barton moved, seconded by Council Member Klein to approve the Resolution opposing the State Department of Finance proposal to "borrow" 8 percent of local government property tax revenues in FY2009 to reduce the State's budget deficit for FY2010.

Council Member Barton stated the State legislative body had the authority to approve the State Department of Finance's proposal; however, it was important that the community understand that the City needed to protect its revenue as much as possible.

Council Member Klein stated that if all cities within California adopt their own City Resolution, there would be an impact on the State Department of Finance's decision to move forward. He felt the Resolution was worthwhile.

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

#### COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Kishimoto stated that she will be reporting out on the High Speed Rail Peninsula Coalition next week and that she believes they now have five cities involved.

Council Member Yeh spoke on attending the annual National Conference of Auditors last week. He also reported that he will be serving on the Northern California Power Agency (NCPA) Executive Committee.

Council Member Burt reported on the weekly Peninsula Cities High Speed Rail (HSR) Coalition meeting. He also asked if the public can videotape these meetings. He stated they are currently not being taped and there are no minutes of these meetings.

City Attorney Gary Baum advised yes.

Council Member Burt asked if the HSR updates that the City is getting from the public is available on our website.

City Manager James Keene advised that Staff would get back to Council with an answer.

Council Member Burt spoke about the HSR Business Plan and suggested that everyone read it.

Council Member Espinosa stated he would like the three HSR items brought up by the public to be included in next weeks information on HSR.

Council Member Klein asked Staff to look into the problems the public is having with AT&T as it pertains to watching Council meetings live on TV. He also asked if there was any resolution on the alarm system fines.

Mr. Keene stated there is no resolution at this time, there have been preliminary meetings and this should come back to Council in June 2009.

Mayor Drekmeier spoke about attending the Community Resources Group Meeting which is following the Stanford General Use Plan.

Council Member Kishimoto spoke on HSR and looking at a bay area business plan for HSR. She asked if the City had a Sacramento lobbyist to track HSR legislation. She also spoke of the need of a MOU with Caltrain.

Mr. Keene advised the City does not have a lobbyist on contract.

ADJOURNMENT: The meeting adjourned at 9:37 p.m.