

Special Meeting  
September 27, 2010

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:03 p.m.

Present: Burt, Espinosa, Holman, Klein, Price arrived @ 6:22 p.m.,  
Scharff, Schmid, Shepherd, Yeh arrived @ 8:15 p.m.

Absent:

#### SPECIAL ORDERS OF THE DAY

1. Selection of a Recruitment Firm for City Attorney Recruitment.

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Espinosa to continue this item to be heard after Oral Communications.

**MOTION PASSED:** 7-0

#### STUDY SESSION

2. Discussion on Proposed Changes to the City's Green Building Program to Integrate the City's Requirements With the California Green Building Code and Add Criteria for Sustainable Neighborhood Developments.

Kristin Parineh of the Planning and Community Environment presented the Staff report. The purpose for the Study Session was to provide the Council with an overview of the California Green Building Code and to receive comments on proposed changes to the City's Green Building Program. The California Green Building Code, known as CALGreen, becomes effective in January of 2011. Staff proposed using CALGreen, with local amendments, as the referenced green building standard for nonresidential projects in the City, as well as a tool for streamlining existing sustainability regulations. The recommendation for residential projects was to continue using Build It Green, Green Point Rated (BIG, GPR). Staff also proposed to expand the existing scope of green building regulations to include provisions for

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performance review of energy and water use on existing sites, and to incorporate requirements for sustainable neighborhood design for area planning, and large developments using Leadership in Energy and Environmental Design for Neighborhood Development, or LEED-ND. Comments were received from Council Members on the scope of projects covered under the LEED-ND requirements, level and appropriateness of requiring energy and water performance reviews, and the stringency of the overall program. Over the coming weeks staff will be incorporating Council comments.

### CITY MANAGER COMMENTS

City Manager, James Keene said volunteers cleaned the Matadero, San Francisquito, and Adobe Creeks on Saturday 25, 2010. City Staff met with Pacific Gas & Electric (PG&E) on September 23, 2010, to discuss pipeline safety. Four-thousand participants attended the Moonlight Run and Walk on September 24, 2010. The 15th Annual Glass Pumpkin Patch display will be held from September 28 to October 3, 2010, at the Palo Alto Art Center. Over 50 City of Palo Alto Teen Center members or "The Drop" relocated to the Cubberley Community Center. On October 10, 2010, College Terrace and Barron Park "green teams" will sponsor, "Bike Palo Alto", a bike-education event with safety tips, bicycle maintenance, and displays of bike accessories.

### ORAL COMMUNICATIONS

Caran Chappell, spoke regarding PG&E gas lines.

Lynn Krug, spoke regarding the Crime Analyst position that was eliminated, an issue continued from August 2, 2010.

Mark Petersen-Perez spoke regarding the criminal case brought against him in 2004.

Annette Glankoph spoke regarding the Midtown Residents Association ice cream social held at Hoover Park this last weekend.

Sheri Furman spoke regarding the ice cream social held this last weekend.

1. Selection of a Recruitment Firm for City Attorney Recruitment.

City Clerk, Donna Grider announced that the votes were as follows:

Avery & Associates  
Bob Murray & Associates

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

Ms. Grider announced a tie vote between Avery & Associates and Bob Murray & Associates.

Mayor Burt said he would change his vote if needed, or the Council could wait until Council Member Yeh arrived.

Council Member Price asked if this was permissible.

City Attorney, Gary Baum said it would require a Motion to continue.

**MOTION:** Council Member Klein moved, seconded by Council Member Price to continue this item to later in the meeting.

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

#### CONSENT CALENDAR

**MOTION:** Council Member Shepherd moved, seconded by Council Member Schmid to pull Agenda Item No. 7 to become Agenda Item No. 9a.

City Manager, James Keene said Staff requested Agenda Item No. 4 be pulled to be heard at a later date.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Holman to approve Agenda Item Nos. 3, 5-6, 8-9.

Sheri Furman spoke regarding Agenda Item No.9 and acknowledged Jean and Charles Scott's contributions and efforts in developing Greer Park.

Annette Glankoph spoke regarding Agenda Item No. 9 and said the Scott's started the process in developing the park 40-years ago. She said a plaque would be placed at Greer Park in November 2010 honoring the Scott's.

3. Approval of Contract Amendment No. 15 Extending the Term of the Rail Shuttle Bus Administration Agreement With the Peninsula Corridor Joint Powers Board Through 6/30/2011 and Increasing the Cumulative Expenditure Limit By \$198,118 for a Total of \$2,839,337.
4. ~~Approval of Mutual Cooperation and Support Agreement With the Palo Alto Art Center Foundation.~~

5. Approval of a Renewal of a Public/Private Partnership Joint Venture Agreement Between the City of Palo Alto and the Cardiac Therapy Foundation of the Mid-Peninsula, Inc. Concerning the Use of Gymnasium Facilities and Associated Fees for Facility Use at Cubberley Community Center for Jointly Supported Cardiac Therapy Programs.
6. Approval of a Purchase Order With Municipal Maintenance Equipment, Inc. for a Total Not to Exceed Amount of \$275,844 for the Purchase of a Compressed Natural Gas (CNG) Fueled Regenerative-Air Street Sweeper.
- ~~7. Approval of a Contract With Siegfried Engineering Inc. in the Total Not to Exceed Amount of \$95,689 to Conduct a Landscape Inventory and to Draft a Conceptual Design for Landscaping in and Around the Regional Water Quality Control Plant.~~
8. Adoption of an Ordinance Amending Section 2.08.210 of Chapter 2.08 of Title 2 [Officers and Departments], and Section 22.04.035 of Chapter 22.04 of Title 22 [Park and Recreation Building Use and Regulations] of the Palo Alto Municipal Code to Amend Employee Titles and Names of Divisions and Reflect the Titles of Employees Who Are Authorized to Issue Citations, Respectively.
9. Resolution 9095 entitled "Resolution of the Council of the City of Palo Alto Naming the New Phase IV Area of Greer Park "Scott Meadow" in Recognition of Jean and Charles Scott's Contributions to the Full Development of Greer Park".

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

- 9a. (Former No. 7) Approval of a Contract With Siegfried Engineering Inc. in the Total Not to Exceed Amount of \$95,689 to Conduct a Landscape Inventory and to Draft a Conceptual Design for Landscaping in and Around the Regional Water Quality Control Plant.

Council Member Shepherd asked how time sensitive was the item and how would it be incorporated into a future ballot measure to take 10 acres of land along side of the Regional Water Quality Control Plant (RWQCP).

Assistant Public Works Director, Mike Sartor said the project had been deferred for over 20 years. He said the landscaping and irrigation system surrounding the RWQCP was poor. The system was no longer working

properly and portions of the landscaping and trees were dying. It was not urgent to complete the work but Staff felt it was important to conduct a landscape inventory and to draft a conceptual plan. It was an opportunity to examine the existing landscaping. The plans would be conceptual and would allow for alternatives if the ballot measure passed.

City Manager, James Keene said the project was not premature or preempted. He asked the Council to approve the project with the understanding the plan would allow options for flexibility if the anaerobic digestion processing plant was to take place.

Council Member Schmid raised concerns in moving forward with the project. He said there were issues that could impact the treatment plant that included the Master Plan impacts on activities located in the plant, design of a new recycling center, the East Bayshore Road pathway into Byxbee Park, and the ultimate design of the park. He was not in favor of moving forward and having to deal with several obstacles.

Public Works Environmental Compliance Manager, Phil Bobel said there was work that needed to be done such as the inventory, working with stakeholders on types of plants to be planted and the irrigation system to be used. The City had been under pressure from citizens for allowing portions of the system to deteriorate. He said the work could be done simultaneously by moving forward with the inventory as well as start on plans in other areas. A decision on landscaping could not be made in the short-term on the sewage treatment master plan since it was an ongoing 50-year plan. He emphasized the project would be to draft a conceptual design for all areas and any final designs would not cause impact in the near-term.

Council Member Holman asked how the alternatives Mr. Bobel mentioned would be incorporated into the Scope of Work.

Mr. Bobel said the consultant's contract allowed for flexibility and could be amended while moving forward with the project.

Vice Mayor Espinosa asked what would happen if the project were put on hold and revisited in a year when Staff had more clarification on other developments in the area. He asked if the consultant's cost would be lower since the Scope of Work would be less and not require a study on other alternatives.

Mr. Bobel said the design was conceptual in nature and a final design would not be done where there were issues at play. The conceptual design was at

a higher lever that included types of plants and irrigation systems to be used and keeping stakeholders happy. Staff would complete the common elements. The final design would be done in areas with certainties where monies would not be wasted.

Council Member Scharff asked if there would be cost-related expenses in looking at other options.

Mr. Bobel said he did not think there would be since Staff would not be looking at final alternative designs in areas where there were issues pending.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Schmid to approve a contract with Siegfried Engineering Inc. in the total not to exceed amount of \$95,689 to conduct a landscape inventory and to draft a conceptual design for landscaping in and around the Regional Water Quality Control Plant.

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

#### ACTION ITEMS

10. Direction to Staff Regarding High Speed Rail Issues Including Approval of a Letter to Federal Railroad Administration, Direction on Response to the Supplemental Alternatives Analysis and Additional Direction to Staff on High Speed Rail Issues.

Deputy City Manager, Steve Emslie said the item was agendized for the Council to complete the review, make comments on the Draft Federal Railroad Administration (FRA) letter, and continue to direct Staff on the Preliminary Alternative Analysis (AA). He said a current version of the FRA letter was set "at places" that contained the High Speed Rail (HSR) Committee members' comments and Staff's changes to the wording but not the tone of the letter. The Peninsula Rail Program (PRP) had formed two groups; the Policy Working Group (PWG) consisting of elected officials from cities along the corridor and the Technical Working Group (TWG) consisting of PRP staff. The TWG concentrated on alignment alternatives and divided the corridor into city groups. Palo Alto was grouped with the Cities of Menlo Park and Atherton. The group brainstormed different alternatives and presented the results to the PRP. There was no indication of where or how the information would be used. The PRP launched a value economic model that took into account the full range of cost implementation, construction, land values, opportunities, and challenges that would be affective by various

alternatives. PRP staff reintroduced the community engagement portion with direct comments from the cities. The communities clearly articulated to the PRP they were looking for a commitment on alternatives that met the cities' criteria. HNTB, an architectural, engineering, planning and construction firm gave a presentation of a potential HSR train station in Palo Alto. A meeting was scheduled for the evening of October 7, 2010, in the Council Chambers at Palo Alto City Hall, to further discuss the possibility of the train station.

Mayor Burt reported on Peninsula Cities Consortium (PCC) meeting and the PWG group. He said the City of Brisbane would be voting to consider joining the PCC. They were not concerned about the track's impact since it would be going through an industrial area and would not impact the neighborhood. The Alternative Analysis designated a maintenance and storage yard in an area zoned for a business park in Brisbane which caught the city's attention. He said each city elected a PWG representative and he was the representative for the City of Palo Alto. The PWG raised concerns of not being a more meaningful organization and reached out on how to become more productive. He suggested the group begin to co-sponsor the agenda, take up the meeting leadership, and be advisory to the PRP staff and Caltrain's Joint Power Board. Peninsula Rail Program Director, Bob Doty was receptive to the recommendations. The value economic model was introduced which was similar to Context Sensitive Solutions (CSS) process which had not been fully implemented. He raised the issue regarding conflicts in the timeline for the Federal stimulus dollars driving the projects EIR approval by December 2010. He said Mr. Doty agreed there were fundamental disconnects between what the Authority's advocated and the timelines and made a commitment to return in a month with answers regarding the issues. He could not guarantee they were answers being sought after but would attempt to decouple the timelines. There were concerns of not having noise and vibration standards. Nations such as Japan had well-established standards where systems were built around noise impacts standards. Regional Program Manager, Dominic Spaethling was given the assignment to bring back standards to be used as a reference.

City Manager, James Keene said the process for discussion would be to discuss the Draft FRA letter, to be followed with discussion on the Supplemental Alternative Analysis Report (SAAR). A letter from Mr. Doty regarding comments on the AA report was set "at places."

Council Member Shepherd said she was in favor of the letter since it commented on noise and vibrations. She said the Federal Railroad Administration (FRA) website stated there would be no crossings at grade for

trains traveling above 125 miles per hour (mph) and for trains traveling between 110 to 125 mph, crossings were permitted only if an impendent or triple-barrier blocked highway traffic for approaching trains. She said this should not be allowed. The Authority should be reminded that Palo Alto was a residential corridor and the importance to look at the project not only on cost analysis but environmentally as well. The Department of Transportation (DOT) set standards on how airports, airplanes, and transportation fold into where people lived. Aerial structures were not a good design and starting to come down in certain cities. She asked if a letter could be written to DOT for more information and to help solidify the interest on aerial structures.

Council Member Schmid echoed Council Member Shepherd's comments and suggested strengthening the language of the letter. He said the proposal made by HSR puts their bond financing in jeopardy. The bond statement that was approved committed HSR to a maximum time of 30 minutes between San Francisco to San Jose. Speed would be restricted without grade crossings and grade separations. A strong statement should be made regarding that issue.

Council Member Price said the City's Chief Transportation Official's findings should be more in depth and in technical terms. Citizens had raised concerns regarding safety issues and referred to the center line and the distance between the two separate tracks. She asked if it was appropriate to include safety issues in the letter.

Mr. Keene said the focus was on vertical alignment but felt horizontal alignment issues could be added along with safety issues.

Council Member Price said the 3<sup>rd</sup> bullet on page 3 referred to the Environmental Impact Report (EIR) allowing to occur at a natural pace, which seemed too soft and general. She said the analysis was being done in compliance with California Environmental Quality Act (CEQA) with a specific timeframe.

Council Member Klein raised concerns regarding wordsmithing the letter. He felt the letter could be edited down, made easier to read, and more persuasive.

Mayor Burt said the comments were conceptual and urged the Council to stay along those lines, to focus on substantive issues, and refrain from wordsmithing.



Council Member Klein said people reading the letter do not know Palo Alto and felt it was important to explain the importance of cross streets in tying the community together.

Council Member Holman said she concurred with all the comments but did not feel the letter was strong enough. She asked to place the word "appropriate" in front of grade separations to indicate which grade separations were important in Palo Alto and what the city would like to see. She questioned the last bullet at the end of the letter referencing "No Confidence in the CHSRA Resolution" and asked if the Resolution was supposed to be attached.

Mr. Keene said it noted an attachment and Staff would make that clarification.

Council Member Holman wanted to make sure the content of the letter was consistent with the No Confidence Resolution.

Council Member Yeh suggested organizing the letter to indicate specific criteria relevant to a funding application as they related to potential areas being considered. He said there had been no mention of a business plan which was relevant.

Vice Mayor Espinosa suggested to move forward with the recommended modifications and to state the issues were made jointly by a coalition. It would add credence to the arguments made. He said the letter should have a tone that looked for changes which could lead into further discussions and conclusions.

Mayor Burt urged the Council, in the letter, to allude to a business plan, its relationship to the process of chasing a \$1 billion federal allocation and that the Authority was jeopardizing the quality of the biggest transportation contractual process in the United States in half a century. It was a \$50 billion process with unrealistic deadlines set for the first billion. He said without proper design and grade separation there could be drastic environmental impacts and eminent domain takings. He suggested adding the City's Chief Transportation Official's analysis to add more substance to the letter.

Vice Mayor Espinosa suggested making the letter crisp, short and to the point with attachments. Instead of a 2-3 page letter it would be shorter with the option to delve into more information through attachments.

Irvin Dawid, Palo Alto, said an aerial structure would allow improvements in traffic flow.

Herb Borock, Palo Alto, said the California Public Utilities Commission (CPUC) had more restrictive speed limitations than FRA. He suggested sending copies of the letter to the State Senators and Congresswoman Anna Eshoo since it was addressed to a federal agency. There was only one transit-oriented development in Palo Alto located at Cambridge Avenue and raised concerns about referring to Palo Alto as being a leader in transit-oriented development. He said a Motion was made at an HSR Committee Meeting regarding the train station that died for a lack of second. He felt the Council should have the opportunity to vote on whether or not to have a train station in Palo Alto. The community was not in favor of the station due to lack of funds, parking spaces, facilities, and road improvements.

Bob Moss, Palo Alto, said it was probable the Authority would not have enough funds for the project and what would be built would be permanent. He said a 4-track rail would cause less negative impacts than 2-tracks and would cut down interruptions at intersections with no-grade separations. Extensive track elevation would cover thousands of feet and would have negative impacts and cost more. He said the tracks should be built on one-level or underground.

Mayor Burt said there was a tentative time set when the FRA would be awarding the grant to the Authority. The Authority would select which segments would be receiving the funds. The FRA wanted to see which segment got the environmental clearance prior to awarding the funds. The amount being granted to California would be announced in early October which was an incentive to accelerate processing of the letter.

Jim McFall, Palo Alto urged the Council to stay on course, be bold to the FRA, and to take a strong position with HSR. He said other cities were listening to what Palo Alto was doing and if the system gets built it would be built right.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Scharff that the Mayor and Chairman of High Speed Rail Committee review the final draft letter and get a final version out by the end of the month.

**MOTION PASSED:** 9-0

Mr. Emslie said the HSR Committee's discussions in response to the Alternative Analysis Report (AA) prompted recommendations to prepare the

No Confidence Resolution. The AA would be fed into the Draft EIR and issued in December.

Mayor Burt referred back to the PWG discussion regarding the fundamental disconnect, the timelines in completing the AA feeding into the Draft EIR to be issued by December and how it could not be done correctly. He said the Authority abandoned the information on property value impacts, noise and vibration impacts and lacked data to do a meaningful analysis. He wanted to get the message across to the Authority about the lack of information and how the Authority was pushing the project through and jeopardizing the entire project. He recommended the comments be added as a sizeable dimension in the City's comments.

Council Member Price needed clarification on what the Council was asked to comment on.

Management Specialist, Ray Braulik suggested referring to the HSR Committee Supplemental Alternatives Analysis Report (SAAR) Policy Recommendations memorandum, dated September 27, 2010. He said discussions should begin with policy recommendations since they had been reviewed by the HSR Committee but not by the Council.

Council Member Klein said the HSR Committee recommended to not support phasing of HSR construction or operation in Palo Alto as indicated by the HSRA in its application to the FRA. He said the phasing proposal was both procedural and substance deficient. The proposal appeared in a letter to the FRA and not vetted by any environmental impact analysis nor suggested or considered as a reasonable alternative by the City.

Mayor Burt said Council Member Klein's findings should be included in the response to the SRAA and to the FRA letter and to emphasize the proposal was not vetted.

Council Member Klein was in agreement.

Mayor Burt said a letter from the CHSRA's CEO stated the proposal was a place holder design which puts it in limbo. He questioned its existence.

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Espinosa to approve the five bullets in the letter:

1. Support continued full analysis of the cut & cover alternative based on the Hatch Mott McDonald (HMM) review of the SAAR.

2. Strongly oppose SAAR Alternatives A and B but support further consideration of an open trench or partially covered trench alternative so long as it is not greater than 82 feet in width, does not create noise and vibration impacts greater than what presently exists, and does not impact the traffic capacity of Alma Street.
3. Support below grade alternatives through Palo Alto that are equitable to North and South Palo Alto and do not support SAAR Options A and B as they are not equitable to North and South Palo Alto.
4. The CHSRA should be responsible for paying for all project and project mitigation costs.
5. Do not support phasing the HSR construction or operation in Palo Alto because of the consensus that the said alternatives could result in potential impacts including, but not limited to, traffic delays, a degradation of school commute safety, a decrease in real estate property values, and an increase in emergency response time.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add additional wording emphasizing the obvious deficiencies in the AA are traceable to the unseemly haste to comply with the funding deadline set forth in the stimulus package and they are driving a premature project EIR.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member Shepherd to change bullet Number Two to "Strongly oppose SAAR Alternatives A and B" and delete the rest of the wording.

Council Member Schmid said the SAAR alternatives focused on engineering costs that were significantly high. He said Alternative B divided the community by offering a trench to the portion of the city that included commercial, institutional, and well-to-do communities and a cheaper at-grade or aerial alternative to the middleclass portion of the town. The properties affected were different and separated the community and did not take into account impacts on communities starting with eminent domain.

Mayor Burt said Council Member Schmid's argument was not necessary since no one disagreed on retaining the first statement that opposed Alternatives A and B.

Council Member Shepherd said there was a flaw in the 2<sup>nd</sup> bullet. She said the B-1 Alternative was not being addressed and should move into a 3<sup>rd</sup> bullet to state, "consideration of Alternative B needs to fall into the following

open trench alternative so long as it is not greater than 82 feet in width, does not create noise and vibration impacts greater than what presently exists and does not impact the traffic capacity of Alma Street.

Mayor Burt said the 3<sup>rd</sup> bullet should begin with, "we accept further consideration of B-1 Alternatives".

Council Member Shepherd withdrew her second.

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

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that the second bullet would be "We strongly oppose SAAR Alternatives A and B", and include another bullet that states "We accept further consideration of the B-1 Alternative, open trench or partially covered trench alternative so long as it is not greater than 82 feet in width, does not create noise and vibration impacts greater than what presently exists, and does not impact the traffic capacity of Alma Street."

Council Member Klein said the statement was being included because the Council was asking what is it that Palo Alto could live with. He said the 82 feet was a precise measurement and the statement "does not create noise and vibration impacts greater than what exists" sets forth Palo Alto's standards since the Authority had given us their standards in construction.

Mayor Burt clarified the 82 feet measurement was from Robert Doty who indicated they could construct the trench so long as it was no greater than 82 feet. It was the basis used to evaluate Alternative B-1. That was the basis for us to incorporate that and make our willingness to evaluate B-1 Alternative.

Council Member Klein said key words in the letter were "we accept consideration and evaluation" and to not be committed.

Council Member Schmid asked if this would reject the possibility of a Palo Alto train station.

Council Member Klein said it would not. The HSR Committee decided to delay consideration of the station until a public outreach meeting was held.

Council Member Yeh said he supported the Motion. He said option B-1, 3<sup>rd</sup> bullet point, talked about an open trench and partially covered trench. He asked if it was to advocate an expanded consideration of B-1.

Council Member Klein said what the City was trying to convey was what Palo Alto wanted and not what the Authority wanted.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to clarify the new Bullet Number 4 to support analysis of a below grade alternative.

Council Member Holman said the Authority had rejected deep tunneling. She asked if the City did not reference deep tunneling was the City accepting the fact the Authority rejected deep tunneling.

Mayor Burt said his recollection of the Hatch Mott McDonald (HMM) analysis concurred that the cost of deep tunneling was more expensive than a covered or cut and cover trench.

Mr. Emslie said that was correct and that HMM questioned the Authority's cost as being artificially high.

Council Member Shepherd said the community felt the cut and cover would keep all trains below grade leaving Caltrain above grade. She supported the wording open trench and partial covered trench because it allowed the capability to go back and cover part of the trench to get Alma Street operational again.

Council Member Price said visual, noise, and vibration impacts should be emphasized in the transmittal letter.

Mayor Burt said an elevated structure would impact the fabric of the community and the value of homes and property along the corridor.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the new Bullet Number 3 that we accept further consideration of visual and economic impacts.

Council Member Klein said with the comments made at this evening's meeting along with the No Confidence Resolution, they delivered the message that Palo Alto was not happy.

**MOTION AS AMENDED RESTATED:** Council Member Klein moved, seconded by Vice Mayor Espinosa to approve seven bullets in the letter:

1. Support continued full analysis of the cut & cover alternative based on the Hatch Mott McDonald (HMM) review of the SAAR.

2. Strongly oppose SAAR Alternatives A and B.
3. We accept further consideration of a B-1 Alternative, open trench or partially covered trench alternative so long as it is not greater than 82 feet in width, does not create noise and vibration impacts greater than what presently exists, and does not impact the traffic capacity of Alma Street, and accept further consideration of visual and economic impacts.
4. Support analysis of below grade alternatives through Palo Alto that are equitable to North and South Palo Alto and do not support SAAR Options A and B as they are not equitable to North and South Palo Alto.
5. The CHSRA should be responsible for paying for all project and project mitigation costs.
6. Do not support phasing the HSR construction or operation in Palo Alto because of the consensus that the said alternatives could result in potential impacts including, but not limited to, traffic delays, a degradation of school commute safety, a decrease in real estate property values, and an increase in emergency response time.
7. Emphasizing that the obvious deficiencies in the AA are traceable to the unseemly haste to comply with the funding deadline set forth in the stimulus package and they are driving a premature project EIR.

**MOTION PASSED: 9-0**

Council Member Price asked whether the City was looking for a response to the FRA letter or was it to restate and reaffirm the City's position.

Mr. Keene said the intent of the letter was to get a response from the FRA.

Mayor Burt said the letter would strengthen the request for a response from the FRA.

Council Member Shepherd said Stanford University publicly stated to not support a train station. She questioned the feasibility of having a station on property not owned by the City and was it necessary to have an exploratory meeting with the community. She did not want to give the community false expectations for those who may want to lobby for a train station.

Mr. Emslie was in favor of community outreach. He said there was the likelihood the Authority could move ahead of the community's wishes. Stanford was not exempt from the State's level on eminent domain and the Authority could acquire land from Stanford University for the train station.

Council Member Shepherd asked if the Palo Alto station was an alternative station.

Mr. Emslie said the Authority had stated several times the station was not necessary in the mid-peninsula in meeting their operation objectives. The offer was made to cities that met the basic ridership criteria and Palo Alto was one of them.

Mayor Burt said the Authority stated 18-months ago they want a mid-peninsula station. Mr. Spaethling stated in the last two months there may or may not be a station.

Council Member Shepherd asked if information should be provided at the October 7<sup>th</sup> outreach meeting that Palo Alto did not own the land for the potential station and the possibility that it could be acquired through eminent domain.

Mr. Emslie said the meeting was being held by HNTB and the Peninsula Rail Program. Stanford University's statement would be made abundantly clear they opposed having a train station. City Staff would be participating but would not be spending a lot of time on the issue.

Mayor Burt said Stanford's letter was objecting to a train station but it did not state what they would do if they were taken by eminent domain.

Council Member Klein said he was against the idea of a train station. He suggested moving forward on the October 7<sup>th</sup> meeting and to have the issue return to the Council at a later date after the public had been notified to see what the citizens want the Council to do.

Mayor Burt clarified the position of the other HSR Committee members had comparable reservations about a station and to have public input prior to making a final decision.

11. Adoption of Three Resolutions Addressing Fall 2010 Ballot Initiatives and Consideration of City Positions on Other State and Regional Ballot Initiatives: (1) Resolution 9096 Supporting Proposition 22, the Local Taxpayer, Public Safety and Transportation Protection Act of 2010; (2)



Resolution 9097 Opposing Proposition 23, an Initiative to Suspend AB 32, the Global Warming Solutions Act of 2006, Until Unemployment Drops to 5.5% or Less for a Full Year; and (3) Resolution 9098 Opposing Proposition 26, an Initiative that Increases the Legislative Vote Requirement to Two-Thirds for State Levies and Charges and Imposes an Additional Requirement for Voters to Approve Local Levies and Charges.

Mayor Burt said there were three Resolutions and a number of propositions on the ballot the Council could choose to take positions on, but noted the absence of the Resolutions at this evening's meeting. The Council wanted the Policy and Services Committee (P&S) to make recommendations on other propositions at its upcoming meeting on Thursday and to prepare the Resolutions prior to that meeting even though the full Council would not take action on the Resolutions until the October 4<sup>th</sup> Council meeting. He anticipated taking action on Measure E but stated the Resolution for the Foothill-DeAnza Community College Bond was not before the Council at this evening's meeting.

City Attorney, Gary Baum said the Council could indicate their support, or could direct Staff to bring back a Resolution to memorialize the support, or the Mayor could send out a letter during the week.

Mayor Burt asked if that was applicable to the other propositions.

Mr. Baum said it was applicable.

Bob Moss, Palo Alto, said he agreed with the recommendations, the three proposals and taking action on the other proposals. He urged the Council to support Proposition 25 to reduce passing budgets from 2/3rds to a majority, and Measure E.

Bruce Swenson, Palo Alto, thanked the Council's support on Measure E and asked for collective support to be used in publications and advertisement to the community.

Betsy Bechtel, Palo Alto, said Measure E was for \$69 per parcel and would raise \$6.9 million dollars to replace part of the budget lost in 2 years. It was for a six-year term.

Ken Horowitz, Palo Alto, spoke regarding Measure E. He said 10,000 students were turned away during the past year from Foothill-DeAnza College classes due to budget cuts.

Herb Borock, Palo Alto, said in staying within the Brown Act guidelines, the Council could only discuss and take action on the three ballot measures on the agenda. Items omitted from the agenda could be agendized for the following Council meeting.

Mayor Burt asked the City Attorney if the agenda wording allowed the Council to take a position on other items listed in the Staff report.

Mr. Baum confirmed it did. The wording was added to allow the Council to take positions on any of the other items.

**MOTION:** Council Member Scharff moved, seconded by Vice Mayor Espinosa to adopt the Resolution: 1) supporting Proposition 22, the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, 2) oppose Proposition 23, the Suspension of AB32 Ballot Initiative, and 3) oppose Proposition 26, which increases the Legislative vote requirement to two-thirds for State levies and charges and imposes an additional requirement for voters to approve local levies and charges.

Council Schmid raised concerns about endorsing a Measure at the State level that was opposed at the local level. He said Proposition 22 contained issues that produced dysfunction in the State budget process. Measure 26 had the same issues and the Council voted against it.

Council Member Scharff disagreed with Council Member Schmid. He said it was an efficient way in the use of funds rather than the way Sacramento used funds and important to protect local funds. Measure R is to protect a special interest in keeping fire department staffing levels. Proposition 22 was to protect local funds for local issues and should be supported by the Council.

Council Member Klein agreed with Council Member Scharff. Proposition 22 was a priority for the League of Cities. He said when Sacramento encountered difficulty in balancing the state's budget they would take monies from the locals. He stated he sees a vote for Measure R is for local control and enhanced democracy at the grassroots.

Council Member Shepherd said the League of Cities was passionate about Proposition 22. There was a gradual creep of trying to allow all taxes to cycle through Sacramento instead of staying locally. She supported the Motion.

**MOTION PASSED: 9-0**

**MOTION:** Council Member Shepherd moved, seconded by Council Member Price to Support Measure E- Foothill-De Anza Community College District Parcel Tax and direct Staff to return on October 4, 2010 with a Resolution on the Consent Calendar.

**MOTION PASSED:** 9-0

Mr. Keene suggested referring the propositions to the Policy and Services Committee (P&S) since most required pros and cons and finalization on the way they were written.

**MOTION:** Council Member Holman moved, seconded by Council Member Yeh to refer support of Measure A-Children's Health Initiative to Policy & Services Committee.

Council Member Holman said it would be a while before the National Health Care Plan would be implemented. There were challenges to cover children with preexisting conditions and the need to support an under-served population.

Council Member Yeh said the proposition would generate local revenues to be used locally and help target uncertainties on health coverage for children in California and needed the support.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to remove the referral to Policy & Services, and direct Staff to return to Council on October 4, 2010 with a Resolution.

Council Member Klein said if there were doubts in a Measure, it should be forwarded to Policy & Services Committee for their recommendation.

Mr. Keene said due to time constraints it would be difficult to get the issue back on next Monday's agenda if forwarded to the Policy & Services Committee meeting on Thursday.

**MOTION PASSED:** 9-0

**MOTION:** Council Member Scharff moved, seconded by Council Member Price to support Measure B- Santa Clara County Vehicle Registration Fee, and Measure C- Santa Clara Valley Water District Term Limits.

Council Member Holman said she supported Measure B but was not in favor of Measure C. She was not in favor of term limits. Water issues had broad context of issues that required high level of expertise and was not in favor of eliminating experts from a commission.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to divide the Motion for purposes of voting.

**MOTION PASSED for Measure B: 9-0**

Mayor Burt said the water district had issues for several years. The proposal was the weakest for reforming the governance for Santa Clara County water laws. It allowed the existing serving members to serve an additional three terms or 12 more years beyond the one or two decades already served. He supported the Motion.

**MOTION PASSED for Measure C: 7-2 Holman, Shepherd no**

**MOTION:** Council Member Scharff moved, seconded by Council Member Holman to support Proposition 25-Majority Vote for Legislature to Pass the Budget, and direct Staff to come back to Council with a Resolution on October 4, 2010.

Council Member Scharff said by eliminating the 2/3rds requirement it would move towards reducing gridlock.

**MOTION PASSED: 9-0**

**MOTION:** Council Member Holman moved, seconded by Mayor Burt to support Proposition 21-to establish an \$18.00 annual vehicle license surcharge to help fund state parks and wildlife programs.

Council Member Holman said this was an area which had threats to close state parks, lack of maintenance, everything this Measure talks about that needed funding. It was an appropriate way to fund resources needed for this program.

Council Member Yeh said he did not feel there was a nexus with the vehicle registration. He did not support the Motion

Vice Mayor Espinosa felt it was bad policy-making to not have a nexus. He said although it was done differently, it had caused problems across the

state as initiatives worked to carve out the overall budget. He did not support the Motion.

Council Member Scharff echoed Vice Mayor Espinosa and Council Member Yeh's comments. He did not support the Motion.

Council Member Holman said there was a nexus. She said impacts on state parks not only came from the people but from the vehicles that go there.

Council Member Shepherd said she felt it was an issue that did not affect the Palo Alto Council Members and best left to the voters. She did not support the Motion.

Council Member Price felt it was a good way to get resources for state parks and wildlife. She supported the Motion.

**MOTION PASSED:** 5-4 Espinosa, Scharff, Shepherd, Yeh no

**MOTION:** Council Member Scharff moved, seconded by Mayor Burt to oppose Proposition 27- Eliminate State Commission on Redistricting.

Council Member Scharff said the Commission on Redistricting would lead to less gerrymandering and move more to the center for California. It would end the gridlock in Sacramento and create more bipartisanship.

Mayor Burt said Proposition 20 seemed to move congressional redistricting to a similar commission. He said he would not support Proposition 20 either because it could put California at a disadvantage. He concurred with Council Member Scharff's comments and felt it was a good move already passed by the voters.

Vice Mayor Espinosa said there were several Federal and State redistricting models and did not know which one was best for California or Palo Alto. He asked to refer both issues to the Policy & Services Committee.

**SUBSTITUTE MOTION:** Council Member Shepherd moved, seconded by Council Member Yeh to forward Proposition 27- Eliminate State Commission on Redistricting, to the Policy & Services Committee for discussion.

Council Member Shepherd said she needed more background on the redistricting.

Council Member Yeh said both propositions involved districting and merit more conversation from the Policy & Services Committee.

Council Member Schmid said it was his understanding the item would come back to the Council on October 18<sup>th</sup> and would be too late as some voters may have already voted.

Mayor Burt said that Staff would prepare a Resolution based on the Policy & Services Committee's input, and return to the Council on October 4<sup>th</sup> for approval.

Vice Mayor Espinosa said his understanding from the City Manager was there would not be a problem preparing the Resolutions and would agendaize for next Monday. If an issue required lengthy discussions and needed more direction, Staff would want to prepare a Staff report with pros and cons which would require more time and would not be able to bring back next Monday.

Mayor Burt said if the City Manager could confirm the items would not return until the Council Meeting on October 18<sup>th</sup>.

Mr. Keene said he agreed with the Vice Mayor's comments. He preferred reporting back to the Council next Monday rather than having to put Council Members in an awkward position of having to vote tonight.

**SUBSTITUTE MOTION RESTATED:** Council Member Shepherd moved, seconded by Council Member Yeh to request Policy & Services Committee evaluate whether to oppose Proposition 27- Eliminate State Commission on Redistricting, and return to Council on October 4, 2010 with a recommendation and draft Resolution.

**SUBSTITUTE MOTION PASSED:** 9-0

Mayor Burt said the Council was giving the City Attorney the indication to prepare only one perspective Resolution to oppose with the understanding that if the Policy & Services Committee had a different recommendation, the Council would consider opposing or no action on the October 4<sup>th</sup>.

**MOTION:** Council Member Klein moved, seconded by Council Member Scharff to request Policy & Services Committee evaluate whether to oppose Proposition 20-Congressional Redistricting and return to Council on October 4, 2010 with a recommendation and draft Resolution.

Council Member Klein said his reason for opposing was because it was a unilateral disarmament of California.

**MOTION PASSED:** 8-1 Schmid no

Vice Mayor Espinosa suggested setting up a process that once ballot measures were finalized, they go directly to the Policy & Services Committee for recommendations to determine which could move forward to the Council for action.

Mr. Keene said Staff agreed with Vice Mayor Espinosa's request.

**MOTION:** Council Member Price moved, seconded by Council Member Holman to support of Proposition 19- Regulate, Control and Tax Cannabis Act of 2010, going to Policy & Services for discussion, and direct City Attorney to return with a Resolution on October 4, 2010.

Council Member Price said she wanted to discuss both sides of the issue.

Council Member Holman was interested in vetting the issue and could be informative to the community.

Mayor Burt asked the Motion be clarified.

Council Member Price said she wanted to be part of a discussion and recommended support of Proposition 19. The Resolution would be in support of the Proposition.

Mayor Burt said Council Member Price's Motion was to have the Policy & Services Committee evaluate the proposition and to direct the City Attorney to come back on October 4<sup>th</sup> with a Resolution in support.

Council Member Yeh said the City of Oakland currently had a local Measure relating to cannabis and would be abstaining on the vote.

Council Member Schmid felt the proposition was a personal issue and the Council should not take action.

**SUBSTITUTE MOTION:** Council Member Scharff moved, seconded by Council Member Shepherd to refer Proposition 19- Regulate, Control and Tax Cannabis Act of 2010 to Policy & Services Committee for discussion and any recommendation would return to Council on October 18, 2010.

Mr. Baum said the Council could take a position on October 4<sup>th</sup> without having to do a Resolution.

Council Member Klein echoed Council Member Schmid's comments and felt it was a personal issue.

Mayor Burt concurred with Council Members Klein and Schmid. He said all the other propositions or measures related to public support on public institutions or governance and the proposition was of personal choice.

**SUBSTITUTE MOTION FAILED:** 4-4 Espinosa, Price, Scharff, Shepherd yes, Yeh abstaining

**MOTION FAILED:** 2-6 Holman, Price yes, Yeh abstaining

1. Selection of a Recruitment Firm for City Attorney Recruitment.

City Clerk, Donna Grider read the ballots from Council;

Avery & Associates                      Espinosa, Holman, Schmid

Bob Murray & Associates              Burt, Klein, Price, Scharff, Shepherd, Yeh

Ms. Grider announced that Bob Murray & Associates received 6 votes and would be the recruiter for the City Attorney's position.

City Manager, James Keene said Bob Murray's proposal outlined a 16-week process and Staff would get back to the Council with a schedule. He said due to holiday he estimated interviews would not take place until January 2011.

Council Member Price asked if the schedule could be modified in order to speed up the process.

Mr. Keene said he would be working with Mr. Murray and would try working that factor into the proposal.

12. Adoption of an Ordinance Amending Section 2.04.010, Relating to Notice of Regular Meetings, and Section 2.04.070, Relating to Notice of Agendas, of Chapter 2.04 of Title 2 of the Palo Alto Municipal Code to Eliminate the Publishing of the Council Agendas in the Newspaper and Updating the Language for the Council Regular Meetings and Agenda Sections of the Municipal Code. (Continued from 9/13/10)



Vice Mayor Espinosa asked if there was a way to publish the ads in the newspaper with less information to help reduce cost.

City Clerk, Donna Grider proposed to shorten the titles in the ads.

Mayor Burt suggested having a Motion to make our official announcement be the online version but to create a policy to have more common language describe agenda items. The titles would be more complete but not legalistic.

Ms. Grider said that was possible, but would need funds added back into the City Clerk's budget account since it had been removed during the budget process.

Council Member Klein asked what the policy in other cities was.

Ms. Grider said other cities followed the Brown Act but did not publish the full agenda in newspapers.

Council Member Klein asked if Ms. Grider knew of other cities that published full agendas.

Ms. Grider said she did not.

Council Member Klein asked if the issue was ever brought up at Clerk's Association meetings.

Ms. Grider said it had not. She said the agenda was continually shown on the Government Channel 26 and accessible through Comcast.

Council Member Price asked if it would be cost-effective to shorten the agenda titles.

Ms. Grider said there would be a cost-savings but could not say how much or what percentage.

Herb Borock, asked to not stop the publications. Funds had been cut from the City Clerk's budget to help with the City's budget deficit and hoped the Council could find the funds to continue the publications.

Council Member Yeh asked whether the City was getting a special rate from the Weekly.

Ms. Grider said she believed the City was getting the government rate.

Council Member Holman asked if \$20,000 was the previous year's rate.

Ms. Grider said it was.

**MOTION:** Council Member Holman moved, seconded by Council Member Shepherd to continue publishing Council Agenda ads in the newspaper with adding to the City Clerks budget up to \$20,000 in funds to come out of Council Contingency Account.

Mayor Burt needed clarification on the Motion and asked if the intent was to also propose change in the language for publication.

Council Member Holman said the Motion was to continue the historic practice of the publication.

Council Member Shepherd said she realized the trend was leaning toward putting information online but for now preferred the agenda's be published in the local newspaper. She supported the Motion

Mayor Burt said the City Clerk had stated the \$20,000 was not adequate and asked if the Motion was being modified.

**INCORPORATED INTO THE MOTION** to change the budget amount from \$20,000 to \$35,000.

Mr. Keene needed clarification on where the \$35,000 would be coming from.

Mayor Burt said that should be part of the Motion.

Ms. Grider confirmed it was from the Council Contingency Fund.

Council Member Holman said she was comfortable with that option.

Council Member Shepherd thought \$39,000 remained in the fund.

Mr. Keene said it could immediately be taken from Council Contingency or the Council could give direction to do a review during the mid-year budget process.

Council Member Shepherd suggested taking it from Council Contingency and to do a review due to the increase in the High Speed Rail Committee Meeting Agenda advertisements.

Vice Mayor Espinosa said he would not support the Motion. He said if the Motion were approved he hoped the newspaper ad would be more user friendly by indicating web links on where to obtain additional information.

Council Member Schmid was in favor of the Motion.

Council Member Scharff asked if the Boards and Commission Agenda ads would continue if the Motion was not approved.

Ms. Grider said she could not answer for the other agendas since she was only responsible for the Council's and Standing Committee agendas.

Council Member Scharff asked if Staff was aware of other agenda publications and costs.

Mr. Keene said he was not able to provide an answer.

Ms. Grider said the Architectural Review Board (ARB) and Planning and Transportation Committee (P&TC) advertised their agendas.

Council Member Scharff said he supported the Motion.

Council Member Klein said he would not support the Motion. He felt only a few people read the publication and become less in number since it was not the way the new generation obtained information. He said other cities did not advertise their agendas in newspapers and still had the same level of public participation as Palo Alto. He said the Council should ask if the City was getting \$35,000 worth of public participation.

Council Member Yeh asked if there was a policy in place for record retention if the City were to electronically publish and what posting would cost if it was not published in the newspaper.

Ms. Grider said the on-line electronic posting was never removed and the record retention could be added in to the policy.

Council Member Yeh said in January 2011 there would be a full on-line agenda setting and asked how Staff envisioned the agenda posting.

Ms. Grider said the Brown Act required the agenda be posted where it was visible 24/7 and would not go away. It would be a matter of educating the populous of other ways to find the agenda such as on-line, cable channels, and the libraries.

Council Member Yeh asked would there be a cost-savings once the on-line system started in January.

Ms. Grider said the on-line packet process was to streamline the internal process and the public would still get the agenda the same way.

Council Member Yeh raised concerns about having to bring up the cost issue for publishing agendas year-after-year.

Ms. Grider said this was the second time the issue had been brought forward and did not think it would be repeated.

Council Member Price said she did not feel the \$35,000 was necessary since the trend was having information accessible electronically. She did not support the Motion.

Mayor Burt said he felt the public did read the ads and then would go to the City's website for more information. He suggested publishing the agenda in shorter language, lowering the cost, subject matter be in common language, and to reference the website for complete titles. It would be a more effective way in getting the job done with fewer dollars.

**SUBSTITUTE MOTION:** Mayor Burt moved, seconded by Council Member Scharff to: 1) adopt the Ordinance amending Section 2.04.010 (Regular Meeting), 2) amend Section 2.040.070 (Agenda) to change Wednesday to Tuesday, and 3) continue publishing Agenda ads in the newspaper and in an effort to save money publish annotated agenda titles with a reference to the website for the complete titles, with the funding of \$35,000 to be added to the City Clerks budget at mid-year budget.

Council Member Scharff supported the Substitute Motion. It maintained the transparency and public participation. It would move the City in the right direction as well as educate the public in going to the websites.

Council Member Holman concurred with Mayor Burt's comments and supported the Substitute Motion.

Council Member Klein said the Substitute Motion could be worse than the original Motion. He asked the City Manager how much was in the Council Contingency Fund.

Mr. Keene said over \$150,000.

Council Member Klein said the Substitute Motion may be more trouble than what it was worth. The current process was easier. Having to edit information for on-line input may be added work. He had concerns that the shorter titles published could have legal issues.

Mayor Burt felt placing a notice at the top of the agenda and directing the public to the website would be sufficient.

Ms. Grider raised concerns about having insufficient funds to carry the advertisement through the mid-year budget process.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that these funds come from Council Contingency Funds to be replenished at the mid-year budget.

Council Member Scharff needed clarification from the City Attorney regarding Council Member Klein's legal concerns regarding publication.

Mr. Baum said Council Member Klein's concern was more of practical or political issue than legal. The City Attorney's Office defense would be that the on-line version of the agenda was not required.

**AMENDMENT PASSED:** 7-2 Klein, Price no

#### COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Scharff reported on attending the Northern California Power Agency (NCPA) annual meeting this past week.

Council Member Yeh also reported on attending the NCPA annual meeting

Mayor Burt reported on attending the San Francisquito Joint Powers Board meeting this past week. He announced that on Sunday, October 3, 2010 there will be a Gamble Gardens Community Day, Saturday, October 10, 2010 is the Black and White Ball, and on Sunday, October 10<sup>th</sup>, the Tsuchiura Sister City event at Lucie Stern.

Council Member Price attended the Baymac dinner, and a Grand Boulevard Task Force meeting.

ADJOURNMENT: The meeting adjourned at 11:56 p.m.