

Special Meeting
May 4, 2009

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ADJOURNMENT: The meeting adjourned at 8:50 p.m.	10

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:05 p.m.

Present: Barton, Burt, Drekmeier arrived at 7:16 p.m., Espinosa, Kishimoto, Klein, Morton, Schmid, Yeh arrived at 6:10 p.m.

Absent:

STUDY SESSION

City Attorney Gary Baum announced that Mayor Drekmeier would not be participating in this item as he is employed by the Tuolumne River Trust. He also announced that the meeting was not a joint meeting with the Utilities Advisory Commission because a quorum was not present.

1. Joint Study Session with the Utilities Advisory Commission Regarding the New Water Supply Agreement Between the Members of the Bay Area Water Supply Conservation Agency (BAWSCA) and the San Francisco Public Utilities Commission.

Arthur Jensen, CEO of BAWSCA, gave an overview of the new Water Supply Agreement. The objectives in the negotiations for the Agreement were to provide Palo Alto with a reliable supply of high quality water at a fair price. The Agreement that was approved by the SFPUC on April 28 meets those objectives. BAWSCA agencies are asked to have their governing bodies approve the Agreement by June 30 when the current Agreement expires. He explained the major provisions of the new Agreement which protect the financial interests of wholesale customers and their retail customers, lasts for 25 years, and saves the wholesale agencies money. He responded to questions from Council Members and Commissioners regarding the perpetual supply assurance to wholesale customers of 184 million gallons per day (MGD), of which each agency has a share. In addition, he explained that the new agreement implements the supply limitation that was imposed in the Water System Improvement Program in order to limit the diversions from the Tuolumne River and local watersheds.

Council took a break at 7:10 p.m. and reconvened at 7:16 p.m.

CITY MANAGER COMMENTS

City Manager, James Keene reported there was a ballot box in the main lobby at City Hall for Santa Clara County voters to submit their ballots. He noted the utilities billing system went live on SAP, GreenWaste was the new refuse collection company, and there were tree removals at Mitchell Park around the play area. He read public announcements regarding the closure of the landfill in order to move the scale, and a Library series being held on Tuesdays at the Main Library during the month of May.

ORAL COMMUNICATIONS

Shelton Ehrlich, 755 North Hampton Drive, spoke regarding the burglar alarm registration fine.

William Landgraf, 762 Stone Lane, spoke regarding the current budget, salaries, and benefits for City employees.

Dr. Stanley Myerson, 753 Alma Street, spoke regarding Palo Alto Housing Corporation.

APPROVAL OF MINUTES

MOTION: Council Member Barton moved, seconded by Vice Mayor Morton to approve the minutes of April 6, 2009.

MOTION PASSED: 9-0

CONSENT CALENDAR

MOTION: Council Member Barton moved, seconded by Vice Mayor Morton to approve Consent Calendar Item Nos. 2-4.

2. Preliminary Approval of the Report of the Advisory Board for Fiscal Year 2009-10 in Connection with the Palo Alto Downtown Business Improvement District and Adoption of Resolution 8922 entitled "Resolution of the Council of the City of Palo Alto Declaring its Intention to Levy an Assessment Against Businesses within the Downtown Palo Alto Business Improvement District for Fiscal Year 2010 and Setting a Time and Place for a Public Hearing on June 1, 2009, at 7:00 PM or Thereafter, in the City Council Chambers."
3. Acceptance of Funds Awarded to the City from the Fiscal Year 2008 Assistance to Firefighters Grant.
4. Approval of Enterprise Refuse Fund Contract with Golder Associates, Inc. in a Total Amount Not to Exceed \$119,000 for Design and Permitting of a New Landfill Gas Flare Stack (Capital Improvement Program Project RF-10002).

MOTION PASSED: 9-0

PUBLIC HEARINGS

5. Finance Committee Recommendation to Approve Fiscal Year 2009/10 Community Development Block Grant (CDBG) Funding Allocations and

Action Plan and Adopt a Resolution 8923 entitled "Resolution of the Council of the City of Palo Alto Approving the Use of Community Development Block Grant Funds for Fiscal Year 2009-2010."

Council Member Barton advised that he would not be participating in this item due to being the President of the Community Working Group which could benefit from funds given to InnVision and his residence is on the same street as the Tree House Project.

Vice Mayor Morton stated his firm conducted pro-bono accounting services for the Opportunity Center which contracted with InnVision and although he had been informed by legal there was no conflict.

Advance Planning Manager for Planning and Community Environment, Cathy Siegel stated there were at-place items regarding the funding amount changes received by Housing and Urban Development (HUD). She stated there was an increase in funding of just over \$27,000 from what was estimated on the Resolution.

Public Hearing opened and closed without public comment at 7:38 p.m.

MOTION: Vice Mayor Morton moved, seconded by Council Member Klein to: 1) Allocate CDBG funding as recommended by Staff and the Citizens Advisory Committee (CAC) in the 2009-10 Action Plan and adopt the Resolution, 2) Authorize Staff to submit the 2009-10 Action Plan to the Department of Housing and Urban Development (HUD) by the May 15, 2009 deadline, and 3) Authorize the City Manager, on behalf of the City, to execute the 2009-10 application and Action Plan for CDBG funds and other necessary documents concerning the application, and to otherwise bind the City with respect to the application and commitment of funds.

MOTION PASSED: 8-0 Barton not participating

6. Finance Committee Recommendation to Adopt a Resolution 8924 entitled "Resolution of the Council of the City of Palo Alto Amending Utility Rate Schedules W-5 and S-5 of the City of Palo Alto Utilities Rates and Charges Pertaining to Service Connection Fees."

Public Hearing opened and closed without public comment at 7:39 p.m.

MOTION: Council Member Barton moved, seconded by Vice Mayor Morton to adopt the Resolution to approve a 50 percent increase in capacity fees in Utilities Rate Schedule W-5 and Utilities Rate Schedule S-5 to take effect on July 1, 2009.

Council Member Barton stated he supported the recommendation.

Vice Mayor Morton stated he supported the recommendation.

Council Member Schmid stated the Comprehensive Plan defined the desire for diverse housing. He asked whether the City was creating a financial incentive to not have neighborhood oriented development.

City Manager, James Keene stated there would be a specific review of the municipal fee schedule during the Finance Committee review of the City's Budget Proposal.

Council Member Schmid proposed an Amendment to the Motion to review the cumulative fees being charged in development and the impact on the developers requesting special treatment or exemptions to the Zoning Codes.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that Staff return with part of the Comprehensive Plan update to look at the nexus between cumulative fees and the impact on developers asking for special exemptions.

AMENDMENT: Council Member Klein moved, seconded by Council Member Burt to delete the incorporation to the Motion.

Council Member Klein stated Staff was currently overburdened and he felt requesting their attention be diverted was not warranted.

Council Member Burt asked for clarification on the discretionary decision for development exemptions. He asked whether the decisions were based on the fee impacts or independent discretionary decisions based on past Council's actions.

Interim Deputy City Manager, Steve Emslie stated yes, in order to approve development there were findings required to be met which were all related to physical elements of the plan. He stated there were no decisions based on fiscal gain or loss.

Council Member Burt asked whether the fees paid by the developer were diminished by any exemptions granted.

Mr. Emslie stated no, the fees were based on the impact and the nexus of size or number of units.

Council Member Schmid stated concern for charging an equity bases fee to new users for exiting development. He stated the City was imposing fees that priced developers out from being able to create open neighborhoods.

Council Member Kishimoto stated she supported the Amendment.

AMENDMENT PASSED: 6-3 Barton, Morton, Schmid no

MOTION PASSED: 9-0

REPORTS OF COMMITTEES AND COMMISSIONS

7. Policy & Services Committee Recommendation to Adopt a Resolution 8925 entitled "Resolution of the Council of the City of Palo Alto Approving Revised City Council Procedures. "

Robert Moss, 4010 Orme, spoke in favor of retaining the time limit to five minutes.

Herb Borock, P.O. Box 632, spoke regarding the time limit being regulated for equality, giving the public the same privileges as the developers.

Council Member Kishimoto asked the record be corrected in reference to the time limit; the report stated the limit of five minutes was an error. She stated the time limit had been five minutes and over time was reduced. She requested the language be specific in the time reduction from less than three minutes to two minutes.

MOTION: Council Member Kishimoto moved, seconded by Council Member Klein to adopt the Resolution approving the revised City Council Procedures with one change on page 1-3, section b, to change the sentence as follows: The presiding officer may reduce the allowed time to two minutes if necessary to accommodate a larger number of speakers.

Council Member Klein stated three minutes was a reasonable time limit to address a desired point.

Council Member Burt stated disappointment in Staff not researching the history of the Council procedures prior to revising them. He asked to have the records corrected in reference to abstaining.

City Attorney, Gary Baum stated the five minute rule was researched internally and there had been an older reference which was why the Staff report stated the time limit was in error or was an old practice. He stated the Attorney General has opined it was a duty to vote, he noted the interpretation meant required. He clarified the abstention question; an abstention counted towards the majority except when it was a conflict of interest for a Council Member.

Council Member Burt asked for clarification on the Martin Balenger case which stated a refuse to the vote was consent to the majority.

Mr. Baum stated his interpretation was if a member abstained, the member was consenting to the rest of the Council's decision.

Council Member Barton stated there was the per person time limit during Oral Communications and a total time limit of thirty minutes for the meeting. He clarified if one policy was going to be changed the other needed to be reviewed for conflict.

Mayor Drekmeier asked whether the thirty minutes time was mandated.

Council Member Barton stated in paragraph 2 on page Roman numeral I-1 of the Council Procedures it stated Council allowed three minutes per speaker but limited the total time to thirty minutes per meeting.

Council Member Kishimoto stated her Motion referred to non-Oral Communications.

AMENDMENT: Council Member Schmid moved, seconded by Vice Mayor Morton to change page I-1 section 1A(2) Oral Communications- from: The Council allows three minutes per speaker, but limits the total time to 30 minutes per meeting, to: The Council allows at least two minutes per speaker, but could be three minutes per speaker, and delete: but limits the total time to 30 minutes.

Council Member Schmid stated Oral Communication was an important part of the meeting and noted the time limit granted showed the community Council felt their opinion counted.

Vice Mayor Morton stated concern with minimizing the speaking time as it was in direct conflict with the Top Priority of engaging the public.

Council Member Barton stated he did not support the Amendment.

Council Member Yeh stated he did not support the Amendment.

Council Member Klein stated he did not support the Amendment.

Council Member Burt stated he did not support the Amendment.

Council Member Espinosa stated he did not support the Amendment.

AMENDMENT FAILED: 3-6 Drekmeier, Morton, Schmid, yes

Council Member Schmid noted Council received minutes from the Planning & Transportation Commission (P&TC) although not the other Boards and Commissions as stated in the Council Procedures. He asked why the AdHoc Committees were not included with the procedures.

Council Member Espinosa asked whether Council Member Schmid wanted the Policy & Services Committee to review the Boards & Commissions portion of the Council Procedures.

Mr. Baum stated AdHoc Committees were governed by the Attorney Generals' interpretation of the Brown Act. He stated if Council directed there be a formal AdHoc Committee section in the Council Procedures, Staff would bring the item to Policy & Services.

MOTION PASSED: 9-0

MOTION: Council Member Schmid moved, seconded by Council Member Espinosa to direct Staff to bring to Policy & Services a report stating an explicit description of the role of AdHoc committees.

MOTION PASSED: 8-1 Barton no

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Vice Mayor Morton spoke about his remarks at the Senate Finance Subcommittee on Transportation-High Speed Rail meeting. He also spoke about Council Member Burt and him attending the May Fete parade this past weekend.

Council Member Yeh spoke about attending the annual Federal Policy Forum in Washington, D.C. conducted by the Northern California Power Agency.

Council Member Kishimoto reported on attending the AdHoc Peninsula Cities Coalition on High Speed Rail.

Vice Mayor Morton also spoke about the AdHoc Peninsula Cities Coalition meeting and whether the High Speed Rail Authority should be dissolved and re-absorbed into Caltrain.

Mayor Drekmeier suggested the above information be incorporated into next week's agenda item on High Speed Rail.

Council Member Kishimoto also spoke on the Climate Leadership Summit, headlined by Thomas Friedman.

Council Member Burt stated there are about 20 or so pieces of legislation on High Speed Rail going through the legislature at this time. He suggested that the Council consider delegating the authority to the Staff subcommittee to comment on legislation based on principles the Council has set forth.

Council Member Espinosa spoke on the meeting this past Sunday of the Council of Non-Profits that he and Council Member Yeh are assisting in creating.

Mayor Drekmeier reported on attending the Grand Opening of the new San Francisquito Creek pump station.

ADJOURNMENT: The meeting adjourned at 8:50 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.