

Special Meeting
December 19, 2011

The City Council of the City of Palo Alto met on this date in the City Council Chambers at 6:05 P.M.

Present: Burt arrived @ 7:03 P.M. Espinosa, Holman, Price, Scharff, Schmid, Shepherd, Yeh

Absent: Burt, Klein

SPECIAL ORDERS OF THE DAY

1. Presentation of Donation Check from the Palo Alto Library Foundation.

Bern Beecham, President of the Palo Alto Library Foundation (PALF), presented a check for \$1.9 million to the City. This donation will pay for books, furniture, and technology at the Mitchell Park Library and Community Center. Bond funds, used to construct the facility, are not allowed to be spent on these other necessary operating equipment items. To date, PALF has raised \$3.6 million of their \$4 million goal, 90 percent complete. Council Members conveyed their thanks and appreciation for this significant gift.

2. Community Partnership Presentation: PTA Council.

The City Council heard a presentation from the Palo Alto Council of PTAs (PTAC), who works closely with the Palo Alto Unified School District (PAUSD) staff, the Board of Education, and the PTAs at the 17 schools to improve the education, health, and welfare of all children and youth. Representing the PTAC were President, Louise Valente and Executive Vice President, Michaela Presti. Each year the PTAC revises and updates its goals. In recent years, PTAC has been instrumental in working with PAUSD on several topics. For example, when the school district was looking at potential budget cuts the PTAC conducted a community wide survey of parents on their

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recommendations and summarized these in a report for the Superintendent and the Board of Education. That summary is still in use today. One of the PTAC Health and Safety chairs convened a Sleep Study group and produced a report that provided support for the later start days at the two high schools. PTAC Traffic Safety Chairs continue to work in partnership with PAUSD and the City on Safe Routes to School. The PTAC Chair of Special Education has worked with representatives at every school so they can participate in the nationwide "Inclusive Schools Week" (December 5th). The PTAC is also integrally involved with Project Safety Net supporting the social and emotional wellbeing of all students.

CITY MANAGER COMMENTS

City Manager, James Keene reported the Downtown Library would begin expanded hours on January 6, 2012, now open to the public on Fridays from 10:00 a.m. to 6:00 p.m. He noted a January community meeting was held to discuss the findings and recommendations of independent arborist, Barry Coat, who recommended removal of the large Heritage Coast Live Oak at 816 Cowper Street because of its age and structural deficiencies.

ORAL COMMUNICATIONS

Sherri Sager provided an update on Stanford Hospital and Lucille Packard Children's Hospital. She said the GO Pass had been implemented in January, a full three years in advance of the date previously agreed upon with the City Council. Almost 2,000 employees signed up for a GO Pass during the first two weeks of distribution. Additional Marguerite shuttles were added to support the expected increase in ridership on the trains. The hospital projected it would spend \$1.5 million per year for passes and Marguerite shuttles. They expected these efforts would help reduce traffic around the hospital and reduce inconveniences to employees and patients navigating to and from the hospital as construction continues.

Bob Moss commented on former Mayor Gary Fazzino's news editorial proposing a change in how mayors are elected. Mr. Moss stated there were advantages to having a Mayor for a two-year period. He also spoke in opposition to term limits and suggested the City Council consider placing revocation of term limits on the ballot or at the least extending to three terms rather than two terms.

CONSENT CALENDAR

MOTION: Council Member Holman moved, seconded by Vice Mayor Yeh to pull Agenda Item No. 4, to become Agenda item No. 6a.

MOTION: Council Member Scharff moved, seconded by Council Member Schmid to approve Agenda Item Nos. 3, 5-6.

3. Budget Amendment Ordinance 5137 to Accept and Appropriate a Donation in the Amount of \$1,900,000 from the Palo Alto Library Foundation for Furniture, Technology and Collection Materials for the Library Measure N Building Projects and Receive and Appropriate \$15,000 from the Pacific Library Partnership for Library Website Redesign.
4. ~~Recommendation From the Policy and Services Committee on Electric Vehicle Infrastructure Policy.~~
5. Authorization for the City Manager to Enter into a One-year Contract with Professional Evaluation Group/The Ochoa & Moore Law Firm, P.C. (PEG/OM).
6. Approval of City of Palo Alto Letters to the California High Speed Rail Authority (CHSRA) Commenting on the Authority Business and Funding Plans.

MOTION PASSED Agenda Item Nos. 3, 5-6: 7-0 Burt, Klein absent

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 6a. (Former Item No. 4) Recommendation From the Policy and Services Committee on Electric Vehicle Infrastructure Policy.

Council Member Holman suggested adding an aesthetics component to the installation of Electric Vehicles policies to provide clear expectations of the City's goals to Staff and Applicants. She said not adding a policy on aesthetics would be an oversight on the City Council's part.

MOTION: Council Member Holman moved, seconded by Vice Mayor Yeh to adopt the electric vehicle infrastructure policy as discussed in the report and summarized in Appendix C; and furthermore to approve Staff recommendation and add a policy to insure the design of EV installations will be of a quality that is consistent with Palo Alto standards, understanding that enhanced aesthetics can promote the installation of charging stations rather than deter it.

Council Member Holman stated without inclusion of aesthetics in the policy it would get lost over time due to Staff turnover.

Vice Mayor Yeh agreed and added that there should be some precedent. He realized that good design could call attention to the stations and increase public use.

Council Member Shepherd asked for a description of the process and whether this would be the only opportunity to agree on the aesthetics or would the City Council revisit the process each time design came into play.

Council Member Holman stated every application should go through design review, but the policy should set the standard for size, location, and color. She was not sure what the criteria should be, but was confident entrusting that decision to Staff. This policy would give the City Council the opportunity to look at what the aesthetics and maintenance should be.

Council Member Price supported this policy, and said it made sense to be more explicit. She trusted Staff to implement the policy and practices that would honor the design and sensitivity of the aesthetics.

City Manager, James Keene stated that Council would have the option to select potential vendors and determine the fee schedule. He added that the nature of this policy was consistent with other policies already in the draft policy stage.

MOTION PASSED: 7-0 Burt, Klein absent

ACTION ITEMS

7. City Council 2011 Year in Review.

City Manager, James Keene stated 2011 had been a good year. Palo Alto rated excellent or good at 83 percent in the 2011 National Citizen Survey. The City was also above the benchmark community in other survey categories such as public trust, quality of life, image, education, place to work, cleanliness, and quality of services. He stated the City Council's priorities for the year were: 1) City Finances, 2) Land Use & Transportation Planning, 3) Environmental Sustainability, 4) Emergency Preparedness, and 5) Community Collaboration for Youth Well-Being. Under the priority of City Finances and Economic Development, he discussed the: 1) balanced budget, 2) contract with firefighters, 3) repeal of binding interest arbitration, 4) reaffirmation of Palo Alto's AAA credit rating, 5) \$5 million savings achieved through refinancing the Golf Course and Utility Bonds, 6) balance of the Refuse Fund, and 7) receipt of funds through community partnerships with several key foundations. The 2011 National Citizen Survey graded the City of Palo Alto at less than 50 percent on being a good or excellent place for

business or economic development. He reported low vacancy rates downtown, high hotel occupancy rates, and new hotels in the process of being built. The Stanford Shopping Center revitalization had improved several spaces, and there were other Palo Alto companies on the rise and a number of new companies in town. He stated the infrastructure would be a topic of concern for 2012. A report from the Infrastructure Blue Ribbon Commission was scheduled to be released later that week and should confirm infrastructure advances such as opening a new section of Greer Park, installation of a new irrigation system, renovation of the Downtown Library, renovation and expansion of the Art Center, closing the landfill ahead of schedule, street paving, and many other infrastructure highlights. He highlighted several developments under the City Council's priority area of Land Use & Transportation such as developments with the Cross-town shuttle and affordable housing units constructed in two areas of town. He said the Bike and Pedestrian plan added 16 miles and 15 new bike arcs. Highlights under the priority area of Environmental Sustainability included the addition of 36 new acres to Bixby Park, 600 LED street lights, five new electric charging stations in three downtown garages, and approximately 50 percent of pesticide-free city parks. Under the priority area of Emergency Preparedness, the survey results revealed that in the event of a major disaster, 80 percent of Palo Alto residents believed they could survive with sufficient food and water. Other highlights for this priority included restructuring of the Office of Emergency Services and expanded communications with the Mobile Emergency Operations Center (MEOC). Lastly, the priority of Community Collaboration & Youth Well-Being indicated recognition for the City's efforts in youth well-being, developments in the area of program design, and fund raising efforts for the Magical Bridge Playground Project. Some projects would continue into the following year. The Art Center and Mitchell Park Library & Community Center would open in 2012. The City would also continue to make advances in Technology with mobile apps.

Mayor Espinosa reviewed his year as Mayor. He said Council and Staff accomplished much with a very aggressive agenda throughout the year. He said that Palo Alto was thought of as a lighthouse beacon to many communities across the United States.

Council Member Holman requested the City Manager's presentation be added to the City's website with a link on the City's homepage. She acknowledged additional accomplishments with the hiring of a City Attorney and City Auditor.

Mayor Espinosa thanked all the Boards and Commission Members who contributed to the City through their work.

Council Member Price acknowledged the dedication and professionalism of public sector employees.

Council Member Scharff thanked all Staff for their hard work.

No Action Required

8. Rail Committee Update Including Review and Consideration of Economic & Planning Systems (EPS) High Speed Rail and Caltrain Economic Analysis Reports; Proposed New Rail Guiding Principles and Caltrain Capacity Analysis Information.

Deputy City Manager, Steve Emslie introduced Darren Smith, the Economic & Planning Systems (EPS) consultant, who prepared two economic impact studies at the direction of the City Council. The studies reviewed the High Speed Rail (HSR) and Caltrain Electrification Project (CEP) and the impact the projects may have on property values and economic interests in Palo Alto.

Darren Smith, Economic & Planning Systems (EPS) stated he was contracted in late 2010 to conduct an analysis of impact and likely outcomes to the community from major changes to rail service and infrastructure. He explained the scope of services for the project were to 1) review any existing documents; 2) look at case studies and literature reviews of international situations where HSR systems were introduced into a community, especially where it was an incremental change; 3) study various types of impacts expected such as noise, vibrations, circulation changes, aesthetics, air quality, property acquisition costs, travel times made better or worse; and, 4) apply these findings to situations in Palo Alto in terms of property development characteristics, circulation patterns, and long-term and fiscal impacts. He reported one study reviewed CEP on existing grade with the same tracks, adding new poles and wires, and increasing the number of trains from 98 to 114. The second study reviewed a combined HSR and CEP where HSR would operate on shared tracks with Caltrain. He stated it was important to note there was no concept of HSR without CEP. He indicated he had reviewed various physical configurations separately, because each had different impacts. He noted there were no planned stops or stations in Palo Alto for HSR. He reviewed 228 HSR trains traveling daily through Palo Alto in addition to the 114 Caltrain trains, for a total of 342 trains per day. He explained an alternative variation, the Initial Operating Phase (IOP), whereby HSR trains could operate on the same at-grade configuration tracks as Caltrain. In this case, the total number of trains would be 240 trains daily. He reported Option A had a combination of at-grade and aerial tracks running north and south through Palo Alto station; above-grade around

Homer Avenue; at-grade at California Avenue; and above-grade moving south into Mountain View. He stated Option B would be below grade from the Palo Alto station in the north, at-grade around Churchill Avenue and California Station, and aerial tracks south of California Avenue. He indicated tracks under Option B1 would be all below grade the entire length of Palo Alto, including the stations. He said the IOP would operate on the existing at-grade tracks with the existing grade crossings. He noted in the first three options crossings would be grade separated, which would resolve direct conflicts between vehicular traffic and trains. He reported the HSR analysis did not include an Environmental Impact Report (EIR) per se; therefore, he could not identify impacts because of this lack of information. He noted that increased rail service could have net economic benefits for Palo Alto, primarily as a result of decreased travel time. Other benefits could include reduced noise and vibrations and air quality impacts associated with the change to electrification and technology. He explained the CEP should have a net positive gain, again primarily because of enhanced travel times. He stated the HSR Project was dependent on physical and operational configurations. He reported there was an opportunity for gain depending on the physical configuration; however, he believed several configurations would have net negative results for Palo Alto. He said the first impact he reviewed was noise, because of the relationship between increased noise and decreased property values. He explained electric trains were quieter; however, the City would have an increased number of trains, which would lead to more horns and bells at grade crossings. His analysis indicated it was a net offset between quieter trains and increased crossing noise. He was not estimating a change in property values associated with that. He noted the situation was very different for HSR. He reported in general trains would be loudest on aerial tracks and quietest in open-trench tracks. He reviewed data regarding average noise levels for a specific property in Palo Alto. By translating those results into property-value impacts, he determined the B1 option, open trench, had a net improvement to property values and IOP had the worst impact. He again stated the configuration of the HSR program would affect the net impact to property values. He explained that vibrations were difficult to project without knowing more information than was available, and that vibrations depended on soil conditions, type of building, etc. For Caltrain, he utilized EIR data to determine that 211 residential properties, all located within 100 feet of tracks, would realize a 1-percent value increase associated with decreased vibrations. He noted that aggregated to \$1.2 million in added property value for those properties. He stated HSR impacts were difficult to quantify because of the dynamic relationships between vibrations and buildings. He explained information from case studies indicated the open-trench configuration would be the best alternative and the IOP the worst in terms of vibration. He reported his analysis of circulation focused on the fact that

trains crossed streets daily in four locations. He explained his methodology of estimating the number of vehicles stopped at each grade location, estimating the amount of time vehicles would be stopped at 45 seconds, and applying a factor for the value of a driver's time. He noted the factor applied was \$27.31 per hour, which reflected local wages and fuel costs. He stated Caltrain's addition of 16 trains per day translated to approximately \$200,000 value lost to drivers annually because of added travel delays. He indicated drivers gained approximately \$870,000 in value annually under HSR Options A, B and B1, and lost approximately \$834,000 in value annually under IOP. He noted electrified and high-speed vehicles would improve air quality over current vehicles, which value would be capitalized into property values. He reported the EIR for Caltrain indicated train emissions would be reduced by 90 percent; however, that would only impact properties within 100 feet of trains and provide \$600,000 additional property value. He stated his analysis tried to discretely quantify these impacts rather than lumping them together. He reported he was unable to reliably estimate any impact for HSR as there was no information available through an EIR. He stated aesthetic impacts were a major concern and the most subjective. He reported his analysis agreed with the EIR for Caltrain in that there would not be a significant impact on physical environment and would not translate to much change in property values along the train corridor. However, those properties viewing the proposed electric paralleling station near Green Meadow Way would have a 5 percent reduction in value, aggregating to \$475,000 of reduced property values. For HSR, he explained he estimated properties facing aerial tracks would have significant reductions in aesthetic value, with first and second levels of impact. He stated properties directly facing aerial tracks would have one level of impact, with properties immediately behind them having a second, lesser level of impact. He reported there would be no visual change and assumed no net change to property values under Option B1. He said IOP would look similar to CEP; therefore, he was not assuming any real change other than that associated with CEP. He noted negative implications for Options A and B, which have a combination of aerial and at-grade tracks. He explained the negative implications were estimated by differentiating between residential and commercial properties and between first level and second level impacts. He said the net result was a \$37 million aggregate reduction of value for approximately 640 properties under Option A. He indicated Option B's impact was a \$12 million aggregate reduction, because there was less track in the aerial configuration. He reported the Caltrain plans did not show any properties would need to be acquired in Palo Alto; while HRS did not provide enough information to make this determination. He reported there were still recognizable increases in value to properties up to two miles from stations as a result of the enhancement of the trains. He stated that the EIR for Caltrain indicated that Caltrain service could decrease travel times by up to 8

minutes for the length of the corridor. Using conservative estimates, he assumed it would be a 4-minute positive impact for Palo Alto properties, and approximately 3,300 properties located within 1/2 mile of train stations would increase in value by only 1 percent. He reported Caltrain service would provide up to \$27 million in increased value as a result of travel times. He noted HSR would not have a station in Palo Alto, but it also would provide up to \$27 million in increased value because it was a joint facility. He reported the impact on property values for Caltrain was a net positive gain of approximately \$28 million throughout Palo Alto; for HSR, the net gain was positive under Option B1 and negative under Options A and IOP. He indicated the primary driver of the positive result was enhanced travel times, which were associated with the CEP part of the project rather than HSR. He explained there were some positives to be gained under some configurations for HSR, but generally he was less optimistic for HSR. In terms of circulation, he reported there would be temporary street closures during construction of Caltrain or HSR, but did not believe they would have substantial impacts on property values. He stated physical issues such as lights and noise would be temporary and assumed they would not be capitalized into property values during the brief construction period. He explained the impact of jobs and spending resulted in approximately \$230,000, which was a negligible impact for the community. He indicated property taxes on the Caltrain net gain of \$28.3 million would translate to only \$34,000 in additional budget funds for the City. He noted increased sales taxes from worker spending would be minimal. He determined from conversations with Staff that there would be no significant changes to public service costs or approaches as a result of the Caltrain program. He stated that the addition of Caltrain service was not likely to induce more development within the community. He did not believe there would be any real change to jobs and housing balance or student enrollment. He found that an increase in property taxes would result in an increase to School District funding of approximately \$140,000 per year, a minimal amount. He summarized the CEP as reducing emissions, noise and vibrations; enhancing travel times; creating no major concerns for lasting economic changes during the construction period; and having modest impacts to the City's fiscal situation with no real changes to jobs, housing or schools. He thought reducing emissions, noise and vibrations and enhancing travel times were significant improvements. He stated HSR was largely contingent on the configuration selected, if any. He noted Option B1 was the most disruptive and costly option while generating the most jobs and spending; and IOP was less disruptive and the least costly option while generating the least number of jobs. He didn't foresee any major long-term economic changes associated with a construction period. He indicated property acquisition was unknown, and light and noise impacts would need to be mitigated. He did not expect any long-term changes to the delivery of public services. He

reported negligible changes to sales taxes, property taxes, development patterns, and School District funding. He recommended Option B1 as the best HSR option, but also the most expensive. He believed there could be an economic benefit to the community from enhancement of rail service; however, most of the enhancement and property-value increase would be associated with CEP improvements rather than HSR. He stated the open-trench configuration of HSR could provide some net benefits to the community; an aerial configuration would be worse for the community; and IOP would interrupt traffic flow and create safety concerns.

Mayor Espinosa noted there were no public comments.

Council Member Shepherd asked how traffic delays were quantified for shuttles and buses.

Mr. Smith stated they did not make an adjustment to the assumed number of passengers per vehicle, which would accommodate higher-occupancy vehicles. He explained higher-occupancy vehicles would increase good and bad impacts.

Council Member Shepherd inquired if it would be multiplied by number of buses and seats.

Mr. Smith indicated the number of occupants would be the appropriate method.

Council Member Price asked if the baseline condition for traffic crossings and delays was the existing conditions.

Mr. Smith answered yes.

Council Member Price asked what assumptions were the basis for his statements regarding Caltrain growth inducement, jobs and housing.

Mr. Smith replied his statements were based on the assumptions of Palo Alto historically having approximately 100 trains per day, and the addition of 16 new trains would not significantly change that. Ultimately he assumed the City had the capacity and motivation to make plans with or without the incremental increase in trains traveling through the City. He did not assume there would be a game-changing situation with respect to Land Use Policy because of the incremental increase.

Council Member Price reiterated that his assumptions were based on the change in number of trains not being significant.

Mr. Smith answered yes.

Council Member Price appreciated the examples of base conditions, addition of service, and implications. She confirmed he did not anticipate significant changes based on his literature search and assumptions.

Mr. Smith replied yes, that was his assumption.

Council Member Price inquired if construction impacts and impact on transportation planning or public safety were considered in his discussions with Staff.

Mr. Smith reported they estimated the construction-period impacts as outlined; primarily job production from construction itself and the spending associated with that. They evaluated whether there would be long-term impacts on property conditions. He said they did not specifically discuss or estimate the impact of the provision of services during construction.

Council Member Holman Packet referenced page 132 regarding properties facing future aerial tracks in Option A and the 324 identified residential properties with an assessed value of \$195 million and 50 commercial properties assessed at \$152 million. She asked if the assessed values were taken from the property tax records.

Mr. Smith responded correct.

Council Member Holman stated the property values could increase considerably when sold, so the impact could be quite different than indicated in the report.

Mr. Smith agreed. He believed her point was the assessed value was not reflective of market value because of Proposition 13 and the history of transaction prices. He reported there would be a greater delta to the extent that the assessed values underestimated the actual market values. He estimated the assessed value for first-level residential properties would be approximately \$600,000 per unit.

Council Member Holman indicated she calculated \$601,000 for residential and \$3 million for commercial.

Mr. Smith indicated if the properties were worth more, then the estimated deltas would be underestimations of those impacts.

Council Member Holman suggested the report contain examples translating decibels to recognizable sounds as most people didn't understand decibels. She requested an explanation of why vibrations on electrified tracks would be less.

Mr. Smith could not definitely say why electrified vehicles produced lower vibrations; however, that was the result in the Caltrain EIR. He had not questioned the correctness of the EIR. He believed the vehicles were lighter, but had no other information to validate the result of the EIR.

Council Member Burt noted assessed property values had a major impact on the calculation of property values from Option A. He asked why assessed values were utilized when there were other means to obtain more realistic numbers. He thought the values could be off by a factor of 2. He suggested the final report utilize a more realistic means of determining property values than assessed values. He asked what was the duration of construction assumed for HSR. He agreed with the low impact from Caltrain construction.

Mr. Smith stated they did not assume duration because there was no information available. He explained they prorated based on job creation estimates for Caltrain and the spending on Caltrain.

Council Member Burt clarified that he was inquiring about disruption impacts of a couple of years of construction. He asked whether he was aware of the possible temporary closing of half of Alma Street if construction utilized a four-track system.

Mr. Smith reported he had discussed that and agreed it would be a temporary situation, but long-term plans were to restore that capacity.

Council Member Burt noted community analysts had performed a great deal of work on this issue. He thought the two-year construction impact was probably included in the calculations, was a potential major disruption to the community, and needed to be included. He referenced page 12 regarding second-level properties near tracks, properties having a 5-percent reduction in value. He asked if they only analyzed one property away from those adjacent to tracks.

Mr. Smith explained his assumption was that properties facing aerial tracks would have a higher level of disamenity, the properties behind those would have a lesser level of disamenity, and beyond that there would be impacts of noise. He indicated they were trying to be discrete about the various impacts. He stated this was a subjective impact. He reported the

assumption was that properties viewing the facilities from the property would have the negative impact.

Council Member Burt inquired whether there were discussions with realtors on these impacts.

Mr. Smith replied yes.

Council Member Burt asked if realtors agreed with the assumption that properties immediately facing an elevated system would only have a 10-percent impact.

Mr. Smith could not say that realtors agreed that it was not a matter of generating agreement. He spoke with realtors who recognized there was already some impact on property values due to uncertainty.

Council Member Burt thought this needed re-examination before the final report. He was surprised there hadn't been more dialog. He disagreed with the statement that elevated tracks would have only a 5 percent impact on value of property located 50 feet away. He also disagreed with there being no calculated impact on property more than two houses away. He noted studies had found impacts on property up to a quarter mile distant. He thought the closer properties were affected more than 10 and 5 percent respectively. He strongly felt this area needed to be re-examined when considering the number of properties prospectively impacted by and excluded from this calculation. He referenced the Californians Advocating Responsible Rail Design (CARRD) analysis regarding property impacts of distance and grade crossings, and its statewide acceptance and validation. He suggested CARRD input be utilized. He thought these were important elements and suggested they needed to discuss this with Staff.

Mr. Smith reported they had been in touch with CARRD throughout their analysis, and had received some feedback from them. He understood their analysis of property acquisition was performed for an alignment no longer under consideration.

Council Member Burt asked which alignment was that.

Mr. Smith stated it was the proposal to provide grade crossings above the rail.

Council Member Burt stated if the tracks are at-grade, then the impact on property would be nearly the same whether the grade crossing was

submerged or elevated. He reported CARRD's position was not that property would be unaffected, and thought that alternative was still viable.

Vice Mayor Yeh indicated a primary concern was the use of bond funds for potential property acquisition. He thought it important to assess the impact on market values rather than assessed values. He asked if market value could be utilized to capture a dollar value for property acquisition, and whether a range of dollar values would be realistic specifically for HSR.

Mr. Smith stated if someone could provide verifiable information with regard to which properties would be taken, he could provide that information. He reported conversations regarding property acquisition with project designers led them to conclude that the information was not yet reliable. With regard to assessed value versus market value, they did not utilize market value because of time and budget constraints. He indicated they would do that if it were important.

Vice Mayor Yeh referenced the statement that the change of service would not cause a significant change in the jobs-housing balance. He noted the City was working through the housing allocation process, and he understood housing allocation was partially based on public transportation options. He inquired whether an increase in trains and continue high usage of trains by Palo Altans would have an impact on the jobs-housing numbers. He didn't agree with the conclusion that increased service would not have an impact on jobs and housing. He asked what the total number of properties was across all categories that would potentially be impacted.

Mr. Smith responded 3,319 residential properties.

Vice Mayor Yeh asked what the total number of households was.

Mr. Emslie stated approximately 25,000. He noted there was some difference between households and homes, but it was small.

Vice Mayor Yeh thought this highlighted the level of significance this one potential project had across the entire community.

Council Member Schmid asked if the Council was only concerned with the report.

Mayor Espinosa indicated they were discussing Item 8, and would turn to the report from the Rail Committee.

Council Member Schmid supported the questions raised by colleagues. He noted the differential impacts on different parts of the community, and the dramatic differences among Options A, B and B1. He thought one of the questions was who would pay for grade crossing, and asked if that was an assumption.

Mr. Smith responded that question had not been factored into the analysis.

Council Member Schmid indicated if the local community was responsible for some or all costs of grade crossings, the impact on the community was dramatically different and changed the way the Council thought about this. He noted two different impacts on the community: 1) property takings from the grade crossings and 2) penetration of the change in property values as you move further away from tracks. He mentioned the stated traffic delay of 45 seconds per car, and the current 5 to 10 minute delay on the major east-west roads through the City. He explained increasing Caltrain operations would not only increase the 45-second delay, but also increase traffic congestion on all east-west roads intersecting the north-south roads. He stated another economic impact was businesses in the business park not receiving full value from property because people could not reach the business. He thought the issue of east-west traffic was critical, and the 45-second delay did not capture all issues. He said Palo Alto was a business center dependent on a network of communication routes. He stated the impacts of value of property being in the midst of Silicon Valley and being able to draw on those networks and something running through it and separating the community had a very important economic consequence, which was not all positive.

Council Member Scharff referred to conclusions on Packet page 119 regarding grade separations. He thought grade separations were a part of HSR only. He asked if the only benefit from HSR was grade separations.

Mr. Smith answered that was a reasonable reading of their conclusions. He reported the bulk of the positive impact for a combined HSR and CEP would be the travel-time savings, which was achievable with or without HSR. He noted the other positive impact was associated with grade separations, whether noise or circulation.

Council Member Scharff asked whether HSR would provide any economic value to the community if the Council performed grade separations with CEP.

Mr. Smith replied that was probably correct. He felt CEP combined with grade separations would be of great benefit to the City.

Council Member Scharff asked how the numbers and the assumptions were determined.

Mr. Smith explained a number of citations within the documents referenced literature reviews, case studies, and academic studies. He indicated the 0.65 per decibel change was the direct result of some case studies and literature reviews cited within the documents. He stated most studies regarding positive or negative impacts of rail had been before-and-after, with-and-without rail.

Council Member Scharff inquired what the margins of error were for the numbers as they related to Palo Alto.

Mr. Smith reported they had tried to indicate within the report reliance on specific data from other sources versus their own subjective interpretation of the conditions expected. He indicated the subjective interpretations were imperfect in terms of the physical and operational impacts of future services, and contained a significant margin of error. He believed the qualitative results of the analysis were defensible.

Council Member Scharff noted grade separation appeared to have a negative impact on surrounding properties in some communities. He didn't find anything in the report that indicated there were any negative impacts to grade separation.

Mr. Smith mentioned Council Member Burt's questions regarding property acquisition associated with grade separations. He stated with input from CARRD there was not enough information at this time to determine what those impacts would be. He reported they had estimated only those things that they felt they had good information on.

Council Member Scharff clarified he was inquiring about properties that would be left.

Mr. Smith explained the level of design was not advanced enough to know what properties would be affected; therefore, they opted out of estimating those impacts.

Council Member Scharff agreed with Council Member Burt with regard to property values versus assessed values. He asked Staff what it meant to accept the report.

Mr. Emslie explained acceptance of the report meant the Council had commissioned a study, received the findings and conclusions of that study,

accepted those findings and conclusions, and understood the report represented the best analysis of the facts at that time. Acceptance made the report a document of the City Council. He thought it was a fairly significant action.

Council Member Scharff inquired whether this was the final report.

Mr. Emslie suggested Staff would utilize the Council's comments and concerns in discussions with the consultant to modify the draft report. He also suggested the report would benefit from further review by the Rail Committee before returning to the Council.

Council Member Scharff asked if there was a budget for this report.

Mr. Emslie responded yes.

Council Member Scharff inquired whether the City would spend more money on the report.

Mr. Emslie answered yes.

Council Member Scharff asked for the cost of this additional work.

Mr. Emslie estimated \$10,000 or less.

Council Member Holman inquired whether not accepting the report meant the Council should expend more funds to redraft the report or whether not accepting the report indicated the report had not provided adequate information for an informed decision. She asked if Staff wanted a motion to send the report to the Rail Committee for review.

Mr. Emslie stated Staff had collected Council comments, and suggested the Council could vote to send the report to committee subject to addressing comments; or Staff could take that as general direction as well.

Vice Mayor Yeh suggested the motion include a cap of \$10,000 for additional related expenses.

MOTION: Council Member Holman moved, seconded by Vice Mayor Yeh that Staff take comments from the City Council and fold it into the analysis reports to be forwarded to the Rail Committee for their review and recommendation to Council; furthermore to provide a cap of \$10,000 for continued work on the reports.

Council Member Burt wasn't sure if Council Member Holman's wording was what she intended. He understood Staff would incorporate Council's comments into the report and then the report would go to the Rail Committee.

Council Member Holman stated that was her intention.

Mayor Espinosa asked Staff what it considered CARRD's role in that process, based on the comments made earlier.

Mr. Emslie indicated that Staff and CARRD would review the areas discussed such as quantifying the term of construction impacts, records and research for similar models, and quantifying property acquisition for grade separation.

Mayor Espinosa stated the Council would vote on the motion but would not close Agenda Item No. 8 as there were other issues.

Council Member Shepherd inquired when Council received this report from the Rail Committee as it was not indicated in the Packet. She explained her residential property was located approximately seven rows away from proposed train tracks, and felt the value would sustain more than a 5 percent impact when she sold her home. She felt economic and housing impacts were important in determining the effects of HSR on the community. She supported the motion.

Council Member Schmid understood the consultant to say that calculating real property values utilizing market value rather than assessed value could be expensive. He asked if Staff could do that.

Mr. Emslie didn't know if Staff could do that within the cap provided. He agreed that assessed values were artificially low, and thought Staff could update those numbers to be more accurate and to reflect current conditions.

Mayor Espinosa suggested the realtor community had extended data on property values.

MOTION PASSED: 8-0 Klein absent

Mayor Espinosa indicated Staff did not have a presentation on the Caltrain Capacity Analysis but would answer questions.

Mr. Emslie stated it was provided for information. He reported Staff had invited Caltrain representatives, but they were unable to attend. He noted the representatives would be rescheduled for a later time.

Mayor Espinosa stated this was a top priority and issue for the City and the Council, and thanked Staff for their work. He asked for comments from the HSR Committee regarding the proposed new Rail Guiding Principles.

Council Member Burt explained Council Members Price and Klein drafted the first of the two options presented, and he and Council Member Shepherd drafted the second, longer option. He stated the proposed options differed in their reasons for opposing HSR. Council Member Klein's reason was the estimated cost of \$98 billion. His and Council Member Shepherd's reason was the inconsistencies between the project and AB 3034, which was the enabling legislation behind Proposition 1A. He indicated the project was fundamentally flawed in two basic areas, which were the basis for supporting termination of the project: 1) the project was non-compliant with information presented to the voters; and 2) the business plan remained fatally flawed and not credible. The four bullet points listed the ways in which the project was inconsistent with information presented to the voters. He said other communities were interested in Palo Alto's position on HSR, and would utilize whichever statement was chosen when considering similar positions. He and Council Member Shepherd thought it important to offer a conclusion as well as the basis for that conclusion.

Council Member Price stated she represented the Klein-Price option, and then read it aloud. She explained this option was short, direct and clear; was a straightforward policy statement by the Council related to HSR; and complemented the level of detail in the remainder of the Guiding Principles document. She felt a brief statement was strong and more effective. She said both options provided additional detail to support the statements, and those details could be used in letters, statements and reports to the HSR Authority, to state and federal agencies, and to legislators. She noted the remainder of the Guiding Principles was general, and used language which was purposefully flexible so the City could respond to a variety of issues. With that in mind, she urged her colleagues to adopt the shorter, more straightforward option.

Council Member Shepherd supported Council Member Burt's comments. She felt the Klein-Price option's statement that the HSR project was too expensive was inappropriate for a City to make. She thought HSR was needed, but this particular project was not what she voted for in 2008. She felt it was important for the community to understand that HSR was not the same project.

MOTION: Council Member Shepherd moved, seconded by Council Member Scharff to include the following language in the Guiding Principles that the City of Palo Alto believes that the High Speed Rail (HSR) project should be terminated for the following reasons:

1. The current project fundamentally contradicts the measure presented to the voters under Prop. 1A in 2008;
2. The Business Plan is fatally flawed and not credible.

In November 2008, the voters passed a bond measure for an HSR project based on: Grossly understated construction costs, understated fares and overstated ridership, operating without a government subsidy, and a Funding Plan legally required for identifying funding sources and achieving environmental review prior to construction of an Initial Operating Segment (IOS).

Since the revised HSR Business and Funding Plans do not meet the projected ridership, fare, job creation, funding sources, and other significant requirements, the City believes that the voters were not given accurate information during the 2008 election to make an informed decision on the HSR project for the State of California.

Council Member Shepherd stated the Guiding Principles contained quite a bit of language. She indicated the Guiding Principles provided transparency for the community as the Rail Committee reviewed this project. She felt the longer version exemplified transparency. She thought it was a bold statement in that a City was telling the State Legislature to terminate this project; however, she felt it was the right statement at the current time.

Council Member Scharff stated typically he supported the value of simpler and shorter; however, he agreed with Council Member Shepherd that the City was making a bold statement. He thought it was important to set forth the reasoning behind the statement to allow the public, other cities and legislators to understand it. He supported the Burt-Shepherd option.

Council Member Holman referenced the concluding paragraph of the Burt-Shepherd option regarding the HSR business and funding plan. She noted the statement failed to mention the absence of funding sources, which she felt was a critical aspect of the project's flaws. She asked why that wasn't included.

Council Member Burt responded that bullet 4 referenced funding sources.

Council Member Holman agreed, but noted the concluding paragraph did not.

Council Member Burt indicated he and Council Member Shepherd tried to be concise, and listed some but not all significant requirements.

Council Member Schmid inquired if the motion concerned the Guiding Principles.

Mayor Espinosa responded affirmatively.

Council Member Schmid asked whether it included the 15 listed Principles.

Council Member Shepherd referenced the introduction on the next page concerning the City's positions on the HSR Project should the State move forward with the Project. She stated the bulk of it was making a new overall policy statement.

Council Member Schmid asked to amend Principle 14, substituting seek for consider in the statement "if Caltrain and/or High Speed Rail increases train service, Palo Alto will consider grade separation solutions."

Council Member Shepherd noted her motion did not include all of the Guiding Principles. She suggested the Council discuss each separately to allow discussion of overall policy now.

Council Member Schmid agreed.

Mayor Espinosa stated he would come back to Council Member Schmid when they discussed Principle 14.

Council Member Price believed members of the public wanted to speak before the vote, after which she would like to comment.

Mayor Espinosa noted public comment for the report portion of Item No. 8 had closed; therefore, he would allow public comment concerning the Guiding Principles.

Bill Nugteren stated he was a civil engineer, had lived in the City since 1964, and had used Caltrain to commute to San Francisco. He felt the proposed statements were elitist. He recommended adoption of either statement, and suggested a premise that the community considered HSR as important for the State of California. He believed California was 50 years late in building HSR.

Bob Moss supported HSR in principle. He stated he had ridden it in Japan and found it very nice; however, only 20 percent to 25 percent of seats were occupied, which was considered a successful operation. He indicated California's HSR Project would be in the same category as Japan's. He recommended the two options be combined and include additional points mentioned by Council Members. He suggested the Council state strongly the project, as proposed, be terminated because the cost was far higher and the completion time far longer than originally stated; sources of funding from the Federal Government, local governments and private investors had vanished; the proposed business plan was incorrect and inaccurate; fares would be higher and ridership lower than originally stated; operation and long-term costs would be a drain on the State Treasury. He thought the Council could include additional points, such as understated construction costs and understated fares. He said this Project deserved a thorough discussion to make it clear that proceeding with it was not a good idea.

Herb Borock referenced his statement at the Rail Committee that he did not want to address in detail Guiding Principles, because it was important to create the new overall policy statement. However, in response to Council Member Schmid's interest in revising Guiding Principle 14, he suggested explicit language that neither public nor private sources within Palo Alto would pay for grade separations. He noted Guiding Principle 14 stated the lead agency would for grade separations and, should Palo Alto ever become the lead agency, he did not want the City paying. He stated the current motion compared proposals in the ballot measure with the actual project without mentioning costs. He believed funding Project costs of \$98 million would deprive other important projects and subjects of State funding. He recommended adding a statement that the Project as currently presented was too expensive.

Council Member Price supported the motion, albeit reluctantly. She thought it important to support the overall policy statement. She felt there were other ways to make these statements.

Council Member Schmid asked if the maker of the Motion agreed with changing "The City believes ..." to "The City Council believes ...".

Council Member Shepherd inquired if Council Member Schmid meant the language in the introductory sentence.

Council Member Schmid answered yes.

Mayor Espinosa commented the Council spoke on behalf of the City and spoke as the City Council on behalf of the City of Palo Alto.

Council Member Burt thought it appropriate to say the City. He said the Council, as the elected representative body, provided the official position on behalf of the City, not merely the Council. He indicated there was no other City position, other than that taken by the Council. He thought it also gave the correct strength of the position.

Mayor Espinosa inquired whether the maker of the motion would like to change the language as currently stated.

Council Member Shepherd said she did not wish to change the language, as the Council was providing the City's statement. She asked if the City Council decided to support Proposition 1A.

Mayor Espinosa suspected it was the City of Palo Alto. He asked if Staff recalled the language. He explained the typical language, when taking a position, was the City of Palo Alto or the City Council of the City of Palo Alto. He reiterated the question of whether the statement related to Proposition 1A was the position of the City of Palo Alto.

Mr. Emslie did not recall whether it said City Council or City of Palo Alto.

Mayor Espinosa thought the Council regularly took a position that said the City of Palo Alto when in fact it was the Council of the City of Palo Alto taking that position. He believed the Burt-Shepherd option was concise and emphasized the reasons for the Council's decision, while the shorter option did not contain enough specificity. He supported the motion. He noted the vote would not close out the Item.

MOTION PASSED: 8-0 Klein absent

MOTION: Council Member Shepherd moved, seconded by Council Member Burt to accept the 15 Guiding Principles:

1. The City is opposed to an elevated alignment of HSR/Caltrain in Palo Alto.
2. The City's preferred vertical alignment of fixed rail in Palo Alto is below grade.
3. All neighborhoods in Palo Alto affected by HSR/Caltrain should be treated with equal consideration with respect to vertical alignment impacts.

4. The City believes that the pending program EIR for the Central Valley to San Francisco portion of HSR is fatally flawed and that the HSR Authority should reopen and reconsider its decision to use the Pacheco Pass route.
5. The City supports the findings of the Legislative Analyst's Office, State Auditor and the HSR Peer Review Committee which question the viability and accuracy of the Authority's Business Plan on such matters as the, ridership projections, identification of sufficient and reliable funding sources, project management and operations of HSR.
6. The City favors legislation, which would enable effective implementation of the HSR Peer Review Committee authorized by AB 3034.
7. Palo Alto supports transit and urban design solutions that will be compatible with our economic development strategies, transportation goals, and vision of the transit corridor within our boundaries; HSR/ Caltrain needs to complement the goals and strategies of our Comprehensive Plan.
8. Palo Alto supports the use of the Context Sensitive Solutions related to HSR and Caltrain that is effectively funded and implemented by the Authority.
9. The High Speed Rail Authority should provide sufficient funding to affected Cities to allow them to hire experts to study reports requiring feedback and sufficient outreach to the community to capture their concerns and suggestions.
10. Proposed changes to the Caltrain corridor by either the Authority or Caltrain should provide realistic renderings of the various alternatives and also provide simulations that would help to provide an understanding of the sound and vibrations.
11. Palo Alto strongly supports Caltrain and the commuter rail service at the present or improved levels of service.
12. Palo Alto also supports the modernization of Caltrain as the lead agent for a phased alignment with but independent of HSR.
13. Palo Alto will work cooperatively with neighboring communities with respect to HSR and Caltrain issues of mutual concern through vehicles such as the Peninsula Cities Consortium.

14. Palo Alto expects all current rail crossings to remain active. In the event that the modernization of Caltrain and/or HSR increases train service from current 2011 levels, Palo Alto will consider grade separation solutions for the Alma, Churchill, East Meadow, and East Charleston crossings that are effectively funded and implemented by the lead agency.
15. The Guiding Principles of the Committee incorporates Council adopted written comments to the Authority, the Caltrain Joint Powers Board, and other relevant agencies. In case of any conflict in policies, the most recent language prevails.

Council Member Burt supported the current language of Principle 14. He explained changing "consider" to "seek" implied the City would want grade separations in any event, which was not true. He noted there were gradations of increase in trains per hour that would not warrant grade separations. Also, the Caltrain Capacity Study and EIR indicated some increases would not warrant grade separations.

AMENDMENT: Council Member Schmid moved, seconded by Council Member XXXX to change the wording in Guiding Principle sentence No. 3 from "... should be treated with equal consideration" to " ... should be treated equitably with respect to...."

Council Member Burt asked if equitably meant the same outcome or the same consideration of outcomes. He stated it was unknown whether every grade separation could be done the same way.

Council Member Schmid explained he was thinking in the broader context; not that outcomes were the same, but that the Council discuss equitable impacts on each part of the community.

Council Member Burt said the Council didn't have a predetermination of whether each outcome would be exactly the same to have equal consideration of impacts. He indicated the Council should be concerned about each neighborhood and each grade separation comparably.

Mayor Espinosa thought Council Member Schmid wanted equitable consideration, as outcomes were not all the same but were considered the same. He agreed with Council Member Burt's concerns regarding equitable treatment.

Council Member Burt agreed with equitable consideration.

Council Member Schmid expressed concerns with consideration because that could mean the Council would spend equal time discussing issues.

Council Member Burt stated that's not what it means and rejected the argument. He suggested the Council focus on finding a way to address his concerns.

Mayor Espinosa asked Council Member Schmid to repeat his suggested wording for Item 3.

Council Member Schmid stated his revision was "All neighborhoods in Palo Alto affected by HSR/Caltrain should be treated equitably with respect to vertical alignment impacts".

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

AMENDMENT: Council Member Schmid moved, seconded by Council Member Shepherd to change in Guiding Principle No. 14 the word "consider" to "seek".

Council Member Schmid reported the Charleston-Arastradero Corridor, which was essential to moving traffic on an east-west route, was congested, and increased Caltrain service would only intensify the congestion. He thought it would be appropriate to seek grade separation solutions should Caltrain service increase.

Council Member Shepherd agreed that consider was passive, and stated the Council needed to seek, secure, and advocate for grade separations that were in Palo Alto's best interest.

Council Member Holman did not support the Amendment, because she agreed with Council Member Burt's previously stated concerns. She proposed the language "will consider" as it did not require the Council to seek solutions for minor shifts in numbers. She supported the language "will consider grade separations," because it implied the Council would review different options and solutions.

Mayor Espinosa associated himself with Council Member Holman's comments.

Council Member Burt thought the Council should monitor and be sensitive to service increases that could trigger the need for grade separations. He stated the amendment would require the Council to seek grade separations at all four intersections for any increase in service. He didn't think that was

the Council's position at the current time. He suggested an increase in service should result in community dialog regarding a need for grade separations and at which, if any, location.

Council Member Scharff agreed with Council Member Burt. He thought it was bad public policy to have predetermined outcomes based on a project. He suggested the Council should review available options and move forward based on that information and context. He did not support the amendment.

Council Member Price did not support the motion for the same reasons. She indicated trade-offs were operational efficiencies, safety issues, traffic impacts, project impacts, and adjacent property impacts. She stated "consider" provided flexibility and options.

AMENDMENT FAILED: 1-7 Schmid yes, Klein absent

Council Member Holman expressed concerns regarding the language "by the lead agency" in Principle No. 14. She asked Staff to describe their concerns about that language.

Mr. Emslie reported there had been varying partnerships and ambiguity as to who was leading the Project. Staff favored the broader term of "lead agency" which would allow identification of the project proponent if conditions changed. He noted that had been a common feature of HSR leadership. He indicated "lead agency" provided more flexibility to direct the comments and the Guiding Principles to the appropriate audience.

Council Member Schmid referenced the language of Guiding Principle 15 regarding incorporation of Council adopted written comments, and the two letters to the Authority located in page 43. He inquired if the content of those letters became a Guiding Principle. He thought the letters should reflect the Guiding Principles rather than becoming Guiding Principles. He asked what the intent of Principle No. 15 was.

Council Member Burt reported this was similar to prior language with the intention that explicit Council policy stated in any position letters would be included in the Guiding Principles rather than preempting the Guiding Principles.

Council Member Schmid proposed deleting Principle No. 15. He understood the Guiding Principles to be general Council direction to the Rail Committee; and Rail Committee actions would include or be driven by the Guiding Principles without changing them.

AMENDMENT: Council Member Schmid moved, seconded by Council Member XXXXX to delete Guiding Principle No. 15.

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

AMENDMENT: Council Member Price moved, seconded by Council Member Schmid to change in Guiding Principle No. 15 the word "...incorporates..." to "...informs..."

Council Member Price explained there was a relationship between the Guiding Principles and written communications with other agencies, individuals, and legislators. She said the word inform articulated a relationship between the Principles and written comments, and eliminated the confusion of policies versus Principles. She thought that simple modification clarified the intent of the statement, while the remainder of the statement was clear.

Council Member Schmid indicated the details contained in the letters on pages 43, 44, 45 and 48 could not be transformed into Guiding Principles; therefore, it was logical that the Guiding Principles informed the letters.

Mayor Espinosa stated the amendment changed the meaning of the Guiding Principle. He felt the Guiding Principles should incorporate the specificity contained in other written documents, as opposed to the Guiding Principles informing those written documents.

Council Member Burt agreed with Mayor Espinosa that incorporates and informs have different meanings. He explained this motion reduced the role of the Council and increased the authority of the Rail Committee. He suggested "incorporates by reference," which would clarify that the Guiding Principles included by reference the letters of positions taken by the Council.

AMENDMENT TO AMENDMENT: Council Member Burt moved, seconded by Council Member Holman to change in Guiding Principle No. 15 the wording to "...incorporates by reference Council"

Council Member Holman said the amended wording captured the intent, and she preferred it to "reflects".

Mayor Espinosa stated the amendment provided context for the ancillary documents in terms of support. He supported the motion.

AMENDMENT TO AMENDMENT PASSED: 7-1 Price no, Klein absent

MOTION AS AMENDED PASSED: 8-0 Klein absent

9. Approval of a Resolution with Revisions to Employee Merit Rules.

Acting Assistant Director, Human Resources, Marci Scott reported Staff drafted language establishing a Mandatory Mediation Component to the Impasse Resolution Procedures in response to the possibility of voters removing Binding Interest Arbitration. This proposed language timed negotiations to the budget cycle in order to complete negotiations as Council adopted a Budget. She noted the Governor signed into law AB 646 as Staff considered Labor's input on the proposed language. She explained AB 646 established a fact finding hearing process as part of the Impasse Process for public agencies covered by the Meyers-Milias-Brown Act. While the hearing process was non-binding, she indicated it was a required step prior to a governing body implementing a last, best, and final offer if negotiations were unsuccessful. She noted employers were concerned about this law because it did not establish clear timelines for entering fact finding, i.e., how long could a union wait before requesting fact finding without waiving its right to fact finding. She stated only unions could request fact finding, not employers. The Meyers-Milias-Brown Act allowed public agencies to adopt local rules which did not conflict with State law; therefore, Staff reviewed Merit Rule Chapter 12 (Local Impasse Procedure) and determined the City should 1) move away from mandatory mediation; 2) revise Local Rules to incorporate the fact finding process; 3) establish clear timelines requiring unions to choose or waive the fact finding process; and, 4) establish timelines to pre-designate a fact finder in the negotiation process to increase efficiency of the process. She reported Labor disagreed with having open fact finding meetings, because they could lead to posturing by the parties and to hardening of positions, thus making resolution more difficult. She indicated the law was silent as to the specific hearing process. She stated open fact finding meetings might also capitalize on the public's negative attitudes toward public employees. She explained Staff weighed Labor's concerns with the Council's goals of transparency, and kept the proposed language so that the Council could set policy regarding open fact finding hearings, with the caveat that deliberations by the fact finding panel would be closed and remain confidential. She stated Labor's input resulted in Staff removing proposed language with regard to presenting the fact finding panel with Principles the Council considered important in making labor decisions. She cited examples of these Principles, and suggested this could be a discussion for the Policy and Services Committee. Staff recommended the Policy and Services Committee draft a Guiding Principle for adoption by the Council so that Staff could utilize it at Labor negotiations and incorporate it into the fact finding process. She noted it wouldn't have to become a part of local law. Staff also recommended adoption of this Local Rule, because

currently the City was actively negotiating with four units. She indicated Staff wanted clear rules on timing of and steps in the fact finding process should negotiations breakdown. She reported a clear fact finding process would be needed if bargaining units asserted disputes regarding the new rule had to be resolved through the fact finding process. Staff recommended the Council adopt Merit Rule 12.08 to comply with AB 646, and direct Staff to return to the Policy and Services Committee in January 2012 to discuss Council principles guiding labor relation decisions.

City Attorney, Molly Stump did not add to the presentation, but indicated her willingness to answer questions.

MOTION: Council Member Scharff moved, seconded by Council Member Price to move approval of the staff recommendation to: 1) Resolution 9219 entitled "Resolution of the City Council of the City of Palo Alto amending Section 1208 of the Merit System Rules and Regulations to adopt new procedures for resolving impasses with bargaining units to address the fact-finding requirements of AB 646" ; and 2) direct Staff to return to Policy and Services Commit in January 2012 for a discussion of Council principles guiding labor relations, including negotiation and adoption of Memoranda of Agreement.

Council Member Scharff thought it was important for everyone to have a clear set of rules and was pleased with having open hearings.

Council Member Price supported both elements of the Staff recommendation. She felt open fact finding hearings would be beneficial. She disagreed with Labor's concerns regarding open fact finding hearings, and stated they could educate the public regarding both sides of negotiations. She thought it was important to be deliberate and balanced when drafting principles guiding labor relations.

Council Member Holman supported the motion and thanked Staff for being proactive.

Council Member Shepherd asked if the Council would have to meet and confer regarding proposed Guiding Principles.

Ms. Stump indicated proposed Guiding Principles would not be subject to meet and confer as this was an opportunity for the Council to articulate its views to the public, employees and labor representatives concerning labor policy.

Council Member Shepherd noted that Staff did not recommend Council have public mediation. She inquired whether mediators' opposition was the cause.

Ms. Stump explained mediation was distinct from a process like fact finding or binding arbitration as it was an opportunity for parties to negotiate in a private forum. Mediation required the mediator to share the parties' strengths and weaknesses at strategic moments to facilitate resolution. She indicated this process could not take place if all facts were revealed in a public forum. Staff recommended mediation remain closed.

Council Member Schmid understood Staff's recommendation was to prepare a statement concerning the City's goals and principles, which did not have to be included in the Local Rules. He stated the Assembly Bill did not include the items listed on page 7 of the report. He asked if the Chair could determine what was and was not part of the process.

Ms. Stump stated this was the position articulated by unions in conversations with Staff and caused Staff to delete some additional factors from the initial draft. She explained Guiding Principles would not bind the fact finder; rather it was an educational tool for everyone and could be submitted to the fact finder for his consideration.

Council Member Schmid referenced the criteria to be utilized by the fact finder. He thought the Council was losing the opportunity for the local law to include a wider set of criteria.

Ms. Stump indicated the list in the statute included Local Rules, Regulations and Ordinances as items to be considered by the fact finder. She said the Council's Guiding Principle statement was one of those items.

Council Member Schmid repeated the Guiding Principle would be considered a Local Rule, Regulation or Ordinance. He felt this was retreating from an equitable fact finding process by not stating the City would include these items in its facts.

Ms. Scott explained the Guiding Principles would be discussed at the beginning of negotiating sessions and proposals would be tied to these Principles. She stated Guiding Principles would be included in No. 8 on the list as facts normally or traditionally taken into consideration, if the fact finding process was utilized.

Council Member Schmid stated Guiding Principles had not been used traditionally.

City Manager, James Keene explained it had been the Council's practice to use these factors to inform the City's negotiating position, and the proposal was to formalize and articulate them explicitly in the Guiding Principles. He repeated the Guiding Principles would be utilized throughout the negotiation process and not only in the fact finding process. He thought that consistency in stating and following a rationale had value.

Council Member Schmid expressed concern with not including supplemental information in the Local Rules.

Ms. Stump thought Council Member Schmid was suggesting it would be stronger to complete the Guiding Principles and include them in this Merit Rule. She reported Staff had discussed that approach with Labor. She explained the reason Staff decided not to include Guiding Principles tonight because of the vote and time constraints. She stated the Guiding Principles had guided labor policy over the years, but Staff felt it was appropriate to refer them to Committee first. She believed Staff would be able to incorporate and utilize Guiding Principles in the fact finding process, which was an advisory process. She explained the fact finder's decision was a recommendation to the Council; therefore, the Council's Guiding Principles would be important.

MOTION PASSED: 8-0 Klein absent

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Holman thanked the Mayor for his guidance, participation with the public, and energy.

Council Member Shepherd congratulated 2002 Paly graduate Laura Martinez on her election as East Palo Alto's new mayor. She stated she was the liaison to the Santa Clara Valley Transit Authority (VTA) Bus Rapid Transit, and reported VTA endorsed the proposed investment strategy for rapid transit and needed a definitive alignment prior to June 7, 2012. The VTA recommended dedicated lanes, which included a bike path, but did not recommend dedicated lanes for Palo Alto for a variety of reasons. She explained VTA needed at least 50 percent of the six cities to agree to dedicated lanes or the project could not receive grant funds. She indicated representatives would visit Palo Alto in January or February 2012.

Council Member Burt reported he, Council Member Holman and Council Member Schmid participated in a meeting of the Santa Clara County Water District. He explained they had expressed concerns that proposed funding of \$26 million would not be adequate to address the San Francisquito Creek

flooding problems. He stated they had been notified that proposed funding had been increased to \$35 million but was still subject to review and adoption by the Water District Board.

The City Council convened into the Closed Session at 10:26 P.M.

CLOSED SESSION

11. CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees

Pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Sandra Blanch, Marcie Scott, Darrell Murray)

Employee Organization: Palo Alto Police Officers Association (PAPOA)

Authority: Government Code Section 54957.6(a)

12. CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees

Pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Sandra Blanch, Marcie Scott, Darrell Murray)

Employee Organization: Palo Alto Police Manager's Association (PAPMA)

Authority: Government Code Section 54957.6(a)

13. CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees

pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Lalo Perez, Joe Saccio, Sandra Blanch, Marcie Scott, Darrell Murray)

Employee Organization: Service Employees International Union, (SEIU) Local 521; Hourly Unit

Authority: Government Code Section 54957.6(a)

The City Council reconvened from the Closed Sessions at 11:45 P.M. and Mayor Espinosa advised no reportable action.

ADJOURNMENT: The meeting was adjourned at 11:45 P.M.