

Special Meeting
August 2, 2010

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

Present: Burt, Espinosa, Holman, Klein, Price arrived at 5:45 p.m.,
Scharff, Schmid, Shepherd, Yeh arrived at 5:50 p.m.

Absent:

CLOSED SESSION

1. 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, Russ Carlsen,
Sandra Blanch, Marcie Scott, Roger Bloom, Darrell Murray)
Employee Organization: Local 1319, International Association of
Firefighters
Authority: Government Code Section 54957.6(a)

The City Council adjourned into the Closed Session at 5:35 p.m.

The City Council reconvened from the Closed Session at 7:24 p.m. and
Mayor Burt advised no reportable action.

SPECIAL ORDERS OF THE DAY

2. Resolution 9080 entitled "Resolution of the Council of the City of
Palo Alto Expressing Appreciation to Maya Spector Upon Her
Retirement".

Mayor Burt read the Resolution into the record.

MOTION: Council Member Shepherd moved, seconded by Vice Mayor
Espinosa to adopt the Resolution expressing appreciation to Maya Spector
upon her retirement.

08/02/10

MOTION PASSED: 9-0

Maya Spector expressed her appreciation to the City, community and Council for the opportunity to share in the growth, future and enjoyment of the youth.

3. Appointments to the Planning and Transportation Commission for Two, Four-Year Terms Ending on July 31, 2014.

First Round of voting for the Planning and Transportation Commission for two, four-year terms ending July 31, 2014:

Voting For Lisa Brent Butler:

Voting For Sarah Carpenter: Burt, Klein, Scharff, Shepherd

Voting For Arthur Keller: Espinosa, Holman, Price, Schmid, Yeh

Voting For Samir Tuma: Burt, Espinosa, Holman, Klein, Price, Scharff
Schmid, Shepherd, Yeh

City Clerk, Donna Grider announced that Samir Tuma with 9 votes and Arthur Keller with 5 votes were each appointed to the Planning and Transportation Commission for two, four-year terms ending July 31, 2014.

- 3A. Proclamation Declaring the Month of September to be Emergency Preparedness Month in the City of Palo Alto.

Vice Mayor Espinosa read the Proclamation into the record.

Annette Glanckopf thanked the Council for their support in proclaiming September Emergency Preparedness Month. She mentioned events that would occur during the month to assist the community in getting prepared for an emergency.

CITY MANAGER COMMENTS

City Manager, James Keene announced the FY 2010-11 adopted budget books had been distributed and were available on the website. The Palo Alto Art Center received a financial award from the Art's Council Silicon Valley to support the arts in the community. A community meeting will be held on August 5th updating the community on the upcoming Charleston/Arastradero Corridor Phase II. Palo Alto was one of twenty cities nationwide to participate in the Measuring Up Program put on by the Local Government Association. The program was based on the sustainability practices of the City.

Mayor Burt announced there would be a special Council meeting on Thursday, August 5, 2010 at 6:00 p.m. in order to move forward with the Mitchell Park Library contract awarding.

ORAL COMMUNICATIONS

Reyna Cervantes, spoke regarding the Police Demographic Data Analyst Position.

Lynn Krug, Midtown Palo Alto, spoke regarding Police Demographic Data Collection & Analysis.

John Abramson, Palo Alto, spoke regarding Police Demographics Data Collection Analysis.

Chris Grillone, Palo Alto, spoke regarding a lawsuit against Barron Square concerning a Below Market Rate (BMR) unit.

Mark Peterson-Perez, Palo Alto, spoke regarding police corruption.

Tony Ciampi, Palo Alto, spoke regarding denial of receipt of evidence.

Aram James, Palo Alto, spoke regarding racial profiling.

APPROVAL OF MINUTES

MOTION: Council Member Klein moved, seconded by Council Member Yeh to approve the minutes of June 23 and 28, 2010 and July 12, 2010.

MOTION PASSED: 9-0

CONSENT CALENDAR

MOTION: Council Member Holman moved, seconded by Council Member Schmid to pull Agenda Item Nos. 5 and 6 and to reverse the order to be heard.

Mayor Burt noted that Agenda Item No. 6 would become Agenda Item No. 26 and Agenda Item No. 5 would become Agenda Item Number 27.

Alex Cennara, Menlo Park, spoke regarding Agenda Item Nos. 5 and 6. He stated the Sierra Club endorsement of the proposed Palo Alto anaerobic digestion.

Walt Hays, Palo Alto, spoke regarding Agenda Item Nos. 5 and 6. He spoke in favor of Staff recommendations for a feasibility study.

Tom Jordan, Palo Alto, spoke regarding Agenda Item Nos. 5 and 6. He stated in the event Council decided to charge a rental fee for the 9 acres of land used for the composting grounds there would be a \$3 million revenue generated annually. He urged Council to not approve the contract moving forward.

Cedric de La Beaujardiere, Palo Alto, spoke regarding Agenda Item Nos. 5 and 6. He supported the dry anaerobic digestion facility adjacent to the Regional Water Quality Control Plant. He noted the election coincided with the release of the preliminary reports from the environmental and economic studies.

Council Member Holman stated there had been questions for Staff on Agenda Item No. 10 that had yet to be answered.

Director of Public Works, Glenn Roberts asked for clarification. The reference was from former Council Member Emily Renzel who had submitted questions regarding the costs for rebuilding the motor in the grinder for the composting operation.

Council Member Holman stated that was correct.

Mayor Burt clarified the question was from the public.

Council Member Holman stated yes, and it was forwarded to Staff for a response for my benefit.

Mayor Burt stated he would allow Staff to respond although procedurally, Staff was obliged to respond to Council not the public on Consent Items.

Mr. Roberts stated the answer was contained within CMR 304:10, on page two under the Alternatives section. Staff analyzed the costs with the knowledge that composting would need to continue at the landfill for a minimum of two more years given current Council policy direction. The motor in the current grinder had failed; there were two options, to rent another motor or contract the services out. Both options were more costly than rebuilding the current motor.

MOTION: Council Member Holman moved, seconded by Council Member Schmid to pull Agenda Item No. 10 to become Agenda Item No. 28.

Margaret Adkins, spoke regarding Agenda Item No. 16. She spoke against the Budget Stabilization Fund being used to assist the City Manager in purchasing a home while there were employees being laid off.

MOTION: Council Member Klein moved, seconded by Vice Mayor Espinosa to approve Consent Calendar Item Nos. 4, 7-9, 11-16.

4. Resolution 9081 entitled "Resolution of the Council of the City of Palo Alto Establishing Fiscal Year 2010-11 Property Tax Levy of \$17.11 per \$100,000 of Assessed Valuation of the City of Palo Alto's General Obligation Bond Indebtedness (Measure N Library Projects)".
5. ~~Utilities Advisory Commission Recommendation that Council Approve the Use of Up to \$75,000 in Calaveras Reserve Funds to Partially Fund a \$250,000 Energy/Compost Feasibility Study and Environmental Impact Initial Study.~~
6. ~~Approval of a Contract with Alternative Resources Inc. in the Total Amount Not To Exceed \$197,758 for Energy/Compost Feasibility Study and Environmental Impact Initial Study.~~
7. Approval of Contract Amendment No. One with Callander Associates Landscape Architecture, Inc., to Add \$14,829 for Greer Park Renovation Construction Administration Services for a Total Contract Amount Not to Exceed \$191,015 – CIP #PE-09002.
8. Resolution 9082 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Alex Ameri Upon the Completion of His Term as a Utilities Advisory Commissioner".
9. Ordinance 5088 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2011 to Provide Appropriations of \$97,134 Within the Residential Parking Permit Program Fund for the College Terrace Residential Parking Permit Program (RPPP); and Adoption of Resolution 9083 Amending the Fiscal Year 2011 Municipal Fee Schedule to Add New Fees for the Residential Parking Permit Program (RPPP) in the College Terrace Neighborhood".
10. ~~Approval of a Contract with Peterson Power Systems in a Total Amount Not to Exceed \$201,853 for the Overhaul of a Caterpillar Model 3412e Diesel Engine and the Installation of a Required Best Available Control Technology (BACT) Diesel Emissions Retrofit Device.~~
11. Resolution 9084 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Submit a Grant Application to the State of California Department of Housing and Community

Development for the HOME Investment Partnerships Program (HOME) Funding for 801 Alma Family Housing Project for an Amount Up to \$3 million".

12. Resolution 9085 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Norman Brown Upon His Retirement".
13. Resolution 9086 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Juan Colin Upon His Retirement".
14. Approval of Amendment to Contract with Downtown Streets Team to Add \$69,888 for Additional Janitorial Services for the City's Five Downtown Parking Garages for a Total of \$107,744 for One Year; Adoption of Budget Amendment Ordinance 5089 to Provide Appropriations of \$69,888 Within the Special Revenue Parking District Fund for Additional Janitorial Services for the City's Five Downtown Parking Garages.
15. 2ND READING Adoption of an Approval of an Amendment to Ordinances Regarding Publications of Board & Commission Recruitments: Adoption of Ordinance 5090 Amending Sections 2.18.030, 2.20.015, 2.21.020, 2.22.015, 2.23.020, 2.24.020, 2.25.020, and Section 16.49.030 of the Palo Alto Municipal Code to Delete the Publication Requirements for Board and Commission Recruitment Ads and Adding Section 2.16.060 to Establish the Publication of One Board and Commission Recruitment Advertisement in a Two-Week Period.
(First reading July 19, 2010 – Passed 9-0)
16. Approval of Amendment to City Manager's Employment Agreement Relating to Housing Capital Improvements and City Loan and Capital Improvements Plan Up to \$250,000 and Adoption of Ordinance 5091 Amending the Fiscal Year 2011 Budget in the Amount of \$125,000 from the General Fund Budget Stabilization Reserves for Capital Improvements to City Manager's Home.

MOTION PASSED: 9-0

AGENDA CHANGES, ADDITIONS, AND DELETIONS

MOTION: Council Member Scharff moved, seconded by Council Member Klein to move Agenda Item Number 17 to be heard after Agenda Item Number 20, to become Agenda Item Number 20A. (Approval of Response to the 2009-2010 Santa Clara County Civil Grand Jury Report "Cities Must Rein In Unsustainable Employee Costs".)

Council Member Scharff stated in order to accurately vote on the Grand Jury report, the Grand Jury response should be discussed after the Binding Arbitration discussion, Agenda Item No. 20.

Mayor Burt stated it had been determined in that the appropriate sequence of the Agenda Items was to discuss the policy issue, Agenda Item No. 17, then move into the specific actions relating to Binding Arbitration.

Council Member Klein stated the Grand Jury response included Binding Arbitration and therefore to hear about the matter prior to a full discussion on it would be out of order.

Mayor Burt clarified Agenda Item No. 20 was specific to whether or not there would be a measure placed on the ballot this fall.

Council Member Klein stated the action taken was important and the position taken by Council needed to be addressed in the Grand Jury response.

MOTION PASSED: 8-1 Burt no

ACTION ITEMS

18. Adoption of Two Resolutions: (1) Resolution 9087 entitled "Resolution of the Council of the City of Palo Alto Amending Section 1401 of the Merit System Rules and Regulations to Adopt a New Memorandum of Agreement with SEIU Local 521 for Classified Employees", and (2) Resolution 9088 entitled "Resolution of the Council of the City of Palo Alto Adopting a Compensation Plan for SEIU Classified Personnel and Rescinding Resolution Nos. 8657, 8658, 8727, 8800, 8833, 8848, 8908, 8909, 8916, 8951, 8994 and 9047".

Director of Human Resources, Russ Carlsen recapped the discussions with the SEIU Union and stated during the negotiations they agreed to forfeit a total of four percent of their wages and benefits. He stated the agreement concluded with a one-year contract and he noted there would be a full negotiation with the SEIU Union next spring.

City Manager, James Keene stated during negotiations with all of the employee organizations there were difficult decisions that needed to be made in order to pursue systemic changes to the City's financial problems.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Yeh to: 1) adopt the Resolution amending Section 1401 of the Merit System Rules and Regulations to adopt a new Memorandum of Agreement between the City of Palo Alto and SEIU Local 521, effective July 1, 2010 through June 30, 2011 (12 months), and 2) adopt the Resolution adopting a new

Compensation Plan for SEIU Classified Personnel, effective with the pay period including July 1, 2010 through June 30, 2011.

Council Member Schmid stated there was difficulty maintaining open hours due to staffing restrictions. He asked in CMR 339:10 on page 56 of 64 in Appendix D whether that impacted the hours of the library.

Mr. Keene stated Staff was not currently in a position to respond although he would look into it and return to Council. He noted the library employee section was not revisited during the negotiations.

Council Member Schmid requested the Memorandum of Understanding (MOU)'s be more specific and flexible where the library was concerned to accommodate the desired hours of operation.

MOTION PASSED: 9-0

19. City Clerk's Report Certifying Sufficiency of Charter Amendment Petitions Regarding Adding Article IX Fire and Emergency Medical Services Minimum Protection and Adoption of Resolution 9089 Calling a Special Election for November 2, 2010 Submitting to the Electorate for Special Election an Initiative Measure to Amend the Charter of the City of Palo Alto to Specify Minimum Staffing and Service Levels for Fire Department Personnel and of Fire Stations and Fire Station Locations and Require a Referendum Vote for any Proposal to Reduce Such Levels. *(Item continued from July 12, 2010)*

John Barton, Palo Alto, stated there had been a Committee set in place to oppose the initiative in the event Council voted to place it on the ballot. He noted the opposition was not geared towards the Firefighters but any employment group who felt they could exempt themselves from participation in difficult financial times.

Herb Borock, Palo Alto, stated the Council should not allow the tactics of the Firefighters Union to influence their decisions on other agenda items.

Council Member Scharff stated he opposed the initiative by the Firefighters Union and felt it was selfish on their part to force the City to expend over \$200,000 on the Measure election costs.

MOTION: Council Member Scharff moved, seconded by Council Member Shepherd to adopt the Resolution Calling for a Special Election for November 2, 2010 submitting to the Electorate for Special Election an Initiative Measure to amend the Charter of the City of Palo Alto to specify minimum staffing and service levels for Fire Department personnel and of Fire Stations

and Fire Stations locations and require a Referendum vote for an proposal to reduce such service levels.

Council Member Shepherd stated she supported placing the initiative on the ballot in an effort to move forward with other City business.

Council Member Yeh stated he supported moving the initiative to the ballot as a Council responsibility. He did not support the intention of the Charter Amendment; he felt it was inappropriate to lock-in staffing levels within the City Charter.

Council Member Price stated she was disappointed the City and the Firefighters Union could not reach a mutual agreement which led to this initiative. She felt the initiative would only place further strain on the City's resources and community energy. She stated she did not support the initiative.

Council Member Klein stated placing the initiative on the 2010 ballot would be more cost effective for the City.

Mayor Burt clarified approximately six years ago the previous City Auditor recommended an independent study be conducted on the appropriate standards of coverage for the Fire Department. As a result of the study the Firefighters Union had attempted to circumvent the process by locking-in the current level of staffing within the City Charter.

MOTION PASSED: 9-0

20. Adoption of a Resolution of the Council of the City of Palo Alto Calling a Special Election for November 2, 2010 Submitting to the Electorate for Special Election a Measure to Eliminate Binding Interest Arbitration Requirements for Disputes with Public Safety Employees by Repealing Article V of the City Charter.

Council Member Price asked whether Staff had an opportunity to research Binding Arbitration in other cities.

City Manager, James Keene stated Staff had not compiled survey information on statewide hearings.

Council Member Yeh stated in reviewing the history of Binding Arbitration data there did not appear to be a clear or sole beneficiary in the use of Binding Arbitration. He stated it would be beneficial to review cost data if there was any available.

Wayne Benitez, Police Department, stated his belief of the Police Union was to work in the benefit and enhancement of police officers. Over the past fifteen years the Police Officer's Association (POA) had been in arbitration once; and the City prevailed. He noted although Binding Arbitration was rarely utilized by the POA, it would be unfortunate to lose the resource.

Robert Moss, Palo Alto, stated the arbitration awarded to the Firefighters Union in 1980 was one of the basic reasons the City was caught paying retirements based on the last year of salary. He noted with the removal of mandatory arbitration the City and any labor unions could still use arbitration on an as needed basis.

Scott Wong, President of Palo Alto Police Manager's Association, stated the past negotiations between the City Council and the Police Union had been professional and reasonable. He asked the Council not to move forward with the ballot initiative.

Herb Borock, Palo Alto, opposed placing the proposal on the ballot. He stated placing two Charter Amendments on the ballot created confusion for the community.

Jay Boyarsky, Palo Alto, stated the wisdom of Binding Arbitration was not an economic employee benefit and it had not been abused in Palo Alto. The Resolution was being perceived as an attack on the police force and he urged Council to proceed with caution.

Council Member Price stated she did not support the Resolution and felt there was a misunderstanding that Binding Arbitration favored labor. The Resolution read as though it was an immediate fix for a complex series of issues. There had not been sufficient thought on the implications of the proposal to repeal Binding Arbitration. She felt the process of Binding Arbitration was a fair practice that demanded both parties approach a situation with specific proposals. In many cases the Binding Arbitration could push the resolution toward the middle. Binding Arbitration was crucial to the public safety labor force since they did not have the option to strike.

Council Member Holman stated Binding Arbitration was one of the more significant aspects of how the City did or did not have control over its own destiny. The position of a leader was to act in the best interest of the public which included staffing levels and fire stations. The Civil Grand Jury had taken a position on Binding Arbitration and made a ruling. Considering repealing the language from the Charter would bring Palo Alto in line with a great majority of cities including Charter City's.

MOTION: Council Member Holman moved, seconded by Council Member Scharff to: 1) adopt the Resolution Calling a Special Election for November

2, 2010 submitting to the Electorate for Special Election a Measure to Eliminate Binding Interest Arbitration requirements for disputes with Public Safety Employees by Repealing Article V of the City Charter, and 2) change the order of the language of the Measure to be:

Shall Article V of the Palo Alto City Charter be repealed to remove the requirement for compulsory arbitration of public safety employee disputes ("binding interest arbitration"), which allows an arbitration board to make a final and binding decision on such matters without City Council approval and to allow the City to use the dispute resolution methods set forth in State law to resolve disputes over all matters related to employee wages, hours and working conditions.

Council Member Scharff stated Binding Arbitration would not achieve equitability between labor groups. He supported the removal of Binding Arbitration.

Council Member Klein stated he did not support Binding Arbitration. He would not be supporting the Motion. He stated alternatives should have been researched and considered prior to moving forward to an election. He agreed there might be confusion caused by there being two initiatives on the ballot to change the Charter at the same time.

Council Member Schmid stated he supported the Motion. He stated there was a shared interest by all in having a thriving, healthy and safe City. Revenue sources have declined and a large share of our revenues were going to public safety, due to rising costs. It is important that we work together in an open process, and that by allowing the Council to make the decision, rather than an Arbitrator, it makes the process more public. It makes the Council ultimately responsible to the people of the City.

Council Member Shepherd stated she did not support the Motion. She supported structural adjustments being put into place to assist in a balanced budget; however, at the time there were too few answers to many questions. She hoped to see the topic return with more detailed information.

Mayor Burt stated retaining Binding Arbitration placed a strain on the flexibility necessary to achieve the structural reform anticipated for the future. He recognized there would be difficult negotiations with all of the labor groups as the goal to achieve the structural reform approached. He stated he supported the Motion.

MOTION FAILED: 4-5 Burt, Holman, Scharff, Schmid yes

Vice Mayor Espinosa felt the community needed to be informed and involved with detailed discussions on consideration of repealing Binding Arbitration.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Holman to ask Staff to return in the fall with a timeline for consideration of binding arbitration and ideas through study sessions, outreach to the community organizations, in order to get background information and benchmarking data.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add the words "and other alternative labor relations practices" after the word "binding arbitration".

Mayor Burt stated he looked forward to further discussion in the fall and hoped to achieve the reforms necessary through whatever means possible to achieve a sustainable budget.

MOTION PASSED: 9-0

20A. (Former No. 17) Approval of Response to the 2009-2010 Santa Clara County Civil Grand Jury Report "Cities Must Rein In Unsustainable Employee Costs".

Deputy Director of Administrative Services, Joe Saccio gave a brief discussion on the Civil Grand Jury Report (Report). Staff was requesting Council input so as to be able to respond to the Report in a timely manner.

City Manager, James Keene asked whether Council wished to supply specific instruction on Finding 13 from page 14 of CMR 340:10 related to changing language to Binding Arbitration. He noted the response timeline was August 20, 2010; however, being the Council would be on break until September, it was critical to receive Council input at this time.

Herb Borock, Palo Alto, stated the medical expenses provided by Staff were not provided in the same fashion as the Report requested which made it difficult to decipher. On page three the Report referred to Cost of Living Increases (COLA), the City did not have COLA's and Step Increases were not the same as negotiated increases which the Report was referring to being able to interchange.

Vice Mayor Espinosa asked for Staff to respond to the correlation between a COLA and a step increase.

Mr. Saccio stated in the Response we did indicate that we do give COLA increases, however that was incorrect. COLA was one factor that was reviewed for potential salary increases.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Klein to: 1) approve the final response to the 2009-10 Santa Clara County Grand Jury Report "Cities Must Rein in Unsustainable Employee Costs", 2) authorize the City Manager to sign and send the response to the Grand Jury, and 3) add to the last line of Finding Number 13 "further analysis and discussion will occur by the Council in the fall of 2010".

Council Member Klein stated there were a number of places in the Response where Staff's language appeared to have the City alter its practices in response to the Report; whereas, the City had been doing so for some time prior to the Response being released. He recommended language be added to the Response to indicate to the Civil Grand Jury "it had been the practice of the City" in front of those responses. He noted his understanding was the COLA was based on the automatic increases based on the government interest shown on inflation.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to revise the responses to the Grand Jury Report to accurately reflect our existing practices throughout the document, and additionally reflect that the City does not have automatic COLAs.

Council Member Price asked for clarification on paragraph 4 of page 9 in CMR 340:10. She requested Staff qualify the broadness of the statement to increase the value of the statement.

Mr. Keene stated Staff could temper the language to be more generalized.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to delete the third paragraph under Recommendation 7a- on page 9 of the report that begins with, "Although recent surveys indicate that private sector benefits..."

AMENDMENT: Council Member Scharff moved, seconded by Council Member Holman that the first paragraph of the Response to Finding 13 be deleted and replaced with "The City agrees with the Finding 13 that Binding Arbitration limits the ability of city leaders to craft solutions that work for the City's budget".

Vice Mayor Espinosa stated he did not accept the Amendment into his Motion.

Council Member Scharff stated he felt it was plainly self-evident that Binding Arbitration limited the ability of City leaders to craft options that work for the City's budget.

Council Member Shepherd stated the Staff Response to this point had been more of an education for the Civil Grand Jury of what processes occur within the City. The Amendment appeared to be an overstatement of Council and a response bolder than it should be.

Mayor Burt stated the Amendment was a clear and simple statement that was consistent with the comments made by the majority of Council and did not bind Council to a particular outcome.

AMENDMENT PASSED: 6-3 Espinosa, Shepherd, Yeh no

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that the Mayor has the right to final edits to the letter to the Grand Jury.

Council Member Shepherd stated the City government had built-in components that did not allow instant changes when a new philosophy was approached or a new City Manager was hired. She noted the Civil Grand Jury left out a large aspect of the functionality of the City in respect to the City not relying on CalPERS to reach aggressive financial returns on the pensions. She noted in the future there may be difficulty in making pension payments for retirees due to CalPERS not having been able to reach their financial goals. She asked whether there could be a comment regarding CalPERS added to the Response.

Council Member Schmid stated on page 7 and page 2 of the Response there were references to miscellaneous employees. He inquired as to who would be considered a miscellaneous employee.

Mr. Keene stated any non-public safety employee was considered a miscellaneous employee.

Council Member Schmid stated the response to Recommendation Number One, Total Compensation, seemed to have the SEIU labor group carrying the majority of the burden. He recommended adding statements of equity among all of the employee labor groups.

Mayor Burt stated on page 7 the response to Recommendation 5C; the current retirement system plan was 2.7 at age 55 and for new employees it was 2.0 at age 60. He suggested there be clarifying language to distinguish the current retirement system plan was 2.0 at age 60 whereas the employees hired prior to July 17, 2010 were at 2.7 at age 55.

MOTION PASSED: 9-0

Vice Mayor Espinosa asked whether Agenda Item Nos. 26, 27 and 28 were of an urgent nature.

Mr. Keene stated the items in question were of a contractual nature which had been reviewed and were ready for Council approval. In the event they were pushed out until September that would be a six week delay. Item No. 26, the Feasibility Study, had a timeline designated by the Council.

Mayor Burt stated there was a special Council meeting being held on Thursday, August 05, 2010 and noted the time sensitive items could be moved to that date.

21. Resolution 9091 Calling a Special Election for November 2, 2010 Submitting to the Electorate for Special Election a Measure to Amend Article III, Section 3 of the Charter to Change City Council Elections to Even-Numbered Years and Extend the Terms of Current Council Members to Five Years.

City Clerk, Donna Grider gave a brief introduction of the estimated cost saving for an election transition. The Registrar of Voters estimated an election in the year 2012 would cost approximately \$111,000 while an election in the year 2011 would range, depending on the number of Measures on the Ballot, from \$136,313 to \$268,755. As a result there could be a potential savings going to even year elections of approximately \$26,313 to \$157,755. She noted to place this Measure on the Ballot in 2010 there would be a \$100,000 fee and the School District would be impacted in election costs since they were odd year elections.

Council Member Shepherd asked whether the School District and Foothill/De Anza were allowed to move their election year.

City Manager, James Keene stated the School Superintendent had been informed of the possibility of the City moving forward with changing their election year and had been informed of the Council discussion for this evening.

Council Member Shepherd asked for the School District to make an election year change would they need to do so as their own body.

Ms. Grider stated yes.

Mayor Burt asked for clarification on the term by their own body, which meant the School District and the Community College did or did not have to go to the voters.

City Attorney, Gary Baum stated their general authority had not been researched; although, there were three methods available. There was the passing of an Ordinance, seeking a legislative change from the Legislature, or making a local change to their own founding documentation.

Supervisor Liz Kniss stated research had shown historically voter turnout was greater during even year elections.

Herb Borock, Palo Alto, stated his opposition to the proposal. He stated in order to raise general tax revenues there needed to be a Measure on the Ballot with a regular City Council election which would not occur until November 2011.

Joe Villareal, Palo Alto, stated when there was a compelling interest to the community there was a larger voter turnout.

Robert Moss, Palo Alto, stated it would take approximately ten years to recover the cost to execute a change of election year. He did not support moving forward with placing the Measure on the Ballot.

Mr. Baum responded to two issues brought to the Council's attention by a community member. The Brown Act section 54954.2A stated Council could direct Staff to place a matter of business on a future agenda which was how this Agenda Item came to be. Under Proposition 13 general tax and parcel tax Measures must be on an election where Council members were on the same Ballot. Therefore, the ability to place most tax measures on the Ballot would be delayed by one year.

Council Member Schmid stated the goal was to save money; it was not clear as to the exact cost savings, although it would be a savings of at least \$20,000. He stated by lowering the cost of Council elections we were raising the cost of citizen initiated issues going on the Ballot which was a poor trade-off. He noted there was an increase from fifteen percent to seventy percent in absentee ballots. That appeared to be an area where costs could be saved. He stated automatically increasing the term of the Council was not democratic and when the people voted for Council Members they did so with the knowledge it would be for four years. He did not feel moving local elections to share the Ballot with presidents, governors, congress persons or so on was in the interest of Palo Alto. He stated he would not be supporting the Resolution.

Council Member Klein stated he would vote no on the proposal. He clarified extending the terms of the present Council and moving to even year elections had a profound effect on numerous areas, increasing the School Districts and Foothill/De Anza elections costs and delaying most tax increases. He clarified the Council has had odd year elections for more than

100 years; it enabled the City and its community to have a community discussion on where they want the City to go. He noted there would not be direct attention on the Council election if the Council was one of ten to fifteen elections on the Ballot.

Council Member Holman stated the primary consideration of the Resolution was the cost savings which would occur over a period of time. She felt it was more difficult to get the attention of voters during the odd year elections. Whereas surrounding cities did not appear to receive less attention being in the even year elections. She noted passing the Resolution merely granted a one year extension of the current Council members who were eligible to run for re-election.

MOTION: Council Member Holman moved, seconded by Council Member Scharff to adopt the Resolution Calling a Special Election for November 2, 2010 submitting to the Electorate for Special Election a Measure to amend Article III, Section 3 of the Charter to change City Council elections to even-numbered years and extend the terms of current Council Members to five years.

Council Member Scharff stated the change would bring about cost savings and an increase in voter participation.

Council Member Shepherd felt in even year elections candidates would be able to reach out to more voters opposed to focusing on the small group of voters in an odd year election. She stated her support for the Motion.

Mayor Burt stated he shared the concerns of others where the process needed to be vetted more thoroughly. He felt it would be self-serving to extend terms of Council Members already elected to office. He stated if the proposal came to be, it should be on the same Ballot as a Council election where the public knew they were voting in the candidates for a five year term. He clarified he was open to the concept, although not supportive of the Motion.

MOTION PASSED: 5-4 Burt, Espinosa, Klein, Schmid no

MOTION: Council Member Scharff moved, seconded by Vice Mayor Espinosa to continue Agenda Item Nos. 24-28 to Thursday, August 5, 2010.

MOTION PASSED: 7-2 Holman, Schmid no

22. Public Hearing: Regarding Conduit Financing for the Keys Family Day School Project Located at 3981 El Camino Real and 2890 Middlefield Road, Palo Alto, and Adoption of Resolution 9090 entitled "Resolution of the Council of the City of Palo Alto Approving the Issuance of

Revenue Bonds Series 2010 by the California Municipal Finance Authority in an Aggregate Principal Amount Not to Exceed \$20,000,000 for the Purpose of Financing and/or Refinancing and Acquisition, Construction, Improvement and Equipping of Educational Facilities for the Keys Family Day School”.

Assistant Director of Administrative Services, Joe Saccio explained Council has held several Tax Equity and Fiscal Responsibility Act (TEFRA) hearings in the past. It was a TEFRA and Internal Revenue Code requirement that a hearing be held in order to allow members of the public the opportunity to object to the tax exempt status of the bonds. He reiterated the City had no legal, moral or financial responsibility to the bonds, they were the sole responsibility of Keys School.

Council Member Price asked whether the approval for the bonds was a one time action or would it be returning to Council.

Mr. Saccio stated it was the full intent of the Agency to issue the bonds in the current market and there should be no need for a return.

Council Member Schmid asked what it was the Council was doing by approving the issuance of the bonds.

Mr. Saccio clarified Council was approving the issuance of bonds that the school would pay for through their revenue stream to improve the facilities of the schools. There was currently one facility on Middlefield and one on El Camino Real.

Council Member Schmid asked if by approving the bond would the Council be giving its endorsement.

Mr. Saccio stated in essence the Council was passing a Resolution which allowed TEFRA to issue the bonds.

City Manager, James Keene stated the typical reason behind the local government jurisdiction was to allow the forum of a public hearing and to allow public comment on the matter.

Public Hearing opened at 11:07 p.m.

Jocelyn Pietsch, San Francisco, requested that the addresses of the facilities 3981 El Camino Real and 2890 Middlefield Avenue be included in the Resolution.

Public Hearing closed at 11:08 p.m.

MOTION: Council Member Scharff moved, seconded by Council Member Klein to adopt a Resolution approving the issuance of the bonds by the California Municipal Finance Authority (CMFA) for the benefit of Keys Family Day School, Inc. in financing Keys Family Day School. Furthermore, to include the address of the school in the first Whereas clause of the Resolution.

Council Member Scharff stated having private schools in the City supported the School District because Palo Alto received the amount of funding dependant upon the number of students no matter where they attended school.

Mayor Burt stated having private schools reduced the need for land space from the lowered student population.

Mr. Saccio noted Palo Alto was receiving revenues on a student count although not all of the private school students were residents of the City.

MOTION PASSED: 9-0

23. Public Hearing: To Confirm Weed Abatement Report and Adoption of Resolution 9092 entitled "Resolution of the Council of the City of Palo Alto Confirming Weed Abatement Report and Ordering Cost of Abatement to be a Special Assessment on the Respective Properties Described Therein".

Public Hearing opened at 11:11 p.m.

Ray Moreno, County Weed Abatement Division, stated he was in attendance in the event Council had questions or concerns with the process.

Public Hearing closed at 11:12 p.m.

MOTION: Council Member Yeh moved, seconded by Council Member Holman to adopt the Resolution confirming the report and ordering abatement costs to be a special assessment on the properties specified in the report.

MOTION PASSED: 9-0

24. ~~Report from High Speed Rail Standing Committee on Recent Activity and Request for Authorization for the City Manager to Enter Into a Contract with Hatch Mott and McDonald in an Amount Not to Exceed \$120,000 for On-Call Engineering Services Related to High Speed Rail.~~
~~(Item continued from May 3, 2010)~~

25. ~~Designation of Voting Delegate and Alternate for 2010 League Conference.~~
26. ~~(Former No. 6) Approval of a Contract with Alternative Resources Inc. in the Total Amount Not To Exceed \$197,758 for Energy/Compost Feasibility Study and Environmental Impact Initial Study.~~

Emily Renzel, Palo Alto, urged Council to not expend funds for a feasibility study until after the results of the election.

27. ~~(Former No. 5) Utilities Advisory Commission Recommendation that Council Approve the Use of Up to \$75,000 in Calaveras Reserve Funds to Partially Fund a \$250,000 Energy/Compost Feasibility Study and Environmental Impact Initial Study.~~
28. ~~(Former No. 10) Approval of a Contract with Peterson Power Systems in a Total Amount Not to Exceed \$201,853 for the Overhaul of a Caterpillar Model 3412e Diesel Engine and the Installation of a Required Best Available Control Technology (BACT) Diesel Emissions Retrofit Device.~~

Emily Renzel, Palo Alto, stated in previous years hundreds of thousands of dollars had been expended in maintaining the grinder and other composting equipment at the landfill. She felt it was time for Council to receive a complete picture of what was going on at the landfill before expending any further funding.

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Schmid asked Staff for confirmation when Council would receive a report on the Foothill-De Anza College proposal regarding Cubberley Community Center.

City Manager, James Keene stated that Staff will provide a report for Council; however Foothill has advised that their timeline has changed and they did not expect any information back to the City before September.

Council Member Holman requested information be provided to Council regarding the lawsuit that was brought up during oral communications by a member of the public.

City Attorney, Gary Baum stated that he would provide Council with a confidential report.

Council Member Yeh stated that he understood that demographic data would no longer be gathered by the Police Department and inquired whether that had been discussed by the Police Advisory Committee. He requested that Council receive more frequent reports from the Police Advisory Committee as to what they were working on.

Mr. Keene asked for clarification as to whether he was asking for reports in general or about demographic data.

Council Member Yeh he would like to receive reports on what the Police Advisory Committee actions and strategies were.

Council Member Price reported on attending the Project Safety Developmental Assets meeting last week. She asked for clarification about whether demographic data would still be collected.

Mayor Burt stated in order to further discuss this it needs to be brought forward through either a Colleagues Memo or by vote of the Council.

Council Member Shepherd stated that the High Speed Rail Council Committee meeting has been cancelled for August 5, 2010. She stated she will be attending the High Speed Rail Authority meeting in San Francisco due to their releasing the Supplemental HSR Alternatives Analysis.

ADJOURNMENT: The meeting adjourned at 11:23 p.m.