



CITY COUNCIL MINUTES

CITY COUNCIL MEETINGS ARE CABLECAST LIVE ON GOVERNMENT ACCESS CHANNEL 26
AND BROADCAST ON KZSU, 90.1 FM

Special Meeting
November 22, 2010

The City Council of the City of Palo Alto met on this date in the Council Chamber at 6:02 p.m.

Present: Burt, Espinosa, Holman, Klein, Price, Scharff, Schmid, Shepherd, Yeh

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, Darrell Murray)

Employee Organization: Police Managers Association

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATORS

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Employee Organization: Palo Alto Police Officers Association

Authority: Government Code Section 54957.6(a)

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, Russ Carlsen, Sandra Blanch, Marcie Scott, Darrell Murray)

Unrepresented Employee Group: Management, Professional and Confidential Employees

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATORS

11/22/10

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: International Association of Fire Fighters, Local 1319

Authority: Government Code Section 54957.6(a)

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: Palo Alto Fire Chiefs' Association

Authority: Government Code Section 54957.6(a)

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, Russ Carlsen, Sandra Blanch, Marcie Scott, Darrell Murray)

Employee Organization: Service Employees International Union, Local 521

Authority: Government Code Section 54957.6(a)

The City Council returned from the closed session at 7:51 p.m. and Mayor Burt announced no reportable action.

CITY MANAGER COMMENTS

City Manager, James Keene advised the Council the annual fall storm preparation was underway and the heavy storm system the prior weekend passed with only minimal incidents. He spoke regarding former Mayor Jim Burch's efforts to redesign the look of the City's shuttle buses.

ORAL COMMUNICATIONS

K. Nicholls spoke regarding non-native trees at Eleanor Pardee Park.

Rod Sinks, Cupertino, spoke regarding the Lehigh Southwest Cement Plant.

Barry Chang, Cupertino, spoke regarding the Lehigh Southwest Cement Plant.

Mark Petersen-Perez spoke regarding bicycle safety.

Bruce Boyd spoke regarding non-native trees at Eleanor Pardee Park.

Manjiri Subhash spoke regarding the non-native trees on Central Avenue.

APPROVAL OF MINUTES

MOTION: Council Member Shepherd moved, seconded by Vice Mayor Espinosa to approve the minutes of October 4 and 18, 2010.

MOTION PASSED: 9-0

CONSENT CALENDAR

MOTION: Council Member Holman moved, seconded Council Member Schmid to remove Agenda Item No. 8 to become Agenda Item No. 14a.

Council Member Klein asked whether Palo Alto would receive the sales tax revenue from the purchase of the vehicles referred to in Agenda Item No. 12.

Administrative Services Director, Lalo Perez, stated the sales tax revenue was received by the City in which the point of sale occurred.

Catherine Martineau spoke regarding Agenda Item No. 4 and Canopies support of the Council's approval for the City's contract with HortScience, Inc. for the creation of the Urban Forest Master Plan.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Shepherd to approve Agenda Item Nos. 2-7, 9-14.

2. Resolution 9115 entitled "Resolution of the Council of the City of Palo Alto expressing appreciation for Marc Dela Cruz Upon His Retirement".
3. Resolution 9116 entitled "Resolution of the Council of the City of Palo Alto expressing appreciation for Terry Condon Upon His Retirement".
4. Approval and Authorization for the City Manager or His Designee to Execute the Attached Contract With HortScience, Inc. (Attachment A) in the Amount of \$159,604 for the Development of an Urban Forest Master Plan.
5. Approval of Contract With Pacific Technologies Incorporated (PTI) in the Amount of \$99,698 for Preparation of an Information Technology Strategic Plan.

6. Approval of a Contract With Spencon Construction, Inc. in the Amount of \$447,431 for FY 2010-11 Sidewalk Replacement Project – Capital Improvement Program, Sidewalk Replacement Project PO-89003
7. Recommendation From the Finance Committee for Adoption of Refuse Enterprise Fund Budget Amendment Ordinance 5097 and Recommendation From Finance Committee to Accept Landfill Operations Alternative No. 1 to Quickly Fill the Remaining Landfill Capacity While Retaining Existing Composting Operations and, Thereafter, Convert the Area to Parkland (Open Space) as Fast as Possible.
8. ~~Approval of a Purchase Order With Leotek Electronics USA Corp. in an Amount Not to Exceed \$355,281 for a One Time Purchase of Six Hundred LED Street Lighting Luminaires in Support of the Utility Department.~~
9. Approval of Increase in R. A. Wiedemann & Associates Contract With the City of Palo Alto From \$105,000 to \$110,000 for a Presentation to the Council of the "Palo Alto Airport Business Plan" Plus a Contingency of Up to \$14,100 for Any Additional Work After Receiving Council Direction.
10. Approval of Banking Services Contract Extension With Wells Fargo and Union Bank for Three Years.
11. Recommendation From the Finance Committee to Accept the Audit of Citywide Cash Handling and Travel Expenses.
12. Budget Amendment Ordinance 5098 to Create Capital Improvement Program (CIP) Project VR-11000 (Scheduled Vehicle and Equipment Replacements) and Transfer the Remaining Unused Appropriation From CIP Projects VR-07800 and VR-08000 to VR-110000 in the Total Amount of \$222,205 and Approval of a Purchase Order With Downtown Ford Sales in an Amount Not to Exceed \$152,030 for the Purchase of Six Police Patrol Vehicles.
13. 2nd Reading Adoption of Five Ordinances Amending Title 16 of the Palo Alto Municipal Code: (1) Ordinance 5099 Repealing Chapter 16.04 of the Palo Alto Municipal Code and Amending Title 16 to Adopt a New Chapter 16.04, California Building Code, California Historical Building Code, and California Existing Building Code, 2010 Editions, and Local Amendments and Related Findings; (2) Ordinance 5100 Repealing Chapter 16.05 of the Palo Alto Municipal Code and Amending Title 16 to Adopt a New Chapter 16.05, California Mechanical Code, 2010 Edition, and Local Amendments and Related Findings; (3) Ordinance

5101 Adopting a New Chapter 16.06 of the Palo Alto Municipal Code, California Residential Code, 2010 Edition, and Local Amendments and Related Findings; (4) Ordinance 5102 Repealing Chapter 16.08 of the Palo Alto Municipal Code and Amending Title 16 to Adopt a New Chapter 16.08, California Plumbing Code, 2010 Edition, and Local Amendments and Related Findings; and (5) Ordinance 5103 Repealing Chapter 16.16 of the Palo Alto Municipal Code and Amending Title 16 to Adopt a New Chapter 16.16, California Electrical Code, 2010 Edition, and Local Amendments and Related Findings. *(First reading November 8, 2010 - Passed 9-0)*

14. Ordinance 5104 entitled "Ordinance of the Council of the City of Palo Alto Repealing and Reenacting Title 15 of the Palo Alto Municipal Code to Adopt the 2009 Edition of the International Fire Code, as Amended By the State of California, Also Known as the 2010 Edition of the California Fire Code, With Local Amendments and Related Findings (Chapter 15 of the Palo Alto Municipal Code)". *(First reading November 8, 2010 - Passed 9-0)*

MOTION PASSED: 9-0

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 14a. (Former Item No. 8) Approval of a Purchase Order With Leotek Electronics USA Corp. in an Amount Not to Exceed \$355,281 for a One Time Purchase of Six Hundred LED Street Lighting Luminaires in Support of the Utility Department.

Council Member Holman stated the Staff Report indicated that the new bulbs would provide an even better broadcast of light coverage. She voiced concern for safety and asked if more light poles could be installed to provide efficient light coverage and avoid dark areas.

City Manager, James Keene stated the intent behind the light bulb change was energy efficiency. He stated the issue of safety was not completely about the lights, but other factors should be considered including the height of poles, tree canopies, and the like. He stated much of the project was funded by stimulus funds; therefore, the funds needed to be used for what they were intended.

Council Member Holman asked if there was flexibility to add additional light poles in dark spots as part of the current project.

Mr. Keene stated the funding was designed to provide the lights, not address other issues. The project focus was light replacement on portions of El Camino Real and Alma Street. He clarified prior to subsequent phases being implemented there could be discussions regarding residential areas.

Council Member Scharff stated he understood the purchase of the six hundred LED Street Lighting Luminaires was a pilot program using stimulus funds. He asked whether any funding included was from the City.

Mr. Keene stated he was uncertain whether or not the entire project was funded by stimulus monies; although, he assured Council no funds were coming from the rate payers.

Council Member Scharff stated the pilot program was for the 600 lights, the plan as he understood was to eventually replace all 6,000 lights throughout the City at a cost of approximately \$3.5 million. He suggested repairing the lighting infrastructure and focus on the core basics of Palo Alto being livable for families and their safety.

Council Member Schmid wanted to confirm there would be an assessment of the light poles prior to moving forward after the first phase.

Mr. Keene stated that was correct.

Council Member Klein stated many Cities across the nation were moving toward LED's. He stated safety and the function of the LED's were two different issues. He noted Council was not receiving negative feedback from the neighborhoods regarding safety issues or a lack of lighting.

MOTION: Council Member Klein moved, seconded by Council Member Scharff to approve the purchase order with Leotek Electronics USA Corp. in an amount not to exceed \$355,281 for a one time purchase of 600 LED Street Lighting Luminaires in support of the Utility Department.

Council Member Scharff stated LED lights were an environmentally sensitive solution. He noted members of the community had mentioned to him the need for more lighting.

Mayor Burt stated he was interested in a better light dispersion and the selection of proper fixtures enabled different dispersion. He noted at least twice while he was on the Planning & Transportation Commission (P&TC) there were extensive discussions over issues involving light dispersion and dark spots on City streets, sidewalks, crosswalks and street crossings. There was not a simple solution, but he suggested reviewing better light dispersion fixtures. He requested an Amendment to the Motion that Staff include within selection of the fixtures going forward considerations on light dispersion and directional lighting issues.

Council Member Scharff stated he would accept the Amendment.

Council Member Klein stated he was confused with the Amendment because the Motion was to accept the Staff recommendation which was to designate the City Manager to execute a purchase order with very specific details as to the company, product, price and number of units.

Mayor Burt modified his Amendment to state going forward to assure the fixture selection included considerations of light dispersion to optimize the lighting coverage in the affected areas.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to assure future purchases of LED Street Lighting Luminaires include considerations of light dispersion to optimize the lighting coverage in affected areas.

Council Member Holman assured her Colleagues and the community she was not opposed to energy efficient bulbs. Her position was merely there were dimly lit areas throughout the City and it could be hazardous.

MOTION PASSED: 9-0

ACTION ITEMS

15. Public Hearing: Consider Approval of a Mitigated Negative Declaration and Adoption of an Ordinance Amending the Zoning Map to Apply the Pedestrian and Transit Oriented Development (PTOD) Combining District to a ½ -Acre Site Zoned Multiple Family Residential (RM-40) to Allow Eight Residential Condominiums Above Ground Floor Office Space, a Below Grade Parking Garage, and Related Site Improvements at 305 Grant, 2640 and 2650 Birch Street and 306 and 320 Sheridan Avenue.

Director of Planning and Community Environment, Curtis Williams gave a presentation identifying the primary concerns regarding the addresses involved in the project.

Planning and Transportation Commissioner, Dan Garber stated the Planning and Transportation Commission (P&TC) supported Staff's recommendation with the condition there be eco passes added to the Transportation Demand Management (TDM) Program and the entrance be moved off of Grant Avenue.

Applicant, Harold Hohbach encouraged the City Council to approve the application.

Architect, David Solnick discussed the project and gave a brief presentation. He noted given the noise and traffic flow of Birch Street the ground floor was

not suitable for residential. The Pedestrian Transit Oriented Development (PTOD) allowed for and encouraged office use with this type of project and therefore the design was to place office suites on the ground floor. He noted the project had a 15 percent Below Market Rate (BMR) housing.

Council Member Scharff asked what the parking requirement was for studio and one-bedroom units.

Mr. Williams stated 1.25 parking units per studio, 1.50 per one-bedroom and 2 per two-bedroom.

Council Member Scharff asked whether variances could be granted.

Mr. Williams stated Council had the authority to grant variances, albeit not during the current meeting, the variances needed to be noticed and having gone through the P&TC.

Council Member Scharff asked the thought process for a 1.50 unit of parking for a one-bedroom.

Mr. Williams stated the average unit would house two drivers where some only a single driver.

Council Member Schmid asked Staff to indicate where the bore wells were located on the parcel map. He asked whether they were sensitive to the Trichloroethylene.

Mr. Williams stated yes they were sensitive and were located along Birch Street in the residential component.

Council Member Schmid asked whether the well would affect the parking units underneath the project structure.

Mr. Williams stated the well was below the parking and the commercial areas out to the street.

Council Member Schmid stated his understanding was the building was to be built 15 feet below grade and at that level came in contact with toxic soil.

Mr. Williams stated the testing for vapors was done at approximately 15 feet.

Council Member Schmid stated there would be a concrete buffer between the soil and the parking.

Mr. Williams stated that was correct.

Council Member Schmid asked about potential liability the City would be responsible for future issues in respect to an illness from a housing or commercial unit on the same level as the toxic soil.

Interim City Attorney, Don Larkin stated the City had gone through all the appropriate environmental channels and would not be liable.

Council Member Schmid asked whether notices would need to be presented to the buyers regarding the toxicity.

Mr. Larkin stated he thought potential buyers would need to be notified.

Council Member Schmid clarified, the City currently did not have a Housing Element.

Mr. Williams stated at the present time the City did not have a certified Housing Element. There was a valid Housing Element as part of the Comprehensive Plan.

Council Member Schmid stated one of the goals of the PTOD District was to provide a location for high density housing near transit and mixed-use areas. He asked for clarification that the Birch Street site had previously been identified as one of the housing sites.

Mr. Williams stated the PTOD was set-up for housing and mixed-use developments and the Birch Street site had been identified as a housing opportunity site in the prior Housing Element.

Council Member Schmid stated over the last two years the PTOD District incorporated the Cambridge site and although the College terrace site was outside of the District the structure incorporated the PTOD attributes. Each of the three parcels, including the current project, approved a housing component that averaged 40 percent less than the number of units which would be there without change to the zoning.

Mr. Williams stated in reviewing the projects on a site by site basis, for the College Terrace and Birch Street projects, he stated that was probably the case. As for the Cambridge site, it had very little commercial.

Council Member Schmid stated the PTOD District on California Avenue was identified as the best prime site for dense housing in Palo Alto. He asked whether those numbers indicated the City could reduce their Housing Element goal by 40 percent.

Mr. Williams stated the actual Housing Element proposal had yet to be determined.

Council Member Schmid asked whether Staff could give Council assurances that when the Housing Element was approved the gap in housing from the three projects discussed would not appear in other parts of the City.

Mr. Williams stated no. He pointed out had the application been filed after the Council discussion in May, Staff would have had different recommendations.

Council Member Schmid stated the PTOD seemed to offer flexible zoning when the development was denser. He asked whether that was different from the LEED Neighborhood Development the City had applied to all building sites throughout the City.

Mr. Williams stated no, the PTOD was not more flexible than the LEED Neighborhood Development. He clarified there was more constraint with the limits on non-residential space.

Council Member Price asked for follow-up on the Staff statement of the location of the driveway not being any safer if it were to be off Sheridan Drive rather than off Grant Avenue.

Chief Transportation Officer, Jaime Rodriguez stated there was no difference in distance between the driveway to the return of the intersection with either street destination.

Council Member Price asked if Staff agreed with the Applicant in that relocating the driveway on Birch Street would create impacts such as an unusable garage configuration, or the loss of twelve parking spaces and the deletion of the corner pocket park.

Mr. Williams stated Staff had reviewed various schematics and had come to the same conclusion.

Council Member Price stated if Birch Street was the only option for the driveway access, making the parking configuration unusable, then the application as proposed would not be feasible.

Mr. Williams stated that was correct.

Council Member Holman asked why the driveway could not be further from the corner on Sheridan Drive than it would be on Grant Avenue.

Mr. Williams stated the primary reason was there needed to be a straight line going into the garage. On Grant Avenue there was a space set-up as a narrow driveway. On Sheridan Drive there would be space needed which would take away from the designated parking spaces.

Council Member Holman stated the conclusion of entering from Birch Street was the loss of parking and the pocket park. She asked whether the project could be smaller and maintain the pocket park with the entrance on Birch Street.

Mr. Williams stated the object was to maintain the project relatively similar in size. He noted entering into the complex from Birch Street required wrapping around to Grant Avenue to enter into the garage which the required room would eliminate a dozen or so parking spaces.

Council Member Holman asked why the path would need to wrap through the narrow parcel of the project.

Mr. Williams stated the architectural drawings indicated the depth necessary to go underground was not available if the entrance was located in the deeper part of the parcel.

Mayor Burt asked if Staff was recommending the Transportation Demand Management (TDM) Program.

Mr. Williams stated yes and added Staff would include recommending management of the tandem parking spaces.

Public Hearing opened at 8:48 p.m.

Jeff Schwartz spoke in favor of the project. He spoke highly of Mr. Hohbach as a landlord.

David Payne stated his concern with the project was regarding parking overflow onto the street and to other facilities nearby.

Joe A. Villareal spoke on behalf of the Sheridan Residents for a Livable Neighborhood. He had a petition signed by nearby residents opposing the new project.

Geoff Dale spoke in support of the project. He felt the design fit into the neighborhood.

Judith Wasserman stated vehicles exiting the driveway onto the side streets were safer than exiting onto Birch Street. She encouraged Council to approve the project as proposed.

Peter Holland spoke regarding the driveway safety issue. He noted staff did not consult with the Grant Avenue neighbors who would not approve the driveway being on Grant Avenue.

Julia Mayberry stated office space was not needed in the neighborhood and she noted the toxics were not being addressed properly.

Bob Moss stated if the project was approved, the City would lose ten housing units which would need to be located elsewhere in the City. At the time the project was proposed Palo Alto did not have the Association of Bay Area Governments (ABAG) requirement of 2800 housing units. He did not support the project moving forward.

Lenny Siegel recommended the Council protect the future residents of the project from toxic vapor intrusion.

Herb Borock suggested the City Council reject the application.

Chris Gaither spoke in support of the project.

Richard Makdisi, Applicant team, stated they had worked with the Regional Water Quality Control Board since 2008 to evaluate the potential for vapor intrusion. He noted there had been eight soil samples taken with no levels of detection and the highest concentration level in the water samples were 110 parts per million. The risk model resulted in acceptable risk levels for the Water Board; therefore, there was no need to incorporate sub-slab depressurization or other engineering controls.

Public Hearing Closed at 10:07 p.m.

Council Member Yeh stated his understanding of the topography was the location was downgrade from the potential source of the toxin. He asked for confirmation.

Mr. Williams stated yes.

Council Member Yeh asked if the plume could move over time.

Mr. Williams stated the technical experts would need to answer that question.

Mr. Makdisi stated a plume would move down over time, but it attenuated as it moved away from the source.

Council Member Yeh asked the final criteria for when a vapor barrier would be required.

Mr. Makdisi stated from the Water Boards perspective, there needed to be more than one part per million excess cancer risk to require a vapor barrier.

Council Member Yeh stated based on the assessment, even as the plume moved, there would be no increase in the concentration of the toxins.

Mr. Williams stated that was correct, it had been verified by the Water Board.

Council Member Yeh asked for Staff's recommendation regarding the driveway location where a single vehicle may cause a blockage in the right-of-way.

Mr. Rodriguez stated there were several options; placing keep clear signage at the entrance of the drive was one. He suggested monitoring the project for a 6-month period to determine the volume and appropriateness of specific signage.

Council Member Yeh asked whether there had been discussions regarding the Resident Parking Permit (RPP) Program, not necessarily with this specific project but in the Region.

Mr. Rodriguez stated there was currently a pilot RPP Program in use near the College Terrace Community. He stated Staff was planning to begin a comprehensive parking study this coming year. The goal was to recommend parking solutions beyond the commercial districts.

Council Member Yeh asked whether Staff was going to integrate capacity analysis or school impact reports into Staff Reports regarding school age children when projects involving housing were proposed.

Mr. Williams stated that type of information had yet to be built into the process. Although, on housing projects being presented to Council it would be included as a standard basis in the future.

Mr. Larkin stated Council was prohibited from factoring in school impacts as a decision of whether to approve an individual housing project or not.

Council Member Price felt the project met the goals and intent of the PTOD District. The quality of the presentation and application achieved many goals for increasing housing density and making a more pedestrian friendly environment.

MOTION: Council Member Price moved, seconded by Council Member Shepherd to approve the Planning & Transportation Commission recommendations to include relocating the driveway to the original location on Grant Avenue.

Council Member Price stated due to the size and configuration of the parcel she felt the design solution before Council was satisfactory and it provided the City with additional rental housing.

Council Member Shepherd stated she was pleased to have the TDM Program being utilized with the project.

Council Member Scharff asked Commissioner Garber about the relocation of the driveway and the affect that would have on the project.

Mr. Garber stated the Motion made at the P&TC meeting was not conditional to the location of the driveway. He noted the location and distance of the driveway was discussed.

Council Member Scharff asked if the parking requirements were the same whether the housing was owned or rented.

Mr. Williams stated the parking requirement was the same no matter what type of housing was in a project.

Council Member Scharff asked the Applicant why they were portraying the project as rental homes yet the reports specify condominiums with Below Market Rate (BMR) units.

Mr. Hohbach stated BMR units were a requirement whether the project was for rental or ownership. He clarified he needed the option to sell the condominiums in the future if there was a financial hardship in completing the project although at present the project was slated as rental property.

Council Member Scharff asked whether rental property projects required BMR units and how that worked.

Mr. Larkin stated in most cases BMR units were not required in rental housing projects. This project had been proposed prior to the Palmer Case which stated BMR requirements could not be required on rental housing projects. He clarified when the Applicant requested a concession that triggered the government requirement for BMR units.

Vice Mayor Espinosa asked for clarification surrounding the noticing of toxins.

Mr. Williams stated Staff did not look specifically at the noticing of toxins to this point. He stated there would be proper noticing on the appropriate real estate paperwork.

Mr. Solnick stated when purchasing real estate it was required that the purchaser be notified of any type of report having been compiled on the property whether it be environmental or otherwise.

Vice Mayor Espinosa asked if the same rule applied for renters rather than buyers.

Mr. Solnick stated he was unfamiliar with the notification requirements for rental property.

Vice Mayor Espinosa clarified, his question was would the Applicant have issue with the City imposing a requirement that the tenants be notified of the toxins prior to renting.

Mr. Hohbach stated he agreed to notify persons renting or purchasing units on the project of the environmental findings.

Vice Mayor Espinosa asked moving forward with other Applicants, would there be a request or requirement for more units in a project of this nature.

Mr. Williams stated yes. Given the Study Session with Council this past year Staff was aware of the types of housing projects desired to be placed on the housing inventory for the Housing Element.

Vice Mayor Espinosa asked what type of studies had been completed surrounding tandem parking throughout the City.

Mr. Williams stated he was uncertain as to there having been a study since generally the use of tandem parking had not been allowed. He noted in the cases where tandem parking was slated, it was above the required number of spaces.

Vice Mayor Espinosa stated he was supporting the Motion and requested an Amendment to require notification when there was a change in tenancy or ownership regarding toxicity and other environmental issues.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to require notification when there is a change in rental or ownership regarding toxicity and other environmental issues.

Council Member Shepherd asked whether the neighboring complexes had noticing requirements.

Mr. Williams stated he was unaware whether there had been noticing and he noted the neighboring complexes did not have the additional measures required.

Council Member Shepherd stated she supported the Amendment.

Council Member Holman asked how the noticing would be managed, and who would be responsible for the verification.

Mr. Williams stated initially, upon occupancy the project would require the rental agreement be shown to the City. He was uncertain how the process would be managed in the future.

Council Member Holman asked where the entrance was to the three-story apartment building next door. She asked who was to be responsible for monitoring the tandem parking spaces.

Mr. Williams clarified the monitoring of the tandem parking spaces would be written into the TDM Program and would require annual reports.

Council Member Holman stated the Staff Report noted forty-two parking spaces with no mention of the tandem spaces. She asked why there was no reference.

Mr. Williams stated the Staff report provided the minimum requirements although there was no reason why mention of the eleven tandem stalls could not be added.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to add in Section 4(e)- a minimum of 42 spaces plus 11 tandem spaces.

Mr. Rodriguez stated in response to the question regarding the entrance to the three-story apartment complex next to the proposed project, the entrance to the existing building was on the far side. Therefore placing the entrance to the project on the opposite side provided a space the full length of the building.

Council Member Holman stated with staffing levels being low and the workload being stressed she felt adding monitoring would stress the Staff. She was looking for the most expeditious manner to accomplish the goal and felt adding "keep clear" signage would be effective.

Mr. Rodriguez suggested after the project was completed a condition of the approval could be to require the Applicant to complete a follow-up study on

parking analysis which would provide the types of impacts the project created.

Mr. Williams stated implementing "keep clear" signage would be the simplest way; the signage may cause other undue issues if it was not justified prior to installation.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to add in Section 4(e)- to request that after 6 months Staff evaluate the need for the "keep clear" designation at the entrance of the Grant driveway entry.

Council Member Holman stated the Environmental Protection Agency did not have the reputation as being as stringent as some environmentalists would prefer and the Water Board had more lenience. She asked whether there would be a basis for a lawsuit regarding the toxins if there were disclosures provided.

Mr. Larkin stated the City had no ability to prevent a lawsuit. He reiterated as long as the disclosures were in place and the environmental impacts had been completed, a lawsuit would not succeed.

Council Member Schmid proposed an Amendment to read: Staff will not bring another PTOD project to the Council until site map from the new Housing Element had been completed.

Mayor Burt stated the Amendment did not pertain directly to the conditions of the project on the floor.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to add to a new Section 6- To the extent permitted by law, the Project Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the indemnified parties" from and against any claims, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void this Ordinance or any permit or approval authorized hereby for the project, including without limitations, reimbursing the City its actual attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

MOTION PASSED: 9-0

16. Recommendation From the Policy & Services Committee to the City Council on Proposed Changes to the City Council Procedures and Protocols.

Council Member Yeh stated the City Clerk's revised Staff Report was the best document to work from. The first two pages pertained to the more substantive changes that were passed by the Policy & Services Committee. The 3rd page contained ministerial changes, and were seen more as housekeeping changes.

City Manager, James Keene recommended the City Council adopt the ministerial items, listed below. He asked about discussing bullet II-9, on page 4 of the revision memo regarding Colleagues Memos. He asked if that was an exclusionary role for the City Manager to only supply Staff and fiscal impacts, or could there be broader policy input.

Ministerial or Existing Practice

Procedures

- Page I-2 Item (2) -- add section d) No person shall enter the staff area of the Council dais without the permission of the Presiding Officer or appropriate Council Appointed Officer.
- Page II-1 A. revise the paragraph on Regular Meetings as follows: ***Regular meetings*** are conducted at City Hall on the first three Monday nights of each month, except during the Council's annual vacation. The meetings will begin at 7:00 p.m. Regular meeting agendas must be posted ~~outside at the Downtown Library~~ in the City Plaza by the elevators no later than 7:00 p.m. on the preceding Friday as required by the Brown Act. ~~but it~~ is City policy to make every effort to complete and distribute the agenda and related reports by the preceding ~~Thursday~~ Wednesday. For major, complex projects and policies, the City will make every effort to distribute these reports two weeks prior to the meeting when the item will be considered.
- Page II-1 – revise the following sentence under Study Sessions: During regular study sessions, public comments are typically received together with oral communications at the end of the session or at another appropriate time at the discretion of the chair.
- Page II-6 section (e) (1) -- delete the words "and resolution" from the second line.
- Page II-8 subsection (5) -- delete the words "by a majority of a Council Committee".
- Page II-8/II-9 – move Unfinished business from subsection 7) to subsection 8) (b).

- Page II-9 – subsection 8) (e) Council Matters – revise verbiage at the end of the paragraph to: Colleagues memos should have a section that identifies any potential staffing or fiscal impacts of the contemplated action. This section will be drafted by the City Manager or other appropriate senior staff. Council Members should share a final draft of the proposed memo with the City Manager or appropriate senior staff prior to finalization. Completed Council colleague memos shall be provided to the City Clerk's staff by noon on the Tuesday prior to the Council meeting that the memo is intended to be agendized, to provide time for the City Clerk to process for the Council packet.
- Page V-1 section B. 4. – delete the words “action minutes” and revise to “sense minutes”.

Protocols

- Page 5 – second bullet: delete the last sentence: ~~A Board or Commission appointment should not be used as a political “reward”.~~
- Page 5 – sixth bullet: Appointed Council liaisons and/or alternates are encouraged to attend all regularly scheduled meetings of their assigned Board or Commission, ~~or to arrange for an alternate.~~
- Page 6 – OTHER PROCEDURAL ISSUES, third bullet: change the seventh line to remove “Assistant City Manager” and replace with City Manager. Add sentence at the end of the paragraph: More detailed procedures relating to agenda questions can be found in the addendum to these protocols titled “Policy and Procedure for City Council E-mails for Agenda-Related Items.”
- Page 7 first bullet second sentence revised to: Council should respect the work of the committees and ~~recommit to its policy of keeping unanimous votes of the committees on the consent calendar. If a matter is taken forward to the full Council for approval and it receives a unanimous vote at Committee, the item will be placed on the Consent Calendar unless otherwise recommended by the Committee or staff.~~
- Page 7 second bullet add the following sentence at the end of the paragraph: Consideration in building the agenda should be given to the potential length of the meeting and at what point items of significant public concern may be heard.
- Page 12 Procedure first bullet: Council Members should direct any questions on ~~City Managers Reports (CMRs)~~ staff reports to the ~~Assistant City Manager~~ City Manager or designee.
- Page 12 last bullet first sentence: add the word “highest” before the word “priority.”

- Add the existing policy for the City Council for Travel and Miscellaneous Expense Reimbursement which was adopted in March 2006 as an addendum to the Council Protocols.

Council Member Yeh stated the sentence further down clarified that the Colleagues Memo should be shared with the City Manager prior to finalization.

Mr. Keene suggested the addition of "a draft Colleagues Memo be shared with the City Manager for review."

Council Member Yeh stated he agreed.

Council Member Klein stated he did not agree with the suggested change requested by the City Manager.

Mayor Burt stated the suggested change had not been voted on.

Council Member Schmid asked about Procedures Page 3, bullet Page II-1 A which read: regular meetings were conducted on the first three Mondays of each month. He stated there had been meetings on the 4th Monday of each month. He asked whether the 4th Monday should be included as regularly scheduled meetings.

Mayor Burt stated all meetings outside of the first three Mondays were considered Special Meetings.

Vice Mayor Espinosa stated regarding Procedures Page 3 bullet II-1A; he asked if the requirement of posting the agenda be on the website and in the plaza.

Council Member Yeh stated the Policy and Services Committee did not discuss that particular issue. He asked the City Clerk for additional language that could be added to clarify the requested addition regarding the agenda posting.

City Clerk, Donna Grider suggested keeping the verbiage about Regular Meetings being "posted no later than 7:00 p.m. the preceding Friday", but add "furthermore the City would upload the agenda to the website for citizens at that time."

Page II-1 A. revise the paragraph on Regular Meetings as follows: **Regular meetings** are conducted at City Hall on the first three Monday nights of each month, except during the Council's annual vacation. The meetings will begin at 7:00 p.m. Regular meeting agendas must be posted outside at the Downtown

Library in the City Plaza by the elevators no later than 7:00 p.m. on the preceding Friday as required by the Brown Act. The City will upload the Agenda to the City website. but it is City policy to make every effort to complete and distribute the agenda and related reports by the preceding Thursday Wednesday. For major, complex projects and policies, the City will make every effort to distribute these reports two weeks prior to the meeting when the item will be considered.

Vice Mayor Espinosa suggested not eliminating the language stating "a Board or Commission appointment should not be used as a political reward". He asked why that statement would be deleted.

Protocols, bullet Page 5 – second bullet: delete the last sentence: ~~A Board or Commission appointment should not be used as a political "reward".~~

Council Member Yeh stated that specific item was not discussed in depth; it was an item that the Policy and Services Committee felt did not need to be included.

Vice Mayor Espinosa asked the City Attorney whether stating that the word "strongly" would substantially alter the policies of the City Council in the section referring to Council communications outside of Quasi-Judicial hearings.

Procedures - Page 2-Potential for Further Discussion, bullet Page IV-1 section B. 2. – revise the paragraph as follows: Restrictions on Council Communications Outside of Quasi-Judicial Hearings. It is the policy of the Council to strongly discourage the gathering and submission of information outside of any required hearing, including prior to recommendations by ARB or P&TC, when such information will impair the Council's impartiality on a quasi-judicial decision or planned community zoning application.

Acting City Attorney, Don Larkin stated there could not be a direct prohibition of contact between the public and the Council. The public had a First Amendment right to petition their representatives in government.

Council Member Scharff stated on page 1 of Procedures, bullet Page II-4/II-5; the middle part of the paragraph read: discussing materials delivered to Staff, he asked whether it should read "and" instead of "or."

Page II-4/II-5 – add section c) Late Submittal of Planning Application Materials. In order to allow for adequate staff review and analysis and to ensure public access to materials, all plans and other applicant materials related to Planning applications being heard by the City Council must be submitted not later than noon 5 working days prior to the release of the Council agenda packet. This includes materials delivered to staff ~~or~~ and

to Council Members either before or during the meeting. If items are not submitted by this date or if staff determines additional review is needed, staff will reschedule the item to a future Council meeting. Additionally, if there are significant changes, staff will analyze whether the need exists to continue the item.

Council Member Holman advised that she brought a revised version as follows (changes are in *Italic*). She stated she had made the change from "or" to "and" in the paragraph and added additional information.

Procedures, Page 1, bullet Page II-4/II-5 – add section c) Late Submittal of Planning Application Materials. In order to allow for adequate staff review and analysis and to ensure public access to materials, all plans and other applicant materials related to Planning applications being heard by the City Council must be submitted not later than noon 5 working days prior to the release of the Council agenda packet. This includes materials delivered to staff or to Council Members either before or during the meeting. If items are not submitted by this date ~~or~~ *and* if staff determines additional review is needed, staff will reschedule the item to a future Council meeting. Additionally, if there are significant changes *to the project*, staff will analyze whether the need exists to continue the item. *Neither public response to the project staff report nor the applicant response to either the project staff report or public comments are constrained by staff's materials deadline.*

Council Member Scharff asked for clarification of the word "materials", if it was exclusive of changes to the project or inclusive of a citizen's argument against the project.

Council Member Holman supplied Staff with a potential version of the Procedures page in question to be displayed on the projector. She stated the alterations made were made after the Policy and Services Committee discussions in an effort to clarify questions that may have arisen by Council Members needing a more in depth explanation.

Mayor Burt stated he felt that Council would not be able to complete all the items in the substantive changes. He clarified at times Staff and Council received extensive arguments, reports or changes in projects therefore the term "materials" could reference any of those.

Council Member Yeh stated the intent was to formalize the process of submission to the City no later than five business days prior to the City Council meeting. Based on discussions with the Planning Department five days was a sufficient amount of time for their review.

Mayor Burt stated the concern remained the same with there being no direct understanding as to the meaning behind the use of the word "material".

Council Member Yeh stated the discussion the Policy and Services Committee had was focused on the number of days required to adequately review the changes. The definition of the term "material" was not determined.

Council Member Holman stated the intention was that anything an Applicant wanted to provide that would be included in the Staff Report would be provided no later than five days ahead of time. Any later and Staff would not have time to review the items received to see how it impacted the project and their workload.

Council Member Scharff referred to page 2, bullet page IV-1 section B.2 regarding Quasi-Judicial hearing:

Procedures, Page IV-1 section B. 2. – revise the paragraph as follows: Restrictions on Council Communications Outside of Quasi-Judicial Hearings. It is the policy of the Council to strongly discourage the gathering and submission of information outside of any required hearing, including prior to recommendations by ARB or P&TC, when such information will impair the Council's impartiality on a quasi-judicial decision or planned community zoning application.

He stated his understanding was all Quasi-Judicial hearings went before the Architectural Review Board (ARB) prior to being submitted for review by the Planning and Transportation Commission (P&TC), and then the item went to Council. He asked if there were cases where a project would be agendaized for Council having bypassed one or the other.

Mr. Larkin stated there were situations when appeals had gone directly from the ARB to Council.

Council Member Scharff asked if there were projects where a project went directly from the ARB to Council without it being an appeal.

Mr. Larkin stated yes, there were projects that required only an architectural review and not a planning review.

Council Member Scharff stated he did not understand the wording "policy of the Council to strongly discourage the gathering and submission of information outside of any required hearing, including prior to recommendations by ARB or P&TC". He asked if it should be changed to "it is the policy of Council to strongly discourage the gathering and submission of information prior to recommendations by ARB or P&TC".

Council Member Holman stated she had made alterations to Procedures, Page IV-1 section B. 2. with the following changes: She stated for clarity the wording in CAPS were her suggestions.

- Page IV-1 section B. 2. – revise the paragraph as follows: Restrictions on Council Communications Outside of Quasi-Judicial Hearings. It is the policy of the Council to strongly discourage the gathering and submission of information outside of any required hearing, ADVERTISED PUBLIC MEETING including prior to final recommendations by ARB ~~or~~ and P&TC, when such information will impair the Council's impartiality on a quasi-judicial decision or planned community zoning application.

Council Member Scharff asked if the intent of the "advertised public meeting" meant the ARB or P&TC advertised public meeting.

Council Member Holman stated the reason she changed the wording to advertised public meeting was that when the P&TC changed their Protocols and Procedures to limit ex parte communications on Quasi-Judicial and Planned Community (PC) projects they also encouraged Applicants and members of the public to hold public meetings. The intention of the language in the Council Procedures was to encourage Council to attend public meetings.

Council Member Scharff inquired as to the reason the listing of late submittals was duplicated in the first bullet on the 1st page in Procedures and again in the Protocols.

Council Member Yeh stated he did not recall intentionally adding late submittals to both areas. He would request the Policy & Services Committee revisit the Procedures and Protocols to ensure there were no duplications unless it was deemed necessary.

MOTION: Council Member Klein moved, seconded by Mayor Burt to conclude the item no later than midnight.

Mr. Keene suggested Council Members individually redline the document; provide it to Staff and again to the Policy and Services Committee for reconciliation.

MOTION PASSED: 9-0

Mayor Burt asked the City Clerk to verify on the top of Procedures, Page 4, second bullet, Page II-8, subsection (5), it looked like it should be Page II-8, subsection (4). The discussion under Page 1, bullet IV-1, section A.1, talked about supporting the autonomy of Boards and Commissions. He stated there was not a clear understanding regarding the roles and responsibilities

of Council Liaisons. There was a wide range of how the roles of Council liaison had been performed over the years. He asked whether there was a reason for the role of liaison having not been included.

Council Member Yeh stated the Policy & Services Committee had discussed the liaison role and had made suggested language changes.

Council Member Shepherd stated there was a section on the Council liaisons, addressing their specific role and responsibility was not detailed.

Mayor Burt stated concern was unless Council had taken a position on a topic liaisons were not allowed to speak on behalf of the Council. There had been Council Members in the past who viewed their role as liaison as one to answer questions to clarify a point, or believed their function was as an ex parte member of the Committee. He emphasized returning to the purpose of supporting the autonomy of Boards and Commissions. The specific role of the Council liaison should be clarified within the Council Procedures.

Council Member Shepherd stated the section on Council liaisons was located on page 4 and 5 of the Protocols. She noted after review, the section could benefit from more clear language.

Mayor Burt stated there was reference in the existing Protocols where the Council liaison was expected to represent the full Council and refrain from speaking for the full Council on matters where the full Council had not conferred. He clarified the matter was addressed although it needed to be practiced.

Council Member Yeh noted on page 5 of the Council Protocols there were edits to the Council liaison policy which stated to limit contact with Commissioner's regarding their questions and clarifications, and refrain from lobbying Board and Commission members.

Ms. Grider stated in response to Mayor Burt's earlier question, she confirmed on page 4 the second bullet section II-8, should be subsection 4.

Jeff Greenfield urged Council to approve the Protocols and Procedures. There was a need for the updated guidelines for transparency and trust with the public on land use decisions.

Fred Balin felt the inclusion of late submittal language was needed. He stated the change in late submissions, early release of Council agenda packets and the new agenda management program would serve the public interest more satisfactorily.

Bob Moss stated the updated Procedures and Protocols were overdue. He believed the last minute project submittals should be applied to Boards and Commissions procedures.

Tom Jordan spoke on behalf of Palo Alto Neighborhoods. He stated the updated Procedures and Protocols was one set of achievements that PAN endorsed as an organization.

Elaine Meyer spoke in support of the changes to the Procedures and Protocols.

MOTION: Council Member Shepherd moved, seconded by Council Member Yeh to:

1) accept the following ministerial changes:

Procedures

- Page I-2 Item (2) -- add section d) No person shall enter the staff area of the Council dais without the permission of the Presiding Officer or appropriate Council Appointed Officer.
- Page II-1 A. revise the paragraph on Regular Meetings as follows:
Regular meetings are conducted at City Hall on the first three Monday nights of each month, except during the Council's annual vacation. The meetings will begin at 7:00 p.m. Regular meeting agendas must be posted ~~outside at the Downtown Library~~ in the City Plaza by the elevators no later than 7:00 p.m. on the preceding Friday as required by the Brown Act. ~~but~~ It is City policy to make every effort to complete and distribute the agenda and related reports by the preceding Thursday Wednesday. For major, complex projects and policies, the City will make every effort to distribute these reports two weeks prior to the meeting when the item will be considered.
- Page II-1 – revise the following sentence under Study Sessions: During regular study sessions, public comments are typically received together with oral communications at the end of the session or at another appropriate time at the discretion of the chair.
- Page II-6 section (e) (1) -- delete the words "and resolution" from the second line.
- Page II-8 subsection (5) -- delete the words "by a majority of a Council Committee".
- Page II-8/II-9 – move Unfinished business from subsection 7) to subsection 8) (b).

- Page II-9 – subsection 8) (e) Council Matters – revise verbiage at the end of the paragraph to: Colleagues memos should have a section that identifies any potential staffing or fiscal impacts of the contemplated action. This section will be drafted by the City Manager or other appropriate senior staff. Council Members should share a final draft of the proposed memo with the City Manager or appropriate senior staff prior to finalization. Completed Council colleague memos shall be provided to the City Clerk's staff by noon on the Tuesday prior to the Council meeting that the memo is intended to be agendaized, to provide time for the City Clerk to process for the Council packet.
- Page V-1 section B. 4. – delete the words "action minutes" and revise to "sense minutes".

Protocols

- Page 5 – second bullet: delete the last sentence: ~~A Board or Commission appointment should not be used as a political "reward".~~
- Page 5 – sixth bullet: Appointed Council liaisons and/or alternates are encouraged to attend all regularly scheduled meetings of their assigned Board or Commission, ~~or to arrange for an alternate.~~
- Page 6 – OTHER PROCEDURAL ISSUES, third bullet: change the seventh line to remove "Assistant City Manager" and replace with City Manager. Add sentence at the end of the paragraph: More detailed procedures relating to agenda questions can be found in the addendum to these protocols titled "Policy and Procedure for City Council E-mails for Agenda-Related Items."
- Page 7 first bullet second sentence revised to: Council should respect the work of the committees ~~and recommit to its policy of keeping unanimous votes of the committees on the consent calendar. If a matter is taken forward to the full Council for approval and it receives a unanimous vote at Committee, the item will be placed on the Consent Calendar unless otherwise recommended by the Committee or staff.~~
- Page 7 second bullet add the following sentence at the end of the paragraph: Consideration in building the agenda should be given to the potential length of the meeting and at what point items of significant public concern may be heard.
- Page 12 Procedure first bullet: Council Members should direct any questions on ~~City Managers Reports (CMRs)~~ staff reports to the Assistant City Manager City Manager or designee.

- Page 12 last bullet first sentence: add the word "highest" before the word "priority."
 - Add the existing policy for the City Council for Travel and Miscellaneous Expense Reimbursement which was adopted in March 2006 as an addendum to the Council Protocols;
- 2) page 3, bullet page II-1 A City Clerk website changes uploading agenda packet
 - 3) page 4, second bullet should be section II-8, subsection 4
 - 4) page 4, bullet Page II-9 Council Members to share a final draft of Colleagues memo for review with City Manager or appropriate senior staff
 - 5) bring back the entire text for discussion.

Mr. Keene stated his concern with Procedures, Page II-9, subsection (8)(e) and asked to delete "or appropriate senior staff". He wanted to insure the City Manager was involved in the review of all Colleagues Memos.

Council Member Yeh stated he was comfortable striking out "or appropriate senior staff".

Mayor Burt stated on Protocols, Page 4 bullet Page 7 the first bullet, he wanted to add

"Mayor has the responsibility for the agenda". It has been clear in the recent past where Council has wanted to discuss an item as a whole and the Mayor should be able to move the item to allow the full Council to discuss it.

Page 7 first bullet second sentence revised to: Council should respect the work of the committees and ~~recommit to its policy of keeping unanimous votes of the committees on the consent calendar.~~ If a matter is taken forward to the full Council for approval and it receives a unanimous vote at Committee, the item will be placed on the Consent Calendar unless otherwise recommended by the Committee or staff.

Council Member Scharff asked if a Council Committee voted 4-0 on an item it then was agendized on the Consent Calendar, but then the Mayor could decide to move the item under Action. He was in favor of the additional language.

Mr. Keene stated for the most part when there was a 4-0 vote the item went on the Council Consent Calendar. There were incidents where it seemed more

appropriate to place the item under Action for the reason Council would want to discuss it.

Council Member Scharff stated he was in favor of adding either Mayor or City Manager, his concern was allowing Staff to determine the placement of agenda items.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to include on Page 7 Protocols first bullet second sentence revised to: Council should respect the work of the committees ~~and recommit to its policy of keeping unanimous votes of the committees on the consent calendar.~~ If a matter is taken forward to the full Council for approval and it receives a unanimous vote at Committee, the item will be placed on the Consent Calendar unless otherwise recommended by the **MAYOR**, Committee or staff.

Vice Mayor Espinosa stated he felt it was important to place the language Board and Commission appointments would not be used as political rewards in the Procedures and Protocols.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to retain "A Board and Commission appointment should not be used as a political reward" on Page 5, second bullet of the Protocols.

Council Member Schmid asked about page 3, bullet Page II-1 A under Procedures; the sentence ending in "...the City will make every effort to distribute these reports two weeks prior to the meeting...." He asked to confirm major complex projects included both, planning applications and non planning applications. He stated there was a two-week period with restrictions on communications and responses for both types of applications. He asked whether there was clarifying language that should be added regarding the types of activities possible during that period.

Council Member Yeh stated the Policy and Services Committee did not discuss that, but would be open to discuss additional language as necessary.

Council Member Schmid requested the addition of language regarding planning applications where the Applicants' being eligible to make a response up to 3 business days before the City Council meeting.

Mr. Larkin stated the Procedures and Protocols would be returning to the Policy and Services Committee on December 14th regarding late submittal items. He suggested adding the follow-up of the Procedures and Protocols item to the agenda for discussion.

Mayor Burt stated on Protocols, Page 4, bullet Page 5- sixth bullet: regarding appointed Council liaisons and or alternates attending all regularly scheduled meetings. He did not feel it was appropriate to have the alternates and the liaison be required to attend all meetings.

Council Member Yeh stated the intent was to provide flexibility.

Mayor Burt requested to change the language from "and" to "or" which granted the intended flexibility of alternates attending meetings.

Council Member Scharff felt alternates should be encouraged to attend the meetings in an effort to maintain their knowledge of the Board or Commissions' matters being discussed.

Mayor Burt stated his disagreement was for alternates to attend all meetings.

Council Member Klein stated on Procedures, Page 4, bullet II-9, subsection 8) (e): he requested to delete "or other appropriate senior staff, and replace the word "should" with "shall", and add "provide a copy". He felt the Colleagues Memo was a memo between colleagues regarding a matter of importance to them; the City Manager should not have the ability to determine the context.

Page II-9 – subsection 8) (e) Council Matters – revise verbiage at the end of the paragraph to: Colleagues memos should have a section that identifies any potential staffing or fiscal impacts of the contemplated action. This section will be drafted by the City Manager or other appropriate senior staff. Council Members shall should share a final draft provide a copy of the proposed memo with the City Manager or appropriate senior staff prior to finalization. Completed Council colleague memos shall be provided to the City Clerk's staff by noon on the Tuesday prior to the Council meeting that the memo is intended to be agendized, to provide time for the City Clerk to process for the Council packet.

Council Member Yeh agreed the final approval belonged to the colleagues although he felt the City Manager should have input ability.

Council Member Klein clarified it was acceptable for the City Manager to supply input for the colleagues to consider albeit he should not have veto rights.

Mr. Keene stated his concern with the City Manager not reviewing the Colleagues Memo was the possibility of the Memo being in conflict with other policies or projects. He requested the ability to review or discuss the content

of the Memo during its composition with the authors rather than post completion.

Mayor Burt stated he believed if the City Manager was being provided a copy, he would have the prerogative to respond.

Mr. Keene stated the question then would be when the City Manager would be expected to receive a copy of the Colleagues Memo for review. He suggested the City Manager receive a copy of the Colleagues Memo no less than 3 business days prior to the Council meeting.

Vice Mayor Espinosa clarified in the current Procedures under Colleagues Memo Guidelines the Council Members were to consult with the City Manager prior to preparing the Memo.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to delete in the Procedures on page II-9-subsection 8) "or other appropriate senior staff, and replace the word "should" to "shall", and add the "provide a copy".

Mayor Burt recommended the deletion of the word "and" on page 4, bullet Page 5- sixth bullet regarding appointed Council liaisons and alternates attending all regular meetings.

Council Member Yeh asked if deleting the "and" precluded the alternates from attending the meetings.

Mayor Burt stated no.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to delete the "and" in the Protocols on page 4, bullet Page 5- sixth bullet regarding appointed Council liaisons ~~and~~ alternates attending all regular meetings.

Council Member Price asked if the incorporated language applied to the City of Palo Alto Board and Commission meetings or outside meetings as well.

Mayor Burt stated the Council Procedures and Protocols referred only to internal Board and Commission meetings.

Council Member Klein requested his Colleagues reconsider removing the line "A Board or Commission appointment should not be used as a political reward", into the Procedures. He added by replacing the statement there was a potential negative inference that could be drawn that it would be acceptable to use those appointments for financial rewards.

Council Member Yeh recalled a discussion at a Policy and Services Committee meeting where the determination was; the appointments of Board and Commission Members was voted on by all 9 Council Members; therefore, the likelihood of the appointment being for political reward was none which was a large reason why the language was stricken initially.

AMENDMENT: Council Member Klein moved, seconded by Council Member Scharff to include the sentence in the Protocols "A Board or Commission appointment should not be used as a political reward".

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

Council Member Price clarified the Procedures and Protocols would be returning to the Policy and Services Committee for review before the end of the 2010.

Mayor Burt stated yes, the ministerial matters would not return, however the substantive matters would return on December 14th.

Council Member Holman stated the assumption throughout the discussion regarding the Colleagues Memos was a copy should be given to the City Manager. She requested to add the language "and other appropriate CAO".

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to add the words in the Procedures "and other appropriate CAO" on page II-9-section 8.

MOTION PASSED: 9-0

MOTION: Council Member Scharff moved, seconded by Council Member Yeh to refer the remainder back to P&S to review with written input from Council.

Council Member Yeh asked if there would be a Brown Act issue having the Procedures and Protocols return to the Policy and Services Committee with written comment from the full Council.

Mr. Larkin stated the written input should be directed the City Clerk who could then consolidate the information and present it to the Policy and Services Committee.

Mayor Burt asked for clarification on the Quasi-Judicial hearings, was it in reference to address any meetings prior to any submittal of application.

Council Member Holman stated it was. She stated she would like the Policy and Services Committee to discuss the restructuring of City Council Study

Sessions. She felt the Council would benefit from a venue where there was freer flowing communication and an exchange of information gathering. When Council received a pre-application submittal the idea was not to look for detail, only information which could be retrieved during a Study Session, if it were restructured properly. The ARB and P&TC were constrained on what they could do if Council took a closer look at a project before they were able to review it.

Council Member Klein stated he believed there were other issues to be considered, in the Procedures on Page 2, bullet Page IV-1 section B 2. For example; e-mail had not been addressed, it was not clear as to who was being referenced in the section, he noted according to the law, members of the public and Applicants were to be treated in the same fashion whether it be via e-mail or telephone contact. The title needed to be changed since it was inclusive of Quasi-Judicial and Planned Community. He noted site visits were a time for gathering of information which had not been discussed and he felt site visits should be encouraged. He had concern with the word "autonomy of Boards and Commissions", they were not autonomous. Boards and Commissions were an advisory body to the Council.

Council Member Shepherd stated she would not be supporting the Motion. She felt the Policy and Services Committee would benefit from the Councils' input and therefore determined the Procedures and Protocols should remain with the full Council.

Council Member Holman stated if the Motion passed and the item returned to the Policy and Services Committee, she asked when the deadlines would be for Council to provide their input to the City Clerk and for the return to Council after their review.

Mr. Keene stated the meeting on the 14th of December had been agendized for discussion on the matter with the City Attorney's office, the thought was to add this matter to the agenda.

Ms. Grider stated the information needed to be received by the City Clerk by Friday, December 3rd.

Council Member Holman asked when it would return to Council.

Mr. Keene stated the return date would depend on the decisions determined by the Policy and Services Committee.

Council Member Holman stated presuming the Policy and Services Committee completed their review and edits on the 14th of December, when would the item be agendized for the Council.

Mr. Keene stated once Staff received a recommendation from the Policy and Services Committee the recommendation was agendaized for the upcoming or at the latest the following Council meeting.

Ms. Grider clarified the earliest the item could return to Council would be January 10, 2011.

MOTION PASSED: 8-1 Shepherd no

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Mayor Burt reported at the recent Policy Makers Working Group meeting, attendees were informed the Draft Environmental Impact Report would be delayed, for a possible substantial period of time due to funding issues. He attended a Save Caltrain Group meeting with regards to finding a dedicated funding source for Caltrain.

Council Member Klein reported on attending the Bay Area Water Supply Conservation Agency on Thursday the 18th. Two important issues discussed were water usage was down 15 percent from last year for the twenty-six cities whom used the water system.

ADJOURNMENT: The meeting was adjourned at 12:04 a.m.