

Special Meeting
November 03, 2008

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:01 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton, Schmid, Yeh arrived at 6:15 p.m.

Absent:

CLOSED SESSION

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager James Keene
Authority: Government Code section 54957

2. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Authority: Government Code Section 54956.8
Property: 3281 E. Bayshore Road, APN 8-5-005
Negotiating Party: John Anderson, AR Automotive, LLC dba Anderson Honda
City Negotiator: James Keene, Steve Emslie, Lalo Perez, Donald Larkin, Bill Fellman
Subject of Potential Negotiations: Price and Terms of Payment

City Council reconvened from Closed Session at 7:16 p.m.

City Attorney, Gary Baum, stated no Action was taken during Closed Session. The performance evaluation was a goal-setting discussion for the City Manager.

STUDY SESSION

3. Comprehensive Reusable Bag Program and Related Actions on Plastics and Polystyrene.

Manager of Environmental Compliance Phil Bobel gave a presentation on the City's Comprehensive Reusable Bag Program. He stated that the City Council will be asked to consider restrictions on plastic bags and expanded polystyrene (styrofoam) in a series of phases beginning in December 2008. These actions are being developed because styrofoam and other plastics make up a substantial portion of the waste stream, and are an even greater fraction of the litter found in local creeks. Plastic bags and Styrofoam break apart into small pieces and become part of local and ocean ecosystems

where they can be ingested by marine animals. Due to the fact that removal of the small pieces from the ocean is infeasible, an alarming buildup appears to be occurring. To retard this buildup, a program to shift to reusable bags where feasible has been developed. Components of the program being developed include public outreach, reusable bag give-aways, store employee training, and restrictions on certain plastic bags. In addition, fees on paper bags to incentivize use of reusable bags are being studied. An action to eliminate distribution of styrofoam food service containers by food vendors is also being developed. The first two actions to be forwarded to Council for adoption will be the elimination of single use plastic checkout bags at large grocery stores and the elimination of styrofoam by food vendors. These actions are likely to be considered at Council meetings in mid to late December, 2008.

Girl Scout Troop 60626, Nixon Elementary school members, spoke on their Bronze Award Project activities to support the banning of plastic bag pollution arena. The group left pledge forms signed by students and parents, and also left reusable fabric grocery bags with Council.

Walt Hays, 355 Parkside Drive, spoke in favor of the staff recommendations. He stated the negative impacts of the recommendations were exaggerated.

Michael Westerfield, 1630 Henrietta Street, Redlands, CA 92373, offered a zero-lease basis program to recycle the food service container products and other foams, through Dart Containers.

Tim James, California Grocers Association, 1915 L Street, #450, Sacramento, opposed fees and bans to control plastic bags. He stated he would work with jurisdictions who want to take this route.

Stephen Joseph, Counsel, Savetheplasticbag.com, P.O. Box 221, Tiburon, asked Council to visit their website to clear the myths about plastic bags

Kent Ragen, 2310 Homestead Road, Los Altos spoke on motivating consumers to reduce and reuse disposable bags.

Ryan Kenny, 1121 L Street, #609, spoke against the proposal and stated it was anti-consumer, anti-environmental and anti-business. He promoted recycling instead.

Robert Berman, 535 West Crescent Drive, spoke on his business in manufacturing plastic bags and summarized his recommendations on reusing and recycling plastic bags.

Trish Mulvey, 527 Rhodes Drive, spoke in support of the recommendations to move from single-use plastic bags to paper.

Alex Tesler, 3731 Middlefield Road, spoke on education and enforcement issues in regards to single-use plastic bag restrictions.

Amalia Chamorro, 621 Capitol Mall, Sacramento, gave background information on the economic factors and impacts on restaurants of the single-use plastics ban.

No action required by the Council.

CITY MANAGER COMMENTS

City Manager, James Keene, spoke specifically to the issues and concerns generated by comments made by Police Chief Lynne Johnson which had negative connotations regarding racial profiling. He went over the four steps taken in this matter which included:

1. Police Chief Lynne Johnson's apology.
2. The Independent Police Auditor's upcoming report to Council on his review of the Department's policy.
3. Next week's Council meeting's inclusion of an Action item for Council to allow public reconfirmation and commitment to, and complete opposition of, racial profiling in the City of Palo Alto.
4. The City Manager's personal outreach to the City of Palo Alto workforce to ensure all employees that the City of Palo Alto is an organization of inclusion and tolerance.

Police Chief, Lynne Johnson, publicly apologized and expressed her regrets for the comments made at the last Town Hall Meeting. She retracted her statements. She acknowledged the anger, outrage and mistrust her comments caused. She does not condone racial profiling. She spoke to actions she took, and will continue to take, to deal with this problematic issue.

ORAL COMMUNICATIONS

Matthew Miller, Stanford Student, thanked the Chief of Police for her apology but wished to continue the dialogue regarding this issue.

Ashley Anderson, Stanford Student, spoke to the ramifications of the racial profiling issue.

Yvorn Aswod-Thomas, Stanford Student, recommended options to make the area around the Caltrains station safer for the community. He asked for community education on crime prevention and reporting beyond skin color.

Michael Tubbs, Stanford Student, stated racial profiling does exist. He spoke to prevention efforts, the need for diversity training programs, and the continued respect of all Palo Alto citizens.

Michael Rollerson, 345 Sheridan #113, spoke regarding the ramifications of the Police Chief's comments and the negative message it sent to families and children in the community. He stated the Police Chief should resign.

Ruben Martinez, 345 Sheridan Avenue #103, spoke regarding racial profiling and included his own personal experiences with the police in the past.

Don Letcher, 788 North Rengstorff Avenue, Mountain View, spoke regarding problems of racial profiling, reporting and investigation. He stated this needs to be looked into further, especially written complaints.

Bill Green, 225 Greenmeadow, spoke to the Chief Johnson's positive tenure activities and efforts within the Police Department in reducing racial profiling issues. He spoke to continued protection of all citizens.

Aram James stated the information he presented to Council was a case against the Chief.

Dr. Anthony E. Darrington, Sr., 243 Margarita Avenue, spoke to his concern regarding the tensions that have come about since the Police Chief's comments. He spoke to the necessity for her resignation.

John K. Abraham, 736 Ellsworth Place, spoke about the demographic reports on discretionary police stops, which excluded four obscurely published reports on the issue. He spoke to the actual demographics of the stops.

Ron Wormley, Box 60112, spoke regarding his experiences in Palo Alto since 1952. He spoke of his concerns over Police Officers who may be lying in wait at certain points in the community and making unjustified stops.

Ronna Devincenzi, 2600 El Camino Real #100, spoke regarding Chief Johnson's remarks at the Town Hall Meeting. She was shocked by the issue but felt the Chief's apology was appropriately stated.

Mark Petersen-Perez, spoke regarding Chief Johnson's remarks, and stated that she should be removed from her position. He spoke to restoring accountability.

Robert Moss, 4010 Orme Street, stated Chief Johnson had mis-spoke, and this was not her usual way of operating. He stated there were valuable efforts being made to reduce the problem of racial profiling.

Joe Hirsch, 4149 Georgia Avenue, spoke regarding no parking signs on Georgia Avenue and reducing the number of the signs. He stated there are a number of over-ticketing problems in the area.

Herb Borock, P.O. Box 632, spoke regarding the Agenda Order, Police Auditor tasks and the City Manager's report.

Council took a break at 9:47 p.m.

APPROVAL OF MINUTES

MOTION: Council Member Barton moved, seconded by Council Member Espinosa to approve the minutes of September 15, 2008.

MOTION PASSED: 9-0

CONSENT CALENDAR

MOTION: Council Member Burt moved, seconded by Council Member Yeh to pull Consent Calendar Item No. 4 to become Agenda Item No. 10A.

MOTION: Council Member Morton moved, seconded by Council Member Barton to approve Consent Calendar Item Nos. 5- 10.

~~4. Policy and Services Committee Recommendation to Approve a Below Market Rate (BMR) Program Resale Price Formula Policy to Continue the Existing Consumer Price Index (CPI) Formula with an Annual Maintenance and Replacements Credit Program.~~

5. Approval of a Utilities Enterprise Fund Contract with Lewis and Tibbitts, Inc. in the Amount not to Exceed \$3,859,795 for Capital Improvement Program GS-07002, Gas Main Replacement Project 17, in the College Terrace, Evergreen Park, Ventura, Crescent Park, University South, Duveneck/St. Francis and University Park Subdivisions.

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MOTION PASSED: 9-0

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 10A. (Former No. 4.) Policy and Services Committee Recommendation to Approve a Below Market Rate (BMR) Program Resale Price Formula Policy to Continue the Existing Consumer Price Index (CPI) Formula with an Annual Maintenance and Replacements Credit Program.

Council Member Burt voiced his belief that this item warranted attention from the entire Council. He stated his concerns over the evolution of the project. He stated the project recommendations have improved. He voiced questions regarding the outcome versus the original intent of the project. He stated there should be a more frequent Council review on a fixed frequency for looking at and modifying this program.

Council Member Kishimoto concurred with the concerns raised this evening; however, she stated that the new criterion of the BMR formula meets those concerns.

MOTION: Council Member Kishimoto moved, seconded by Council Member Barton to adopt Policy and Services Committee and staff recommendation to approve the Below Market Rate (BMR) ownership program resale price formula policy to continue the current one-third of the percentage change in the Consumer Price Index (CPI) together with the annual maintenance and replacements credit, which was approved by Council on March 24, 2008.

Council Member Kishimoto asked for staff's response on how often this should return for Council review.

Interim Director of Planning/Community Environment, Curtis Williams, was in support of an every five-year review.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER Council will review the BMR program every five years.

Mayor Klein stated the first review would be at the end of the year 2013 with this inclusion.

Council Member Schmid spoke in support of the Motion. He was also in support of the every five-year review.

Council Member Morton clarified the difference between a housing contract and an equity-sharing arrangement. He supported the Motion and staff recommendations.

Council Member Burt stated opposition to the Motion.

MOTION PASSED: 8-1 Burt no

PUBLIC HEARINGS

11. Approval of Lease to Palo Alto Lawn Bowls Clubs, Inc. for the City-Owned 474 Embarcadero Road, to the Palo Alto Lawn Bowls Club, Inc.

Senior Financial Analyst, Donna Hartman, gave an overview of the approval for the five-year lease agreement with lease amounts and provisions. She spoke to the Club's existence and history in the community.

Council Member Morton asked if the Club had agreed to the rent. He asked if Council had proposed the rent, and if this would be a policy change in Community Service in order to recoup costs.

Interim Director of Community Services, Greg Betts, stated the lease amount was by mutual consent of the City and the Club.

Council Member Morton stated it was important to consider the fact that the City would be responsible for absorbing these operating costs if problems arose.

Council Member Yeh asked about the availability of the Club to the public. He asked about the mechanisms currently used versus future web-based reservations and management. He asked whether there was potential for renting out the larger space facilities for community activities.

Mr. Betts stated the Club creates a schedule for the use of the clubhouse. The Club has the first right to decide on meetings and activities. The Club also has programs to rent out the facility for team-building with corporations. He stated the City had a shortage of classroom and activity space. He stated an event that would fit the confines of the clubhouse space could be considered. The Club did not want to be a facility's manager for these extra activities and events.

Director of Administrative Services, Lalo Perez, stated the Website Review Committee would look into this.

Council Member Yeh asked if the maintenance costs included the Club staffing costs on organizing these activities prior to the web-based management.

Mr. Betts stated this was included in the budgeted maintenance costs.

Council Member Espinosa asked about the long-term costs. He asked if cost neutrality was reviewed. He asked whether there was a revenue-building plan to cover these costs and inquired if there was a marketing plan.

Mr. Perez stated the artists' studios specifically do not have such a plan.

Council Member Espinosa asked if other rooms' and other tenants' revenue might be brought in for cost neutrality.

Mayor Klein stated there is nothing close to revenue neutrality with regard to recreational and cultural activities in the City.

City Manager Keene stated there is no consistent, across the board, approach to ensuring cost neutrality.

Mr. Perez stated locations, accommodations and aging of the facilities must be taken into consideration.

Mr. Betts stated there was a higher rate of return on rentals as opposed to classroom activities. He stated the intangible was that the Club is a premier facility with a component which relates to Destination Palo Alto and tourism revenue in cost recovery.

Council Member Espinosa stated this is a facility that could be used for other events. He stressed a marketing plan would be appropriate.

Mr. Perez stated they would look at ramping up the information about the site in their literature to the public and on their website.

Council Member Schmid asked if this was a piece of land given to the City for the expressed purpose of the lawn bowling site. He asked for clarification on how this land acquisition came about.

Mr. Perez stated it was part of the Gamble Garden Endowment.

Council Member Schmid spoke about park usage and the intense demand for parks and specific recreational uses. He asked for a more broad explanation for park usage in the City's Comprehensive Plan.

Public Hearing opened at 10:30 p.m.

John Hickson, past President of Palo Alto Lawn Bowls Clubs, Inc., cited the Club player census, number of games and tournaments, and usage of the Club grounds.

Council Member Schmid asked if there was a youth program.

Mr. Hickson stated they encouraged youth members with a low youth club rate.

Council Member Schmid asked how this goal could be articulated in the city.

Mr. Betts stated the City has 36 different parks, not including Open Space areas. He stated there are a variety of uses for facilities and some with specific or unique activities.

City Attorney Gary Baum stated the agenda item was specifically regarding the lease agreement.

Mr. Klein agreed this was not the time for a discussion on park usage.

Council Member Kishimoto spoke positively of the facility. She asked if park staff was responsible for supervising lawn bowling activities or groups.

Mr. Betts stated the first point of contact is through the Club. Club volunteers would make arrangements and serve as coaches in order to build on future Club attendance.

Council Member Burt asked if, in addition to the clubhouse, could a group use the lawn bowling greens. He asked what the mechanism and boundaries were for this.

Mr. Betts stated the Club would handle anything beyond the clubhouse, such as a lawn bowling activity. He stated they are working on fee components for rental of these activities. He stated appropriate events would then be further discussed as well as an appropriate marketing plan.

Council Member Burt asked if there was a clear mechanism in place for someone who wanted to rent the clubhouse and the green at the same time

Mr. Hickson stated the Club is promoted in whatever way possible. He stated they have a website. He stated they continue to look for opportunities to promote the club.

Council Member Burt suggested a link between the City's website and the Club's website to increase visibility and information about the Club.

Public Hearing closed at 10:47 p.m.

MOTION: Council Member Morton moved, seconded by Council Member Espinosa to accept staff recommendation to approve the five-year lease between Palo Alto Lawn Bowls Club, Inc. (Tenant) and the City of Palo Alto (City) for the Palo Alto Lawn Bowl facility at 474 Embarcadero Road.

Council Member Morton thanked staff for bringing this issue forward. He stated the importance of keeping the history alive regarding these older heritage clubs.

Council Member Espinosa thanked staff and more specifically the club members for their continued volunteer work.

MOTION PASSED: 9-0

Mayor Klein announced that staff recommends moving Council Comments, Announcement, and Reports from Conferences forward to be heard before Agenda Item No. 12. There were no objections by Council Members.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Kishimoto spoke regarding the press release from the Bay Area Air Quality Management District regarding no wood burning on certain spare the air days after November 1, 2008. She also mentioned the Kimono exhibit in the City Hall lobby.

Council Member Espinosa asked who would be enforcing this regulation.

Council Member Kishimoto advised that the Bay Area Air Quality Management District employees would be enforcing the no wood burning regulation.

Council Member Yeh thanked the City Manager for bringing the Police Chief item to Council this evening, and he inquired about what the City Manager would be bringing forward next week.

City Manager James Keene advised that staff would include current Police Department policies on racial profiling; they would be putting together a Resolution for Council to approve stating Council's position on racial profiling. Staff would work with the Independent Police Auditor to have them review current policies and decide if they needed to be more robust.

CLOSED SESSION

12. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION
Subject: Harvey Jones v. City of Palo Alto, et al., Santa Clara County
Superior Court Case No.: 108CV106206
Subject Authority: Government Code section 54956.9(a)

Mayor Klein advised no reportable action taken.

ADJOURNMENT: The meeting adjourned at 11:10 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

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