

Special Meeting  
March 22, 2010

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:46 p.m.

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

Absent:

CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Authority: Government Code Section 54956.8

Property: 4000 Middlefield Avenue, Assessors Parcel Number:  
147-08-052

Negotiating Party: Andy Dunn, Vice Chancellor Business Services,  
Foothill De Anza Community College District

City Negotiator: James Keene, Donald Larkin, Steve Emslie,  
Lalo Perez, Martha Miller

Subject of Potential Negotiations: Price and Terms of Payment for Sale

Ken Horowitz, 525 Homer Avenue #1, spoke in support for the sale of the property to Foothill De Anza Community College.

Carolyn Dobervich, 241 Parkside Drive, spoke on Greenmeadow Community Association's support for the City's outreach regarding this potential sale.

The City Council returned from the Closed Session at 8:57 p.m. Mayor Burt advised the City Council voted 8-1, with Vice Mayor Espinosa voting no, to schedule a joint meeting with the City Council and the Palo Alto Unified School District Board Members, with a presentation from representatives from Foothill De Anza Community College, within the next 60 days regarding the eight acres at Cubberley Community Center.

City Attorney, Gary Baum inquired whether the City Council's intent was to meet with representatives from Foothill De Anza Community College, and not necessarily the Trustees from Foothill De Anza Community College.

City Manager, James Keene felt it was the intent of the City Council to invite Foothill De Anza Community College representatives to present information to the City Council and Palo Alto Unified School District Board Members.

Mayor Burt stated the joint meeting would be inclusive of the City Council, City Staff, and the Palo Alto Unified School District Board Members.

Council Member Klein stated his understanding was to hold a joint meeting, of the City Council and Palo Alto Unified School District Board Members with a combination of Trustees and staff members from Foothill De Anza Community College presenting information.

Council Member Price requested that the joint meeting include: 1) an informational presentation about the details of the Cubberley contractual agreement between the City and PAUSD; and a broad discussion on the current and future planned uses at Cubberley Community Center.

#### CITY MANAGER COMMENTS

City Manager, James Keene advised he had nothing to report.

#### ORAL COMMUNICATIONS

John Abraham, 736 Ellsworth Place, spoke on the Palo Alto Independent Police Auditor's information on demographic data and racial profiling.

Mark Peterson-Perez, Cowper Street, spoke on jurisdictional issues regarding oral communication speaker cards, and a Palo Alto Police Officer who was arrested for driving under the influence.

Aram James, spoke on his support for the City to obtain an independent statistician to review the Palo Alto's Independent Police Auditor's information on racial profiling.

#### ACTION ITEMS

2. Review of Council Procedures and Protocols and Referral to Policy & Services Committee.

City Manager, James Keene stated the review of Council Procedures and Protocols was an annual Agenda Item. He spoke on its background and intention. He indicated the Council Procedures and Protocols were subject to change at the City Council's discretion.

City Clerk, Donna Grider highlighted the Council Procedures pertaining to telephonic meeting participation, Colleagues Memos, removal of Agenda Items from the Consent Calendar, Motions, Amendments and Substitute Motions, and minor changes proposed by Staff that should be corrected.

Mr. Keene overviewed the recommended format for the City Council to follow in discussing the Council Procedures and Protocols. The City Council should identify issues and concerns and refer them to the Policy and Services Committee (P&S). P&S would review and integrate the comments into a revised handbook which would return to the City Council. He spoke on the background and process of Colleagues Memos, and importance of providing a draft copy of Colleagues Memos to the City Manager's Office prior to finalization. He stated minor language corrections needed to be amended throughout the Council Procedures and Protocols. He spoke on the Council Protocol's key provisions regarding City Council conduct with Staff.

Council Member Klein requested clarification on the Council procedure regarding removing items from the Consent Calendar.

Ms. Grider stated any Council Member may request that an item be removed from the Consent Calendar by notifying the City Manager in writing no later than noon on the day of the meeting.

Council Member Klein stated the removal of a Consent Item with no advance notice was appropriate and should be amended within the Council Procedure.

Ms. Grider agreed with Council Member Klein.

Council Member Schmid stated there was ambiguity in the Council Procedures for an item recommended for approval, if the Council Members unanimously recommended placement of an item on the Consent Calendar, by a majority of the Council Members.

Ms. Grider recommended that the last part of the section be removed to make the Council Procedures read more clearly.

Council Member Schmid inquired to whom Council Members should submit Council questions.

Ms. Grider stated the current language directed the City Council to submit Council questions to the Assistant City Manager. She stated Staff's recommendation was to direct the City Council to submit Council questions to the City Manager.

Council Member Schmid stated regular City Council meetings were held on the first three Mondays of each month. The fourth Mondays of recent months had been scheduled for special City Council meetings. He inquired whether the City Council meeting schedule should be changed.

Mayor Burt stated that was a discussion item for the City Council, rather than a question for Staff.

Vice Mayor Espinosa inquired why the Council Procedures and Protocols were not highlighted with the minor changes that were requested by Staff.

Ms. Grider stated the Council Procedures and Protocols would be thoroughly reviewed by P&S.

Vice Mayor Espinosa inquired on a previous consideration made by the City Council to display a large sign welcoming citizens to meetings, and informational handouts on Oral Communications and Agenda Items to increase engagement with citizens.

Mr. Keene stated this consideration would be forwarded to P&S for consideration within the Council Procedures and Protocols.

Council Member Shepherd requested clarification on when Oral Communications were heard during special Study Sessions.

Mayor Burt stated, in special Study Sessions, the City Council routinely heard Oral Communications subsequent to the City Council's discussion.

Council Member Scharff stated, per the Council Procedures, special City Council meetings could be called by the Mayor or City Council Members. He inquired whether the Mayor had been calling special City Council meetings on the fourth Mondays of selected months.

City Attorney, Gary Baum stated either the Mayor or majority of the City Council, in the event the Mayor was unavailable, could call a special City Council meeting per the Brown Act.

Council Member Scharff stated the Council Procedures did not specify that a special City Council meeting could be called by the Council Members if the Mayor was unavailable. He inquired on the outcome of a scenario where the Mayor disagreed with the majority of the Council Members' vote to call a special meeting.

Mr. Baum stated he prepared a form that complied with the Council Procedures and the Brown Act. He spoke on an example where five Council Members requested a special City Council meeting, which did not have the support of the Mayor, by filing the form with the City Clerk.

Council Member Scharff inquired whether the Brown Act would be violated if five Council Members discussed the potential of setting a special City Council meeting.

Mr. Baum stated the Brown Act would not be violated in this case.

Council Member Scharff stated the Council Procedures and Protocols were unclear on how to contact Council Members to call a special City Council meeting. He was unfamiliar with the City Attorney's form.

Council Member Price inquired whether there was a place within the Council Procedures and Protocols which allowed the City Council to provide input and guidelines on the building of agendas.

Ms. Grider stated there was currently no place within the Council Procedures and Protocols that allowed the City Council to provide input, discussion, or guidelines on the building of agendas.

Mr. Keene stated there was currently no opportunity for routine involvement, except for the Mayor, in the setting of items on the agenda. He indicated the City Council had the opportunity to add Colleague's Memos on agendas, and pass motions to continue agenda items to future dates.

Council Member Price inquired whether the City Council had an opportunity to establish the kinds of topics covered in one evening, outside of formulating a Colleague's Memo.

Mayor Burt stated Council Members could notify him on perspective agenda items and their placement on agendas, or they could formulate a Colleague's Memo.

Council Member Klein felt there were ample ways currently in place that allowed the City Council to change the order of agenda items. He spoke on the section of the agenda called Agenda Changes, Additions, and Deletions.

Council Member Holman inquired whether the Council Members that served on P&S were required to bring forth questions and comments at this time.

Mr. Keene stated the Council Members that served on P&S were not required to speak at this time.

Council Member Holman inquired whether issues not talked about would be discussed at P&S.

Ms. Grider stated that was correct.

Fred Balin, 2385 Columbia Street, spoke on his support for the City Council to adopt a clear protocol to disapprove of City Council communication related to quasi-judicial or Planned Community agenda items in private.

Council Member Schmid stated discussion items for P&S to consider were to regulate the City Council's workload and agenda items, meet consistently every Monday, and conduct important agenda items by 11:00 p.m.

Council Member Scharff spoke on the Council Procedure related to approving the discussion of agenda items after 10:30 p.m. He stated a discussion item for P&S to consider was adding a fourth City Council meeting monthly. He felt cutting back on the City Council's workload was not an option.

Mayor Burt stated the definition of the word protocol should be clarified by P&S. He spoke on the following Council Procedures that displayed inconsistencies with current City Council practices: 1) channeling communication through appropriate Staff members; 2) setting up meetings with Staff; and 3) attendance of Council liaisons to their assigned Board or Commission. He inquired whether keeping unanimous votes of the committees on the Consent Calendar was in the Council Procedures.

Mr. Keene stated yes.

Mayor Burt stated respecting the work of the committees and recommitting its policy of keeping unanimous votes on the Consent Calendar was intended to keep agenda items on the Consent Calendar. He stated the procedure was to discourage items, voted unanimously by standing committees members from being pulled off the Consent Calendar. He stated clarity was needed in regards to submitting Council questions on agenda items no later than 9:00 a.m. on the date of the meeting. He stated clarity was needed on Staff giving priority to Council questions on Consent Calendar agenda items.

Assistant to the City Manager, Kelly Morariu stated the intent of the Council Procedure was to respond to Consent Calendar questions first so they could potentially remain on the Consent Calendar.

Mayor Burt stated calling special City Council meetings needed to be clarified by P&S, as introduced by Council Member Scharff. He stated incorporating the fourth Monday of each month as a regularly scheduled meeting and agenda meeting management should be discussed by P&S. He spoke on posting of information per the Americans with Disabilities Act at the entrance of the Council Chambers entrance. He encouraged P&S to reexamine the teleconference guidelines.

Council Member Schmid stated it would be beneficial for P&S to discuss when the City Council should expect addendums to meeting agendas.

Mayor Burt stated P&S should consider a Council procedure where they could not hold an ex parte meeting on quasi-judicial matters preceding review by the Planning and Transportation Commission and Architectural Review Board.

Vice Mayor Espinosa stated P&S should consider a review of technology that could aid or impair the City.

Council Member Price inquired who would be responsible for prioritizing the items discussed.

Mayor Burt stated the P&S Chair should take the lead on prioritizing the discussion of items.

Council Member Yeh spoke on an outline of Council prioritized items for P&S to review.

Council Member Scharff spoke on approving new City Council matters after 10:30 p.m. He was unsure whether there was ample time to discuss Agenda Item No. 3.

Mayor Burt stated the City Council would complete Agenda Item No. 2, and then review the balance of the City Council agenda.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Klein to forward the Council Procedures and Protocols to P&S for review and changes.

**MOTION PASSED:** 9-0

3. Adoption of 2010 Council Top Five Priorities and Workplan.

Mayor Burt spoke on the balance of the City Council agenda, per the Council Procedure regarding agenda items considered after 10:30 p.m.

Council Member Scharff stated his preference was to continue Agenda Item No. 3 to a later date.

Council Member Yeh suggested that the City Council hear the public comment for Agenda Item No. 3.

Council Member Holman suggested that the City Council hear the public comment, and formally adopt the five City Council Priorities for 2010. She indicated discussing the Agenda Item could be done at a later date if needed.

City Manager, James Keene concurred with Council Member Holman.

Mayor Burt suggested the City Council continue the Agenda Item until 11:00 p.m. and memorialize the five City Council priorities.

Vice Mayor Espinosa inquired on an approximate length of the Staff presentation.

Mr. Keene stated the Agenda Item was a simple briefing because Staff anticipated input from the City Council that would be reviewed by the Policy and Services Committee (P&S).

Vice Mayor Espinosa urged the City Council to adopt the five Council Priorities.

**MOTION:** Council Member Klein moved, seconded by Council Member Holman to adopt the Staff recommendation that the Council adopt the five Council Priorities for 2010 and tentative approval of the associated Workplan subject to additional work by the Policy & Services Committee.

Annette Glanckoff, 2747 Bryant Street, spoke on her support for the Council Priority Workplan (Workplan) regarding emergency preparedness, and steps that could be followed to safeguard the community in an emergency.

Council Member Scharff inquired whether the Summary of Council Priority Workplan Strategies (Strategies) would be forwarded to P&S, upon adoption of the Motion.

Mr. Keene stated the Workplan and Strategies would be forwarded to P&S, upon the adoption of the Motion.

Council Member Scharff stated a large number of items in the Workplan had strong financial implications that should be reviewed by the Finance Committee.

**SUBSTITUTE MOTION:** Council Member Scharff moved, seconded by Council Member Schmid to adopt the five Council Priorities for 2010 with referral of the Workplan to Policy & Services Committee and Finance Committee.

Council Member Scharff stated minutes were required from P&S prior to the City Council taking a recommendation from them. P&S had reviewed the tentative Workplan three times and he had not seen the minutes from said meetings. He inquired whether the recommendation was from P&S, and felt the Motion should not be approved because it may violate the Council Procedure. He felt the Workplan should be referred to the P&S without tentative approval by the City Council.

Mr. Keene stated the Workplan was a work-in-progress and would continue to be refined. The Workplan was not theoretically endorsed by P&S, but part of a conversation with them. Staff intended to return to the City Council in early July with a progress report related to the Workplan.

Mayor Burt inquired whether it was a violation of the Council Procedures on approving the Agenda Item prior to the City Council reviewing the minutes from P&S.

Mr. Keene stated no, because the Agenda Item was presented as a Staff product.

Council Member Yeh stated the Strategies were a product from the City Council Retreat Meeting held on January 29, 2010. He stated strategic detail was made on two of the five Council Priorities. Since January, the three remaining Council Priorities were strategized and developed in P&S. At the City Manager's direction, P&S studied the service-end of City business to prioritize programs and services. He stated the Workplan was developed by Staff. He overviewed the columns of the Workplan; the matrix was a mechanism for visually representing the staffing and resources necessary to implement the Workplan.

Vice Mayor Espinosa raised his concern for postponing further discussions until July 2010. The Workplan fell within the purview of P&S. He felt the Workplan should not be reviewed by the Finance Committee. He inquired whether Staff's intention was for the City Council's feedback only, or to approve the Workplan when the Agenda Item returned in July 2010. He inquired on the rollout of the updated See-It site, and how the City Council would receive updates on the Workplan.

Assistant to the City Manager, Kelly Morariu stated the Council Priorities and Strategies have been incorporated into the See-It site. The goal of Staff was to work in parallel with the Workplan and update the See-It site on a regular basis. Staff was looking into building existing City projects onto the See-It site and revising the scheme of the site.

Mr. Keene stated the Workplan and See-It site were tools used to organize City business and make it easily explicable. He stated the Workplan may contain more work than seemingly possible to complete, due to staffing and resources available, and items may be revised or removed.

Council Member Schmid spoke on the amount of work that had gone into preparing the Workplan and Strategies. He stated the City Council's role should remain as a strategic advisor, and identifying critical questions that reflected the City Council's priorities should be assessed.

Council Member Price stated information should be organized in an informative way that guides the City Council on policy-making discussions. She spoke on her support to have the Finance Committee's input on the five City Council Priorities that related to budgetary items.

Council Member Holman spoke on the work ahead of P&S regarding the structuring, prioritizing, and correcting of minor errors within the Workplan. She stated P&S would work with Staff to develop tools to help the City Council understand Staff's workload and resource implications.

Council Member Klein urged a no vote on the Substitute Motion.

Vice Mayor Espinosa suggested that P&S hold additional meetings on the Workplan in order to return to the City Council earlier.

Mayor Burt concurred with Vice Mayor Espinosa. He supported Staff seeking input from the Finance Committee.

**MOTION TO CALL THE QUESTION:** Council Member Klein moved, seconded by Council Member Holman to call the question.

**MOTION TO CALL THE QUESTION PASSED:** 6-3 Price, Scharff, Schmid  
no

**SUBSTITUTE MOTION FAILED:** 1-8 Scharff yes

**MOTION PASSED:** 8-1 Scharff no

Mayor Burt suggested that P&S clarify how a work item no longer becomes a priority.

#### COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Shepherd announced that she attended the Bay Area City Attorneys Association (BACA) meeting with City Attorney, Gary Baum several weeks ago.

Council Member Yeh reported that the third and final Youth Forum will be held on Saturday, April 3, 2010.

Council Member Klein reported on attending the National League of Cities Congressional Cities Conference 2010 in Washington, D.C. last week. He urged Palo Alto citizens not to sign the petition that the fire fighters will be circulating for signature regarding their Charter Amendment ballot measure to maintain fire department staffing levels.

Vice Mayor Espinosa spoke about the Google Open Fiber deadline on Friday, March 26, 2010. He thanked those that have worked towards making it possible.

City Manager, James Keene stated the responses to the proposal were due March 26, 2010 and that we are already in the fiber business, so there would be no learning curve by the City.

Vice Mayor Espinosa urged everyone to go to the City of Palo Google Open Fiber webpage and sign up, get friends and family to sign up, submit photos, videos to help us through the final stretch of the Request for Proposal period.

ADJOURNMENT: The meeting adjourned at 11:08 P.M.