

Special Meeting  
April 05, 2010

CLOSED SESSIONS .....	69
1. CONFERENCE WITH LABOR NEGOTIATORS .....	69
SPECIAL ORDERS OF THE DAY .....	69
2. Appointments for the Human Relations Commission for One Unexpired Term Ending on March 31, 2012 and Two Terms Ending on March 31, 2013. ....	69
CITY MANAGER COMMENTS .....	70
ORAL COMMUNICATIONS .....	70
APPROVAL OF MINUTES .....	71
CONSENT CALENDAR .....	71
3. Finance Committee Recommendation to Accept the Auditor’s Office Quarterly Report as of December 31, 2009. ....	71
4. Resolution 9045 entitled “Resolution of the Council of the city of Palo Alto Expressing Appreciation to Rajesh Mashruwala for Outstanding Public Service as a Member of the Library Advisory Commission.” .....	71
5. Approval of an Amended and Restated Public/Private Partnership Agreement Between the City of Palo Alto and the Palo Alto Recreation Foundation Concerning Mutual Assistance for the Provision of Community Service Programs. ....	71
6. Approval of Agreement with the Palo Alto Weekly for Newspaper Advertising Services in the Not to Exceed Amount of \$150,000 per Year for a Three Year Period, for a Total Value of \$450,000. ....	71
7. Budget Amendment Ordinance 5075 for Fiscal Year 2010 to Provide an Additional Appropriation of \$25,981 to Capital Improvement Program	

	(CIP) PE-11011, Highway 101 Pedestrian/Bicycle Overpass/Underpass Project; and Approval of a Contract with Alta Planning & Design in the Amount of \$110,981 for Highway 101 Pedestrian/Bicycle Overpass/Underpass Feasibility Study (PE-11011) and \$15,000 for Public Outreach, Noticing, Printing and Mailing. ....	71
8.	Resolution 9046 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Execute the Cooperative Assistance Agreement Between the City of Palo Alto and the United States Department of the Interior, Bureau of Reclamation for the Disbursement of \$5,000,000 in Title XVI Federal Grant Funds for the Palo Alto, Mountain View/Moffett Area Recycled Water Pipeline Project (CIP WQ-04010)." .....	72
9.	Approval of a Wastewater Treatment Enterprise Fund Contract with Veolia ES Technical Solutions, LLC for a Period of Three Years for Provision of Services for Transportation and Disposal of Ash and Sludge for the Regional Water Quality Control Plant with Funding for the First Year Approved in the Amount of \$144,510. ....	72
	ACTION ITEMS.....	72
10.	Finance Committee Recommendation Regarding Adoption of: (1) Budget Amendment Ordinance 5076 Amending the Budget for Fiscal Year 2010 to Adjust Budgeted Revenues and Expenditures in Accordance with the Recommendations in the Midyear Report and, (2) Resolution 9047 Amending the FY 2006-2009 Compensation Plan for Classified Personnel (SEIU) Adopted by Resolution No. 8658 to Add Two New Classifications, Change the Compensation for One Existing SEIU Classification and Change the Title of One Classification.....	72
12.	Acceptance of the Regional Water Quality Control Plant Site Feasibility Study and Authorization to Proceed with an Environmental Assessment of a Recycling Center and Permanent Household Hazardous Waste Drop-Off Facility Improvements for the West Side of the Regional Water Quality Control Plant Site .....	74
11.	Recommendation to Direct Staff: 1) To Defer Further Action on an Anaerobic Digestion (AD) Facility or Aerated Static Pile (ASP) Composting Facility Within Palo Alto, Until and Unless a Usable Site is Identified; 2) To Examine the Feasibility of Energy Conversion Technologies (Including AD Technologies) During the Upcoming Regional Water Quality Control Plant Master Planning Process; 3) To Pursue Local Partnering Opportunities with SMaRT® Station Partners and/or Local Organic Waste Processing Companies that are Developing Private or Energy Conversion Facilities Within a 20-Mile Radius of Palo Alto; and 4) To Resume Acceptance of Commercial Garbage at the Landfill. ....	74

13. Adoption of an Ordinance Amending Title 2 (Administrative Code) of the Palo Alto Municipal Code to Amend Section 2.28.230 (Claims) of Chapter 2.28 (Fiscal Procedures), Section 2.33.110 (Refunds; Credits) of Chapter 2.33 (Transient Occupancy Tax), Section 2.34.220 (Refunds) of Chapter 2.34 (Real Property Transfer Tax) and Section 2.35.190 (Refunds) of Chapter 2.35 (Utility Users Tax). ..... 89

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS ..... 89

ADJOURNMENT: The meeting adjourned at 12:21 a.m..... 90

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

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

Absent:

### CLOSED SESSIONS

#### 1. CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Kelly Morariu, Dennis Burns, Russ Carlsen, Lalo Perez, Sandra Blanch, Marcie Scott, Darrell Murray, Joe Saccio)

Employee Organization: Palo Alto Police Managers' Association (Sworn)  
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, Kelly Morariu, Dennis Burns, Russ Carlsen, Lalo Perez, Sandra Blanch, Marcie Scott, Darrell Murray, Joe Saccio)

Employee Organization: Palo Alto Peace 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, Kelly Morariu, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray, Marcie Scott, Joe Saccio)

Employee Organization: Local 521 Service Employees International Union  
Authority: Government Code Section 54957.6(a)

The Council reconvened from the Closed Sessions at 7:36 p.m. and City Attorney, Gary Baum advised no reportable action.

### SPECIAL ORDERS OF THE DAY

2. Appointments for the Human Relations Commission for One Unexpired Term Ending on March 31, 2012 and Two Terms Ending on March 31, 2013.

**MOTION:** Council Member Holman moved, seconded by Council Member Klein to reopen the recruitment for the Human Relations Commission.

Council Member Holman felt it was prudent to reopen the recruitment in an effort to broaden the selection for the Commission.

Vice Mayor Espinosa stated there were three qualified candidates and therefore he would not be supporting the Motion.

**MOTION PASSED:** 5-4 Espinosa, Schmid, Shepherd, Yeh no

#### CITY MANAGER COMMENTS

City Manager, James Keene stated the Utilities Department would be inserting leaflets regarding LED lighting in the upcoming bills; the 2010 Youth Forum series was a success; the Farm Shop had been re-launched at Lytton Plaza and the Drive Less Challenge Program was underway in an effort to emphasize alternate transportation.

Mayor Burt stated due to the budget crisis, CalTrain announced they would be reducing service by thirty percent. He had questions regarding the Firefighters Initiative being circulated; 1) What was the cost to the City for holding an election, 2) When would the expected date be to receive the independent report on the standards of coverage.

Mr. Keene stated the cost was approximately \$200,000 for the election. He stated the Consultant expressed the availability of a fifty percent completion in late April, in May they were expected to introduce findings to the Finance Committee at a seventy-five percent completion level.

#### ORAL COMMUNICATIONS

Jeff Traum, 1040 Ramona Street, spoke regarding the current and future budget concerns and the costs for the Fire Department.

Kim Ferm, 2-1-1 Santa Clara County, 1400 Parkmoor Avenue, Suite 250, San Jose, spoke regarding the 2009 call statistics for Palo Alto callers to 2-1-1.

Wynn Grcich, 30166 Industrial Parkway, SW #296, Hayward, spoke regarding fluoride used as pesticides.

John K. Abraham, 736 Ellsworth Place, spoke regarding demographic statistics on police stops.

Sylvia Sanders, 956 Varian Way, spoke regarding the future of Palo Alto Children's Theatre during the budget decisions.

Mark Petersen-Perez spoke regarding Oral Communications time limits.

Omar Chatty, 251 Vineyard Drive, spoke regarding Caltrain financing and the AB83 fee increase.

Robert Moss, 4010 Orme, spoke regarding the Firefighters Initiative.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Yeh moved, seconded by Vice Mayor Espinosa to approve the minutes of March 8, 2010 as amended.

**MOTION PASSED:** 9-0

#### CONSENT CALENDAR

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Espinosa to approve Agenda Item Nos. 3-9.

3. Finance Committee Recommendation to Accept the Auditor's Office Quarterly Report as of December 31, 2009.
4. Resolution 9045 entitled "Resolution of the Council of the city of Palo Alto Expressing Appreciation to Rajesh Mashruwala for Outstanding Public Service as a Member of the Library Advisory Commission."
5. Approval of an Amended and Restated Public/Private Partnership Agreement Between the City of Palo Alto and the Palo Alto Recreation Foundation Concerning Mutual Assistance for the Provision of Community Service Programs.
6. Approval of Agreement with the Palo Alto Weekly for Newspaper Advertising Services in the Not to Exceed Amount of \$150,000 per Year for a Three Year Period, for a Total Value of \$450,000.
7. Budget Amendment Ordinance 5075 for Fiscal Year 2010 to Provide an Additional Appropriation of \$25,981 to Capital Improvement Program (CIP) PE-11011, Highway 101 Pedestrian/Bicycle Overpass/Underpass Project; and Approval of a Contract with Alta Planning & Design in the Amount of \$110,981 for Highway 101 Pedestrian/Bicycle Overpass/Underpass Feasibility Study (PE-11011) and \$15,000 for Public Outreach, Noticing, Printing and Mailing.
8. Resolution 9046 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Execute the Cooperative Assistance Agreement Between the City of Palo Alto and the United

States Department of the Interior, Bureau of Reclamation for the Disbursement of \$5,000,000 in Title XVI Federal Grant Funds for the Palo Alto, Mountain View/Moffett Area Recycled Water Pipeline Project (CIP WQ-04010)."

9. Approval of a Wastewater Treatment Enterprise Fund Contract with Veolia ES Technical Solutions, LLC for a Period of Three Years for Provision of Services for Transportation and Disposal of Ash and Sludge for the Regional Water Quality Control Plant with Funding for the First Year Approved in the Amount of \$144,510.

**MOTION PASSED: 9-0**

#### ACTION ITEMS

10. Finance Committee Recommendation Regarding Adoption of: (1) Budget Amendment Ordinance 5076 Amending the Budget for Fiscal Year 2010 to Adjust Budgeted Revenues and Expenditures in Accordance with the Recommendations in the Midyear Report and, (2) Resolution 9047 Amending the FY 2006-2009 Compensation Plan for Classified Personnel (SEIU) Adopted by Resolution No. 8658 to Add Two New Classifications, Change the Compensation for One Existing SEIU Classification and Change the Title of One Classification.

Director of Administrative Services, Lalo Perez clarified the budget adjustments being discussed were considered Mid-Year adjustments which were financial changes that had been made through previous Council actions or Finance Committee recommendations.

Budget Manager, Marc Puckett gave a brief description of each budget item requesting changes including the Operating Budget adjustments, CIP adjustments, the organizational amendments, and the 2006/09 SEIU Compensation Plan.

Mr. Perez stated Staff anticipated the revenue projections embedded in the Mid-Year Budget would hold; but the expenditures were more difficult to project due to Workers Compensation and general liability issues. There had been an increase in Workers Compensation cases which drove the expenditures for overtime in public safety.

Council Member Schmid, speaking as Chair of the Finance Committee, stated the Committee discussed the declining flow of revenue, sales tax volume and the impacts of disability and workers compensation. He noted transferring funds to fill shortfalls rather than structural changes left the burden on the upcoming years' budget.

Council Member Yeh asked whether the fourth quarter sales tax information was available.

Deputy Director of Administrative Services, Joe Saccio stated there was an increase in sales tax from the third quarter to the fourth quarter of 1.2 percent. He expressed concern that half of the increase came from a single vendor. He noted there was a negative from the vendors within the City boundaries which was made up by the receipts received by the County shared pool.

Council Member Yeh questioned if Santa Clara County had received assessment appeals on property taxes for businesses.

Mr. Saccio stated the understanding was Santa Clara County (County) had been inundated with commercial appeals to reduce their assessments on property taxes. The County had clarified it would take up to two years to work through the information and requests received; therefore, there would be no significant adjustments until after 2011.

Council Member Yeh stated the proposed budget showed the Enterprise Fund had a \$50,000 contract for a business plan for fiber optics operations. He asked whether the plan was related to the submission for Google fiber or a separate model.

Mr. Saccio stated the business plan was created in the event Palo Alto was not selected to participate in the Google fiber optics program.

Mr. Keene stated the business plan was in place prior to the Google proposal as part of the growth for the fiber ring.

Mayor Burt asked which fund the \$50,000 would be taken from.

Mr. Perez stated the expenditure would be retrieved from the fiber optics portion of the Enterprise Fund.

Council Member Schmid stated Council had discontinued the process of securing funds from the stimulus monies when the Google opportunity arose, yet the selection process would not take place until the end of the year. He asked whether there was a plan in place during the wait period.

Mr. Keene stated the Fiber Funds and the operation was continuously expanding its connections and hook-ups; therefore, there already existed a plan for expansion of the fiber ring.

Council Member Price asked whether the property taxes were holding steady and whether there was a reason to believe that the trend would not continue.

Mr. Saccio stated it was positive news that the property taxes had held steady and there were no reductions in the foreseeable future.

**MOTION:** Council Member Schmid moved, seconded by Council Member Klein to:

- 1) Adopt a Budget Amendment Ordinance which includes;
  - a. Proposed midyear adjustments to the Fiscal year 2010 budget for the General Fund, Enterprise Funds, special Revenue Funds, Internal Service Funds, and Capital Improvement Fund
  - b. New or amended Fiscal year 2010 Capital Improvement Program project descriptions.
  - c. Amendments to the Fiscal year 2010 Table of Organization
- 2) Adopt Resolution amending FY 2006-2009 Compensation Plan for Classified Personnel (SEIU) Adopted by Resolution No. 8658 to add two new classifications, change the compensation for one existing SEIU Classification and change the title of one Classification Plan.

**MOTION PASSED:** 9-0

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Espinosa to continue Agenda Item No. 12 to a date uncertain.

12. Acceptance of the Regional Water Quality Control Plant Site Feasibility Study and Authorization to Proceed with an Environmental Assessment of a Recycling Center and Permanent Household Hazardous Waste Drop-Off Facility Improvements for the West Side of the Regional Water Quality Control Plant Site

**MOTION PASSED:** 9-0

11. Recommendation to Direct Staff: 1) To Defer Further Action on an Anaerobic Digestion (AD) Facility or Aerated Static Pile (ASP) Composting Facility Within Palo Alto, Until and Unless a Usable Site is Identified; 2) To Examine the Feasibility of Energy Conversion Technologies (Including AD Technologies) During the Upcoming Regional Water Quality Control Plant Master Planning Process; 3) To Pursue Local Partnering Opportunities with SMaRT® Station Partners and/or Local Organic Waste Processing Companies that are Developing Private or Energy Conversion Facilities Within a 20-Mile Radius of Palo Alto; and 4) To Resume Acceptance of Commercial Garbage at the Landfill.

Director of Public Works, Glenn Roberts gave a brief overview of: 1) the City Council's previous Study Session; 2) site considerations for composting; 3) and the Staff recommendations based on policy direction and alternatives for Council consideration.

Council Member Klein stated the alternative recommendations referred to the feasibility study and the Environmental Impact Report (EIR) being performed by a consultant. He asked if there would be two separate consultants or would both actions be performed by the same consultant.

Mr. Roberts stated the proposal would be to have a single contract that would include a team to perform both the feasibility study and the EIR.

Council Member Klein asked whether the EIR would cover the analysis of the dry anaerobic process and the environmental impact of taking the property out of the parkland land.

Mr. Roberts stated yes.

Council Member Klein asked for clarification that there would only be one EIR which would encompass both processes.

Mr. Roberts stated yes, the intent would be to structure the EIR as a programmatic EIR to cover both issues. Although there might need to be a subsequent detailed EIR on the constriction impacts of such a facility.

Council Member Klein asked whether the EIR would need to take place after or before the election.

Mr. Roberts stated there were two scenarios for an election; one initiated by Council or a citizen Initiative.

Council Member Klein clarified, if there was a Council initiated election.

Mr. Roberts stated the programmatic EIR would need to be completed prior to the election.

Council Member Klein asked would the EIR and evaluation report be completed at the same time.

Mr. Roberts stated yes, the feasibility study would be necessary input for the EIR so the two would need to be conducted concurrently.

Council Member Klein stated there was a twelve to twenty-four month completion timeframe listed for the alternative recommendation. He asked for a more precise timeline of completion for a more cost effective approach to the election.

Mr. Roberts stated Staff could provide a clear timeline for the technical aspects although it would need to be reviewed by the specified Boards and Commissions for approval. He clarified the twelve month timeframe was a

minimal timeline with the project being on a fast track basis and any secondary review or alteration would add to the twelve months.

Council Member Schmid asked with the lease for the landfill expiring on June 30, 2011 did that mean the land moved from the Refuse Fund to the Parks & Recreation division of the General Fund.

Mr. Roberts stated there was not a specific lease agreement; although, there was a rent schedule based upon the prior estimated date of closure.

Council Member Schmid asked to confirm after the June 30, 2011 closure date there would be a fee of \$20,000 per day if the property was not vacated.

Mr. Roberts stated the landfill closure had been scheduled for the completion date of the grading plan and when the contours of said plan were finished according to the Master Plan shape and size.

Council Member Schmid stated the rent charge agreement did not imply slowing the rate of inflow, yet maintain a zero rent schedule.

Mr. Roberts stated he did not believe the intent of maintaining the landfill was to lower the rent to zero while occupying the land. He stated the understanding was, if the landfill was to remain open for an additional year, that rent would be due and payable for the additional year.

Council Member Schmid stated the estimated cost to prepare the land and remove the fencing was prepaid by the rate payers in the Refuse Landfill Reserve. He clarified if the City needed funds for a portion of the project there would not be a budgetary impact, but a transfer of funds from the Refuse Reserve into the Operations account.

Mr. Roberts stated yes, Staff had proposed funding in the Fiscal Year 2011 Budget under the Capital Program for the Refuse Fund.

Council Member Scharff asked whether a feasibility study could be completed in lieu of the EIR and what the cost difference was between the two processes.

Mr. Roberts stated the study and report could be completed separately and the feasibility study would need to be completed prior to the EIR. The information from the feasibility study was input for the EIR. He estimated the cost to be \$250,000 with a fairly equitable split between the two processes.

Council Member Scharff asked what additional information the EIR would provide beyond the feasibility study.

Mr. Roberts stated the full EIR would: 1) quantify the impact of the numbers from the feasibility study; 2) identify the air quality, traffic, noise, and visual impacts; 3) and would satisfy the California Environmental Quality Act (CEQA) process.

Vice Mayor Espinosa stated his understanding of waste processing was best handled on a regional basis and he felt that was why Staff's recommendation went in a regional direction.

Mr. Roberts stated Staff's recommendations were based on community values and policy choices by Council. A regional solution offered a greater economy to scale.

Vice Mayor Espinosa asked whether surrounding cities had been analyzed for their available lands as a more viable option to be considered for a regional approach.

Mr. Roberts stated there was a great deal of interest amongst the private sector in pursuing the technology and turning it into a profitable business. The City's current hauler, GreenWaste, was in negotiations for leasing land in north San Jose for a site.

Vice Mayor Espinosa stated a Palo Alto site could be a regional hub attracting business out of the local community. He asked if other cities would be bringing their waste to Palo Alto.

Mr. Roberts stated the City was in an advantageous situation having its own utilities. He clarified there was a great deal of potential revenue in keeping the site a local facility. He stated the feasibility study Staff had recommended was on a local basis rather than a regional one.

Vice Mayor Espinosa asked for clarification on why there was a recommendation for expending funds for a feasibility study on land that was not available for use.

Mr. Roberts stated that was correct, the land was unavailable. If Council desired Staff to pursue the opportunity, Council could direct Staff to study the issue pending a land use question being resolved.

Council Member Shepherd asked which funding source the \$250,000 would come from.

Mr. Roberts stated if directed, Staff would return to Council requesting the funds from the Refuse Fund.

Council Member Shepherd asked why the anaerobic digestion function required being in close proximity to the water treatment plant.

Mr. Roberts stated the bulk of the methane gas production capability was from the bio-solids at the treatment plant. The treatment plant utilized a great deal of electricity so a close proximity would reduce costs.

Council Member Shepherd asked for clarification on the feasibility EIR.

Mr. Roberts stated the area where the landfill and Byxbee Park were located was in an area where the State of California claimed jurisdiction.

Senior Assistant City Attorney, Cara Silver stated the States' Land Commission had been contacted. They informed the City they would require an amendment to an existing lease agreement in order for the City to move forward with a composting operation on the claimed title lands.

Council Member Shepherd asked when in the process the amendment went to the State.

Ms. Silver stated the State Land Commission relied on the CEQA document prepared by the lead agency; therefore, the City needed to complete the CEQA analysis prior to the State granting the permit.

Council Member Shepherd asked if there were other licensing issues that might implode the whole concept of doing an anaerobic digestion on dedicated parkland.

Ms. Silver stated all of the processes listed were required to develop a composting facility and any one of them could negatively impact the progress.

- Proceed with the Feasibility Study and Programmatic Environmental Impact Report
- Continue moratorium on commercial waste disposal at Palo Alto Landfill
- Conduct a vote to undedicate parkland
- Amend Baylands Master Plan
- Amend Comprehensive Plan
- Amend Lease with State Lands Commission
- Amend Closure/Post-closure Landfill Maintenance Plan
- Solicit design-build proposals for an Organics Processing & Energy Generation Facility
- Conduct project-level environmental analysis
- Administer long-term operation contract for facility

Council Member Shepherd asked for a Public Works Staff work schedule in order to see how the composting facility was prioritized amongst the list of existing Public Works projects.

Mr. Roberts stated the composting facility would be a significant undertaking; however, it would not compete with the other projects currently underway. As for the feasibility study and EIR, the bulk of the work would be performed by a contracted consultant.

Council Member Yeh asked Staff to clarify the anaerobic digestion plans for the future of the site.

Mr. Roberts stated there was a Master Planning effort moving forward at the Water Quality Control Plant (WQCP), the plan specifically looked at the future of bio-solid management and incinerators. In the attempts to locate an alternative to incinerators, anaerobic digestion was the leading technology.

Council Member Yeh asked the expected time for the WQCP feasibility study.

Mr. Roberts stated it was programmed to be completed in the next two years.

Council Member Yeh stated since the WQCP was a regional entity, had other jurisdictions been involved in the discussion or would their input occur once the feasibility study started.

Mr. Roberts stated our partner cities of Mountain View, Los Altos, Los Altos Hills, East Palo Alto and Stanford University were aware of the feasibility study effort for the treatment plant and of the issue of looking at alternative technologies for bio-solid management. They will be involved in the study as it moved forward.

Council Member Yeh asked for the proposed policy alternatives adjacent to the southern tip of the WQCP land. Would the alternative actually utilize part of the WQCP land, or would it be exclusively on Byxbee Park.

Mr. Roberts stated it was within the Byxbee Park area and broached the border between the treatment plant and the park.

Council Member Yeh asked once the landfill was completed what was the intended plan for capturing the gas generated.

Mr. Roberts stated the landfill gas was currently collected in a piping system and was used at the treatment plant in the incinerator process to assist in fueling the afterburners to meet the air quality standards.

Council Member Yeh stated Staff had reached a preliminary conclusion there was insufficient space for the amount of organic handling necessary for organic materials, food waste and yard trimmings in Palo Alto. He asked what the basis was for the conclusion.

Mr. Roberts stated the conclusion began with the recommendation by the Blue Ribbon Task Force for an eight acre site which could incorporate all three waste streams.

Council Member Price asked if the \$250,000 cost covered the feasibility study, programmatic EIR and the project specific EIR.

Mr. Roberts stated no, the cost did not cover the project EIR.

Council Member Price asked for an estimated cost to complete the project specific EIR.

Mr. Roberts stated he was uncertain of a dollar amount for the project EIR at this time.

Council Member Price asked for clarification that the Refuse Fund and the WQCP Fund would supply resources for the feasibility study.

Mr. Roberts stated if the WQCP and the composting facility studies were merged, then the WQCP Fund could participate. Staff was not recommending a joint feasibility study.

Council Member Holman stated Staff had previously deemed the feasibility study, programmatic EIR and project EIR at a cost of up to \$400,000.

Mr. Roberts stated the previous project was of a much larger scale and analyzed four alternatives with a broader scope which was why the cost was more significant.

Council Member Holman clarified the current project cost for the three necessary reports could range from the suggested \$250,000 to \$400,000.

Mr. Roberts stated the \$250,000 cost was a preliminary estimate. Until the scope of the EIR had been approved and a consultant contract negotiated, the \$250,000 was the best estimate.

Council Member Holman asked whether Staff considered incorporating economics, end products, greenhouse gas reductions and potential public support for undedicating parkland into the feasibility study.

Mr. Roberts stated the technical issues would be included in the feasibility study. He clarified public support was not part of the study although Staff could compile a survey at a separate cost of approximately \$25,000, if Council desired.

Council Member Holman asked for clarification as to why the Peak Democracy question for the composting facility had left out a number of important points.

Mr. Keene stated the Peak Democracy questions were not written by the City Staff, but by the outside consultant in an attempt to gain a sense of an agenda item in preparation for the Council meeting. Questions were not designed to capture all aspects.

Council Member Holman asked for an estimated cost to pursue Staff's recommendation to the policy alternatives.

Mr. Roberts stated there was not a definitive dollar amount. The understanding was it would be an extensive undertaking and would require considerable expenditure of funds.

Council Member Scharff asked whether the programmatic EIR would address the economics of the project.

Mr. Roberts stated yes, the programmatic EIR addressed whether the project was revenue positive or neutral and the total cost of completion.

Mayor Burt asked if there was a citizen Initiative on the ballot what would be the amount of time needed to complete the feasibility study.

Mr. Roberts stated the two reports would be compiled in parallel and would take close to twelve months.

Mayor Burt asked whether the intention was to have an energy generation component as part of the technology.

Mr. Roberts stated yes.

Mayor Burt asked whether the energy generation component had a significant amount of perspective energy generation.

Mr. Roberts stated yes, depending on the waste stream involved, especially with the methane gas potential from the bio-solids.

Mayor Burt asked when the Utilities Advisory Commission (UAC) and Utilities Department would participate in the process.

Mr. Roberts stated they would be a part of finalizing the scope of the study, reviewing the markets and energy products.

Council Member Price stated at the present time the Comprehensive Plan was being updated. She asked whether the updates necessary for the

composting facility could be incorporated in that update without expending additional funds.

Mr. Roberts stated yes, the Public Works Department could work with the Planning Department to accomplish the changes.

Bob Wenzlau, 1409 Dana Avenue, gave a brief presentation on the positive aspects of anaerobic digestion.

Craig Barney, 3218 Maddux Drive, spoke of the anaerobic digestion system not yet being utilized in North America; however, it was a proven system being used in Europe, Asia and Canada.

Hilary Gans, 3529 Ramona Avenue, spoke on providing positive economics prior to completing an EIR.

Cedric deLaBeaujardiere, 741 Josina Avenue, presented a brief slide show depicting the proposed composting facility.

Joseph Vavuris, 570 Matadero Avenue, spoke against transporting materials outside of Palo Alto.

John O'Donnell, 4015 Arbol Drive, spoke regarding the benefit of maintaining a local energy efficient composting facility.

Martin Monica spoke regarding how the process being considered would affect the future generations.

Tom Jordan, 474 Churchill Avenue, spoke regarding the Zanker Road facility in San Jose.

Robyn Dubey, Bowdoin Street, urged Council to move forward with the feasibility study.

Geoff Nicholls, 667 Marion Avenue, encouraged the Council to study the feasibility of a composting facility on Byxbee parkland.

Enid Pearson, 1019 Forest Court, spoke regarding the completion of Byxbee Park.

Carolyn Curtis, 531 Alger Drive, supported moving forward with the feasibility study.

Donald Mayall, 531 Alger Drive, urged the support of the feasibility study.

Lawrence Garwin, College Terrace, spoke regarding maintaining the moratorium on the landfill and to move forward with the feasibility study.

Walt Hays, 355 Parkside Drive, spoke regarding Palo Alto becoming a leader on environmental issues.

Emily Renzel, 1056 Forest Avenue, supported the Staff recommendation.

Robert Moss, 4010 Orme Street, supported a regional approach to composting.

Brandy Faulkner, 975 Shauna Lane, requested the Council move forward expeditiously with the project.

Peter Drekmeier, 311 Fulton Street, spoke regarding the environmental benefit to a localized facility.

Claire Elliott, 271 Chestnut Avenue, supported anaerobic digestion.

Mary Ann Furda, 2251 High Street, spoke in favor of local composting.

Annette Isaacson, 2550 Webster, urged moving forward with the feasibility study.

Susan Stansbury, 741 Josina Avenue, supported the feasibility study.

Norma Grench, 2528 South Court, supported the feasibility study.

Alex Cannara, 2043 Sterling, Menlo Park, spoke regarding the feasibility study.

David Bubenik, 420 Homer Avenue, urged the approval of Staff recommendation.

Lauren Swezey, 212 Fulton Street, supported moving forward with the feasibility study.

Bryan Long, 1413 Dana Avenue, urged Council to complete the feasibility study to ensure an economic benefit.

Andrew Harwell, 2238 Wellesley Street, expressed interest in the feasibility study.

Peter Holoyda, P.O. Box 620442, Woodside, supported moving forward with the feasibility study.

Carroll Harrington, 830 Melville Drive, urged Council to be proactive about adapting the Baylands parkland to new innovations and opportunities.

Matthew Harneck, 1004 Emerson Street, recommended trading low grade underfunded parkland for proper parkland and wetlands.

Ralph Britton, 240 Rinconada Avenue, supported the Staff recommendation.

Lisa Altieri, 530 Barron Avenue, spoke regarding the importance of moving forward with the feasibility study.

John Kelley, 1111 Greenwood Avenue, supported the feasibility study.

Herb Borock, P.O. Box 632, supported the Staff recommendation.

Brian Schmidt, 3502 E. Bayshore Road, spoke regarding the need to compromise Open Space values for other environmental values.

Shani Kleinhaus, Santa Clara Valley Autobahn Society, Corina Way, spoke in favor of the programmatic EIR.

Arthur Keller, 3881 Corina Way, spoke regarding the financial impacts of anaerobic digestion.

**MOTION:** Council Member Klein moved, seconded by Mayor Burt to: 1) Direct Staff to initiate the process to hire a consultant to evaluate the dry anaerobic digestive system, 2) Prepare an applicable level EIR, focused on the 8-9 acres of Byxbee Park adjacent to the Regional Water Quality Control Plant as a prospective site, 3) Continue not allowing commercial waste acceptance, and 4) Review a policy that the lease revenue to the General Fund (GF), net of any costs to the GF, would first be used to develop Byxbee Park.

Council Member Klein stated moving forward was a small sacrifice to Byxbee Park for the greater good of the environment and the future. He felt the project was a good opportunity for the community.

**AMENDMENT:** Mayor Burt moved, seconded by Council Member XXXX to direct Staff to: 1) Evaluate opportunities to dedicate parkland in the north runway area of the Palo Alto Airport with funds from any fees from the leasing of the recycling facility land, and 2) Evaluate dedication of former Los Altos Treatment Plant wetlands, with the intention to pursue a substitute greater amount of land of more valuable natural habitat.

#### **AMENDMENT FAILED DUE TO LACK OF A SECOND**

**SUBSTITUTE MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Holman to: 1) Defer further action on an anaerobic digestion (AD) facility or aerated static pile (ASP) composting facility within Palo Alto, until and unless a usable site is identified, 2) Examine the feasibility of energy

conversion technologies (including AD technologies) during the upcoming Regional Water Quality Control Plant (RWQCP) Master Planning Process, 3) Investigate and pursue local partnering opportunities with SMaRT® partners and/or local organic waste processing companies who are developing private AD or energy conversion facilities within a 20-mile radius of Palo Alto, and 4) Resume acceptance of commercial garbage at the landfill.

Vice Mayor Espinosa stated Staff's recommendation shared values with the City and the community on environmentalism and composting. Unfortunately, Byxbee Park was the only location within the City capable of hosting a composting facility as noted by reports from the multiple Boards & Commissions and Task Forces whom have worked on this proposed project over the years.

Council Member Holman stated she supported the Substitute Motion for its alignment with the policy, environmental and the fiscal impacts.

Council Member Scharff stated he did not support the Substitute Motion.

Council Member Schmid stated the City had numerous amenities on a regional level; the airport, golf course, Water Quality Control Plant and the Fire Department spent a third of their time on Stanford land. He disagreed the future of the City would benefit from a local composting facility.

Council Member Yeh asked what authority Council had if the citizens placed an Initiative on the ballot.

Senior Assistant City Attorney, Cara Silver stated it would depend on the formation of the Initiative. If the Initiative was structured to alter the zoning from parkland to a public facility, the ballot measure would need to undedicate the parkland to facilitate composting, which had been dedicated under the City Charter. After the Initiative process and a vote of the people, the composting facility itself would return to Council as a formal project.

Council Member Yeh stated through potential language on the Initiative the parkland could be rezoned and that would be the basis from which Council would approach the proposed project.

Ms. Silver stated yes, under the existing zoning.

Council Member Yeh stated he supported the Substitute Motion. He requested the consideration of a secondary feasibility study to incorporate the parkland to ensure neutral information for both sides of the discussion.

City Manager, James Keene stated an Initiative could be developed separately from Council action. He stated a directive to pursue a feasibility

study could be useful if it was completed in a timely way to advise the community and Council on facts.

Vice Mayor Espinosa stated he did not support Council Member Yeh's request to alter the Substitute Motion.

Council Member Price stated she did not support the Substitute Motion.

Council Member Shepherd stated her concern with the possible ballot measure going forward if the information available was not managed better with empirical information and source documentation. She stated she did not support the Staff recommendation.

Mayor Burt stated the wastewater treatment plant was a regional plant and the bio-sludge was a four city source, there were no transportation issues, the delivery system was via pipes. He stated his understanding for the concern of the bio-sludge intermixing with other green waste and noted there would be two separate digesters.

Mr. Keene clarified the initial financial estimates provided by Staff could shift depending on the requests placed upon the type of reporting structure directed.

Council Member Holman asked the extent of information that could be provided in an Initiative if one was to move forward. The question was how an Initiative could be placed on the ballot for a project that was not yet being studied.

Ms. Silver asked for clarification whether the question was of the information the proponents would produce or the information the feasibility study would supply.

Council Member Holman clarified, on the type of information the proponents would supply to undedicate the parkland without a feasibility study.

Ms. Silver stated the proponents could generate any type of campaign materials and the voters would need to determine the validity of said materials.

Council Member Holman stated if the Council was committed to dedicated parkland, then it did not matter whether there was a feasibility study performed ahead of time.

Council Member Klein emphasized any decision made by Council was subject to a vote of the people and the Dedicated Parkland Ordinance did not have a prevent undedication clause; it clearly read it could be done with a vote of the people.

Council Member Scharff asked whether the lease revenue being referred to was the revenue on the land once it was undedicated and asked at whose discretion.

Mr. Roberts stated there was a current evaluation methodology used to establish the basis of value and the rent would be set on the evaluation basis used for the balance of the parkland.

Council Member Scharff asked if there were other options for evaluating the rent basis.

Mr. Roberts stated it was a Council policy choice of whether to charge rent or not and there had to be a methodology to configure the value base.

Mayor Burt stated the evaluation of the land would pertain wherever that revenue would be directed toward, so it would be a part of the feasibility study.

Vice Mayor Espinosa stated all of the advisory panels recommended moving in a regional manner with the composting effort. The proposed project required eight acres without mentioning the amount of acreage necessary to separate the facility from the park.

**SUBSTITUTE MOTION FAILED:** 6-3 Espinosa, Holman, Schmid yes

Council Member Shepherd stated she supported the Motion with the following Amendment; to have Staff return to Council once the initial cost basis had been completed.

Council Member Klein asked when Staff would be able to return to Council with an interim report on the cost analysis.

Mr. Keene stated on Council's direction Staff could return with an interim report.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that within the feasibility study an interim report would return to Council on the cost analysis.

Council Member Yeh asked whether moving forward with the feasibility study for the proposed composting facility precluded Staff from moving forward with the feasibility study for the Regional Water Quality Control Plant (RWQCP).

Mr. Roberts stated no, his understanding was the Motion did not preclude the feasibility study moving forward for the RWQCP.

Mayor Burt stated the RWQCP feasibility study was separate from the composting facility.

Council Member Yeh asked for clarification on which of the four Staff recommendations would continue:

1) To Defer Further Action on an Anaerobic Digestion (AD) Facility or Aerated Static Pile (ASP) Composting Facility Within Palo Alto, Until and Unless a Usable Site is Identified; 2) To Examine the Feasibility of Energy Conversion Technologies (Including AD Technologies) During the Upcoming Regional Water Quality Control Plant Master Planning Process; 3) To Pursue Local Partnering Opportunities with SMaRT® Station Partners and/or Local Organic Waste Processing Companies that are Developing Private or Energy Conversion Facilities Within a 20-Mile Radius of Palo Alto; and 4) To Resume Acceptance of Commercial Garbage at the Landfill.

Council Member Klein stated recommendation No. 2 would continue.

Mr. Keene stated the only qualification was whether or not recommendation No. 3 would be completely abandoned since there would be an interim time period where waste transportation may be necessary.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to examine the feasibility of energy conversion technologies (including AD technologies) during the upcoming Regional Water Quality Control Plant (RWQCP) Master Planning Process.

**AMENDMENT:** Council Member Holman moved, seconded by Council Member Schmid to adopt Staff recommendation No. 3-Investigate and pursue local partnering opportunities with SMaRT® partners and/or local organic waste processing companies who are developing private AD or energy conversion facilities within a 20-mile radius of Palo Alto.

Council Member Holman stated it was necessary to have a comparison in order to make an informed discussion.

**MOTION TO CALL THE QUESTION:** Mayor Burt moved, seconded by Council Member Klein to Call the Question.

**MOTION TO CALL THE QUESTION PASSED:** 7-2, Espinosa, Schmid no

**AMENDMENT PASSED:** 5-4 Burt, Klein, Price, Shepherd, no

**MOTION TO CALL THE QUESTION:** Mayor Burt moved, seconded by Council Member XXX to Call the Question.

## **MOTION TO CALL THE QUESTION FAILED DUE TO LACK OF SECOND**

Council Member Scharff asked whether the Maker of the Motion would consider the removal of Item No. 4 from the Motion: 4) Review a policy that the lease revenue to the General Fund (GF), net of any costs to the GF, would first be used to develop Byxbee Park.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to remove Item No. 4 from the Motion.

Council Member Yeh asked if there was a feasibility study for RWQCP on anaerobic digestion, would there be a future need for an EIR.

Mr. Roberts stated yes, there was a requirement for an environmental review to be completed for any project or construction at the treatment plant.

Council Member Yeh stated he did not support the Motion.

**MOTION PASSED:** 5-4 Espinosa, Holman, Schmid, Yeh, no

13. Adoption of an Ordinance Amending Title 2 (Administrative Code) of the Palo Alto Municipal Code to Amend Section 2.28.230 (Claims) of Chapter 2.28 (Fiscal Procedures), Section 2.33.110 (Refunds; Credits) of Chapter 2.33 (Transient Occupancy Tax), Section 2.34.220 (Refunds) of Chapter 2.34 (Real Property Transfer Tax) and Section 2.35.190 (Refunds) of Chapter 2.35 (Utility Users Tax).

Deputy City Attorney, Amy Bartell stated the proposed Ordinance would amend the City's Claims Ordinance to clarify the refunds procedures and the statute of limitations would be the same as applied to Claims Against the City and the Refunds Against the City. She stated the amended Ordinance would protect the City against costly fiscal impacts of having to defend against tax refund litigation before the taxes were paid on the Transient Occupancy Tax, Real Property Transfer Tax or the Utility Users Tax.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Holman to Adopt the Ordinance updating procedures for filing claims for refunds of taxes, fees and charges by the City.

Vice Mayor Espinosa stated the Amendment was a fiscally responsible movement.

**MOTION PASSED:** 9-0

## COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Mayor Burt reported on speaking to the Caltrain Joint Power Authority regarding Caltrain reviewing how their regional rail transit interests should best be served. He also spoke about governance changes, capital financing of their 2025 Program. He spoke about how some City Councils limit the length of time and times a Council Member can speak on an item.

Vice Mayor Espinosa thanked Staff and acknowledged their hard work on the recent Teen Health Forums.

ADJOURNMENT: The meeting adjourned at 12:21 a.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.