

Special Meeting  
April 12, 2010

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:37 p.m.

Present: Mayor Burt, Espinosa, Holman, Klein, Price, Scharff arrived at 5:40 p.m., Schmid, Shepherd, Yeh arrived at 5:45 p.m.

Absent:

CLOSED SESSIONS

1. 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: Local 521 Service Employees International Union

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, Darrell Murray)

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, Pamela Antil, Nick Marinaro, Lalo Perez, Joe Saccio, Russ Carlsen, Sandra Blanch, Marcie Scott, Darrell Murray)

Employee Organization: Local 1319, International Association of Firefighters

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, Nick Marinaro, Lalo Perez, Joe Saccio, Russ Carlsen, Sandra Blanch, Marcie Scott, Darrell Murray)

Employee Organization: Palo Alto Fire Chiefs' Association

Authority: Government Code Section 54957.6(a)

The City Council reconvened from the Closed Sessions at 7:25 p.m. and Mayor Burt advised no reportable action and noted the fourth labor negotiation item was not heard this evening.

## SPECIAL ORDERS OF THE DAY

2. Proclamation Recognizing April as Parkinson's disease Awareness Month.

Council Member Klein read the Proclamation recognizing April as Parkinson's Disease Awareness Month into the record.

Former Mayor, Jim Burch accepted the Proclamation on behalf of the Parkinson's Institute in Sunnyvale, California. He said there was no known cure or cause for Parkinson's disease and the Institute specialized in finding the cause, cure, and care of the disease.

## STUDY SESSION

3. Preview of the City Manager's Proposed Budget for Fiscal Year 2011.

The City Council reviewed and discussed the City Manager's preview of the proposed budget cuts for Fiscal Year 2011. During the discussion, the Council encouraged Staff to consider and include all possible options when delivering the proposed budget cuts. Council referred to options such as regionalized services, cooperation with the school district, and service efficiencies as good examples of areas to explore. In addition, Council

supported Staff's plan to engage the community by holding a number of public forums regarding the budget.

#### CITY MANAGER COMMENTS

City Manager, James Keene welcomed the City's new Assistant City Manager, Pamela Antil. He acknowledged the Silicon Valley Regional Interoperability Authority (SVRIA) and the City's participation in the project. SVRIA promoted voice and data interoperability for public safety throughout Santa Clara County and the Bay Area. The Utility Department's billing of April 7, included a discount coupon towards the purchase of energy-efficient, dimmable, LED light bulbs. The Downtown Library was scheduled to close at 6 p.m. on Saturday, April 24, for a major twelve-month renovation project to begin at the end of June 2010. Project updates could be obtained on the City's web site under the Downtown Library link. Earth Week events began on April 15, and the schedule of events could be viewed at [www.cityofpaloalto.org/earthday](http://www.cityofpaloalto.org/earthday). Staff had completed a study and an analysis regarding the Eucalyptus trees in Eleanor Pardee Park. A final report would be provided to the Council and residents informing them of what needed to be done prior to moving forward on the project.

#### ORAL COMMUNICATIONS

Leo Hochberg, representing the Library Advisory Commission, spoke regarding libraries.

William Landgraf, 762 Stone Lane, spoke regarding the budget cuts.

Wynn Grcich, 30166 Industrial PW, SW #296, spoke regarding fluoride.

Mike Francois, 224 Gardenia Way, East Palo Alto, spoke regarding levels of toxic chemicals in drinking water.

#### APPROVAL OF MINUTES

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Shepherd to approve the Minutes of March 15, and March 22, 2010 as amended.

**MOTION PASSED:** 9-0

#### CONSENT CALENDAR

Council Member Holman advised she would not be participating in Agenda Item Number 5 as she had a conflict due to her contract with the Palo Alto Historical Museum.

**MOTION:** Council Member Holman moved, seconded by Council Member Scharff to pull Agenda Item Number 4 to be rescheduled to April 19, 2010.

City Manager, James Keene requests Agenda Item Number 7 be pulled to be rescheduled to April 19, 2010.

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Espinosa to approve Agenda Item Nos. 5-6, 8-9.

4. ~~Approval of Utilities Public Benefit Three-Year Contract with OPOWER, Inc. in the Total Amount of \$574,083, \$213,000 of Which Comes From Federal Stimulus Funds, for Administration and Delivery of Residential Home Energy Reports.~~
5. Approval of the Nomination of the Category 2 Roth Building (300 Homer Avenue) to the National Register of Historic Places and Transmittal of a Letter of Support to the State Historical Resources Commission.
6. Budget Amendment Ordinance 5077 in the Amount of \$117,000 and Approval of Amendment No. 3 to Contract C07120333 with RMC Water & Environment, Inc. in the Amount of \$372,000 for a Total Not to Exceed Amount of \$674,700 for Completion of Environmental Documents for Capital Improvement Program Project WS-07001, (Recycled Water Distribution System Extension).
7. ~~Adoption of Two Resolutions to Incorporate a Side Letter Agreement with the Palo Alto Peace Officers' Association (PAPOA) to Provide a Supplemental Military Leave Benefit to Pay for the Differential Between Regular Salary and Military Pay to PAPOA Members Called to Involuntary Active Duty Amending: (1) Section 1601 of the Merit System Rules and Regulations Regarding the 2007-2010 Memorandum of Agreement and (2) the Compensation Plan for Police Non-Management Personnel (PAPOA) Adopted by Resolution No. 8779.~~
8. Approval of a Joint Powers Agreement to Form the Silicon Valley Regional Interoperability Authority (SVRIA) to Improve Public Safety Communications and to Modify the Current Joint Funding Agreement.
9. Approval of a Wastewater Treatment Enterprise Fund Contract With the Avogadro Group, LLC for a Period of Three Years for Incinerator Emission Testing at the Regional Water Quality Control Plant With Funding for the First Year Approved in the Not to Exceed Amount of \$89,175 and a Total Contract Amount of \$280,000.

**MOTION PASSED FOR AGENDA ITEM NO. 5:** 8-0 Holman not participating

**MOTION PASSED FOR AGENDA ITEM NOS. 6, 8-9:** 9-0

ACTION ITEMS

10. Public Hearing: Approval of a Negative Declaration and Adoption of an Ordinance Amending Section 18.08.040 of the Palo Alto Municipal Code to Change the Classification of Property Located at 1700 Embarcadero Road from PC Planned Community 2378 and PC Planned Community 2491 to Service Commercial (CS) and Site and Design (D) Review; and Approval of a Record of Land Use Action for a Site and Design Review and Variance for the Construction of a Four-Story Hotel and Restaurant at 1700 Embarcadero Road.

Council Member Holman advised she would not be participating in this item as she had a contract with one of the applicants who served on the Board of the Palo History Museum.

Planning & Community Environment Manager, Amy French opened the presentation with a summary outlined in Staff report CMR:184:10.

Public hearing opened and closed at 9:15 p.m. with no speakers.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Yeh to: 1) Adopt the Negative Declaration and approve the requested zone change to Service Commercial with a Site and Design Review combining district (CS)(D), and approve the Site and Design and Variance application for development of a four-story hotel and restaurant on the property located at 1700 Embarcadero Road, subject to approval findings in the Draft Ordinance and Findings and Conditions of Approval in the Draft Record of Land Use Action, in the following order; 2) Review and approve the environmental document for the entire project, 3) Adopt the Ordinance for the rezoning, with a second reading in two weeks, and 4) Approve the Record of Land Use Action for the development project, encompassing the application for the Site and Design Review and Variance.

Vice Mayor Espinosa said the project focused on generating revenues for the City and would be a benefit to the community. He supported the Motion.

Council Member Schmid raised concerns regarding the shortfall in the number of parking spaces identified at the site.

Ms. French said there was a Condition of Approval for 38 parking spaces during dinner and evening hours which included valet parking in the

adjacent property.

Council Member Schmid said the traffic area associated with the site was one of the most complex and heavily congested sections in Palo Alto during commute hours. He asked if any consideration had been given of having the site entrance on East Bayshore Road.

Planning & Transportation Commissioner, Arthur Keller said the section Council Member Schmid was referring to was the area where traffic was heading eastbound on Embarcadero Road either going directly across from Highway 101 or from Northbound on Highway 101, exiting off, and then turning Northbound on East Bayshore Road. The issue had been discussed at the Planning & Transportation Commission (P&TC) meeting as whether it would be better for traffic to go straight and enter from Embarcadero Road or enter from East Bayshore Road and turning right. He said the better approach would be to turn right.

Ms. French said the calculated increase of delay during evening hours was less than two seconds at both intersections.

Council Member Schmid said the open parkland in the Baylands was in the process of a major expansion which would increase the level of traffic to the area during evening hours. He asked whether the Planning and Transportation Commission (P&TC) had discussed mitigation of the bottleneck impact on East Bayshore and Embarcadero Roads.

Mr. Keller said it had not been considered.

Mayor Burt said the use of zoning incentives and the Visitor's Bureau Marketing Program played a big role in developing the hotel and making the site design very interesting. Additionally, future mitigation could be done to the area during the completion of the bike path project from Highway 101 to the wetlands parks.

**MOTION PASSED:** 8-0 Holman not participating

11. Review and Comment on Revised Draft Program EIR for the Bay Area to Central Valley High Speed Train and Monthly Update on City Activities Related to the California High Speed Rail Project.

Deputy City Manager, Steve Emslie gave an overview as outlined in Staff report CMR:211:10.

Mayor Burt asked what the process was for submitting comments and issues regarding the High Speed Rail (HSR).

Mr. Emslie said there were resources on the Californians Advocating Responsible Rail Design's (CARRD) website including handy tips on how to prepare and post comments. All comments would be treated equally in the eyes of the California's environmental laws whether from a public agency or an individual.

Council Member Klein asked what the deadline was in submitting comments regarding the Alternatives Analysis (AA).

Mr. Emslie said comments and concerns could be posted on the CARRD's website. There was a 45-day review period for the AA. Palo Alto had asked for an extension. The High Speed Rail Authority's written response stated they would not impose a deadline on the review period and would accept comments through the preparation of the project level Environmental Impact Report (EIR.) He said it was urgent that comments and concerns be submitted as close as possible to the 45-day deadline.

Mayor Burt said the timelines for submitting comments were confusing. The deadline date for submitting comments for the Environmental Impact Report (EIR) for Central Valley to San Francisco was April 26, 2010, and the AA was the next level of detail on the options for the segment from San Jose to San Francisco.

Council Member Price said if we do get the extension, could we amend our comments.

Mr. Emslie said an inclusive list had been compiled which included public comments, the consultant's input, plus several sessions with the Council regarding the program EIR. He suggested putting the extra time on AA rather than expanding the program EIR.

Council Member Price asked whether overhead catenaries would be used in the design.

Mr. Emslie said catenary cables were a required fixture in the proposal since the less visible or third-rail systems were not feasible for the HSR's speed.

Council Member Price asked how cars for the system would be addressed since the EIR indicated the Japanese or European designs were not Federal Railroad Administration (FRA) compliant.

Mr. Emslie said the HSRA had proposed sharing the tracks with Caltrain's Joint Powers Board (JPB). The FRA would not allow mixing diesel, a commuter-service rail train, with the HSR which was a lighter weight train. The JPB and HSR tried to get an exception and were denied.

Council Member Shepherd asked Commissioner Keller to provide a summary of the P&TC Minutes of April 7, 2010.

Planning & Transportation Commissioner, Arthur Keller said in answer to Council Member Price's concerns, the Electric Motor Units (EMU's) included in the Caltrain 2025 Plan were not FRA compliant. He said the P&TC Minutes covered issues regarding the P&TC taking a broader look at all the changes including those in response to the court action. Inconsistencies were found in the 2008 EIR statistics which were based on old ridership data. The cost benefit analysis and the greenhouse gas benefits were questionable since the EIR numbers were essentially obsolete. Impacts of the electrification of Caltrain were not discussed. Local impacts were not considered. There were inconsistencies in the Final Program Environmental Impact Report (FEIR) and the City's Comprehensive Plan. The FEIR focused on an elevated alignment but was not part of the AA for North Palo Alto and eliminated as far as San Francisquito Creek was concerned. Impacts to over 300 homes adjacent to the rail corridor were not properly addressed. The FEIR did not consider Highways 101 and 280 issues as alternatives and dismissed an exclusive guideway along the Caltrain corridor.

Mayor Burt asked Mr. Keller to clarify the exclusive guideway concept.

Mr. Keller said the FEIR description was vague and his understanding was the HSR would be separate from the Caltrain service. It was difficult to know what was being dismissed. HSRA felt a shared guideway would work and an exclusive guideway would not work.

Mayor Burt said the Electric Motor Units (EMU) would likely be used on the Caltrain line as they had received preliminary approval. He asked the City Attorney to give a summary of the City Attorney's Report entitled "Public Comment on Recirculated EIR for High Speed Rail," dated April 6, 2010.

City Attorney, Gary Baum said the HSRA had taken the position that there was a limit to the noise, vibration, and the Union Pacific (UP) right of way which related to the Monterey Road right-of-way. The cities of Menlo Park, Altheron, and Palo Alto's position were to be able to comment on new information that had not been raised or analyzed in the past. Examples of significant new information that required recirculation included new environmental impacts, substantial increases in the severity of the EIR impacts, feasible project alternatives that were different, such as the questionable ridership data that could lead to a different alignment, and whether the draft EIR was fundamentally or basically inadequate. He referred to the ridership/revenue which was highly in question. There were additional information on project impacts and alternatives that involved San Jose to Merced and San Francisco to San Jose segments, the Monterey Highway right-of-way, the seismic retrofit on Highway 92, and UP's right-of-

way that could affect the Altamont alignment.

Council Member Klein asked if the consultant had any comments including weak points he may have found in the EIR.

Jeffrey Smith, RMT, Inc., said as a follow up to the City Attorney's comments, he was in support of opening the entire program EIR document for discussion and to not focus only on the issues HSRA wanted the cities to focus on. He said a revised document would be inadequate if it contained insufficient data.

Council Member Shepherd asked how UP would coordinate the use of the Caltrain corridor with HSR.

Contract Transportation Official, Gayle Likens said the railroad right-of-way between San Jose and San Francisco was owned by the JPB and not by UP. There was an operating agreement with JPB that allowed the freight operations to operate on the lines. UP had the right to use the right-of-way to San Francisco. The agreement with Caltrain allowed UP to operate during certain hours of the day and during evening and overnight hours, but did not have the same control they had in the right-of-way which they owned south of San Jose.

Mayor Burt said it was important to distinguish that the current plan considered having a shared track system for HSR and Caltrain. The UP freight train would run on separate tracks from midnight to 5 a.m.

Ms. Likens clarified it was overnight hours after 11 p.m. and the plan of moving forward was for the HSR to share the center tracks with the Baby Bullet trains and the outside tracks shared by the local trains and the UP freight trains.

Mayor Burt asked if that had been changed in the AA.

Ms. Likens said she had not had the opportunity to review the AA.

Mr. Baum said UP had different rights from Gilroy to San Jose and the rights were exclusive legally under their agreement. They had shared rights from San Jose to San Francisco and by having exclusive rights they had the ability to block HSR from using the tracks. HSR would either have to negotiate with UP or find a parallel alternative.

Martin Sommer, Alma Street, said with the combination of having four shared tracks, a proposed automatic train control, with train stops in Palo Alto, he suggested having a Palo Alto HSR station and leaving the University Avenue station as is. He urged the Council to discuss station issues.

Gail Woolley, 1685 Mariposa, raised concerns regarding the increase in the duration of noise level. She asked what type of treatment would be under an aerial viaduct, such as parking or landscaping, and who would be responsible for the maintenance and cost of the area. She asked if expenditures would be included in the revenue projection and would the cost be borne by local cities.

Bob Saldich, 27 Crescent Drive, asked whether the Altamont alternative had a chance of being approved. He raised concerns about tunneling and whether the AA would be disregarded if the Program EIR was rejected again.

Richard Hackmann, 235 Embarcadero Road, said a below grade option was an efficient means of mitigating many of the environmental concerns about the project and would come with a cost increase of 5 -7 times of what was proposed. He asked whether the cost would be passed on to the local municipalities.

Hinda Sach, 4104 Park Boulevard, raised concerns regarding the unanswered topics listed in the Revised Draft Program EIR and questioned Proposition 60's provisions for homeowners affected by the project.

Council Member Holman said people supported the project because it was proposed as an environmentally advantageous project. She said in order for the basic viability of the project to be known as environmentally advantageous, there was a need to have a dependable, viable and justifiable business plan with good environmental documentation.

Council Member Shepherd echoed Council Member Holman's comments regarding the environmental component of the project. She said in depth discussions needed to take place regarding properties/homes that could fall under eminent domain and noise levels needed to be addressed in the EIR. She asked for her issues to be forwarded to the HSR Subcommittee scheduled for April 15, 2010.

Vice Mayor Espinosa echoed Mayor Burt's comments regarding the importance of having the community review Attachment A of Staff Report CMR:211:10. This was the time for comments to be heard. He addressed the public speaker's request in wanting the Council to begin discussions on a train station location.

Mr. Emslie said the next phase would be to discuss the station and its location after the commenting phase on the AA was complete. Staff would have a better understanding of what the impacts will be as more detailed information become available. He said it would be best to know the track elevation prior to having a discussion of what the station might be. HSR

made it clear that stations would not be imposed on cities.

Mr. Keller said the P&TC had discussed land use associated with the HSR station in Palo Alto. It was not part of the Comprehensive Plan process and he was not sure whether funds had been allocated for the study. The HSR expected rezoning and land use be considered prior to a city having a train station.

Mayor Burt said it was not certain there would be an additional stop on the Peninsula should HSR go up the Peninsula.

Council Member Price said a corridor study to address land use and zoning impacts may be required as the project moves forward.

Council Member Schmid said the AA had four different segments for Palo Alto. He suggested adding to the Guiding Principle that each Palo Alto segment be treated in an equitable manner.

Mayor Burt said the comments would be taken into consideration and forwarded to the HSR Subcommittee meeting scheduled for April 15, 2010.

Mr. Emslie said depending on what transpired at the April 15, 2010, Subcommittee meeting, the item could be agendized for the April 19, 2010, City Council meeting.

**MOTION:** Council Member Holman moved, seconded by Council Member Shepherd that this item be referred to the April 15, 2010, HSR meeting.

**MOTION PASSED:** 9-0

Mr. Emslie said written comments should be submitted by April 13, 2010, in order to make the Council packet.

12. (1) Library Construction and Bond Issuance Update, (2) Confirmation of Approval of Use of Available General Obligation Bond Proceeds to Pay for Temporary Facility Costs for Mitchell Park Library and Community Center; and (3) Preliminary Direction Regarding a Temporary Main Library

Deputy Director for Administrative Services Department, Joe Saccio gave a summary outlined in Staff Report CMR:209:10.

Council Member Klein raised concerns regarding the process and questioned why the Council was asked to confirm a prior action of the Council. He asked what the legality was on voting twice on the same item.

City Attorney, Gary Baum said legally it was not necessary but was more of a policy question whether the Council wanted to vote on this item or wanted to change what had been voted on previously. The intent was to capture all cost related to the Library.

Vice Mayor Espinosa addressed a public comment regarding cost and asked what would happen if a temporary facility was not provided and if the Downtown Library could provide coverage.

Library Director, Diane Jennings said the Downtown Library would have minimum extra seating, a few extra computers, but was a small facility and did not have the capability of supporting the Main Library's collection.

Vice Mayor Espinosa asked Ms. Jennings to expand on the timeline for the need of the temporary facility and the overflow by utilizing the Main Library.

Ms. Jennings said the temporary facility would be needed for a year. Rental portables or lease commercial spaces would be needed for 18 months to accommodate setup and takedown of the temporary facility. Approximately 800-1000 people used the Main Library per day similar to the current Mitchell Park Library usage. It was anticipated the new Mitchell Park Library would draw people who previously did not use libraries due to the current inadequate space. Palo Alto citizens were utilizing Mountain View and Los Altos libraries since those facilities provided better accommodations.

**MOTION:** Council Member Schmid moved, seconded by Council Member Holman to approve the use of available General Obligation (GO) Bond proceeds to pay for temporary facility costs associated with providing a temporary Mitchell Park Library and Community Center at the Cubberley Community Center.

Council Member Klein raised concerns of having to vote on Staff's Recommendation for the Council to provide input on making available a temporary Main Library at a location yet to be determined, and using available GO Bond proceeds to pay for those additional temporary facility costs.

City Manager, James Keene clarified the recommendation asked to extend the GO Bond proceeds to the Main Library. Without the bond proceeds it would be costly.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that some of the bond money is to be used for a temporary facility for the Main Library.

Mayor Burt supported the Motion.

**MOTION PASSED:** 9-0

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Mayor Burt reported on attending the meeting of the High Speed Rail Authority Board last week in San Jose.

ADJOURNMENT: The meeting adjourned at 10:47 P.M.