

Special Meeting
May 03, 2010

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:50 p.m.

Present: Burt, Espinosa, Holman, Klein, Price, Scharff, Schmid, Shepherd, Yeh arrived at 6:20 p.m.

Absent:

SPECIAL ORDERS OF THE DAY

1. Proclamation and Presentation of Architectural Review Board 2010 Design Awards by Mayor Burt to Recipient Architectural Firms

Council Member Price read the Proclamation into the record.

CLOSED SESSIONS

The City Council adjourned into Closed Sessions at 6:01 p.m.

2. 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, 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)

The City Council reconvened from the Closed Sessions at 7:37 p.m. and Mayor Burt advised no reportable action.

Carla Savage, PO Box 2770, Sunnyvale, spoke regarding the Council work with the SEIU and the current budget issues.

Lisa Palacio spoke regarding staffing cuts and outsourcing contracts.

Brian Ward, 250 Hamilton Avenue, spoke regarding layoffs and budget cuts.

Bob Gilmore, Palo Alto, spoke regarding park workers.

Christina Jupp, 516 Martha Street, #101, San Jose, spoke regarding the proposed budget cuts.

SPECIAL ORDERS OF THE DAY

3. Proclamation Recognizing Foster Care Month.

Vice Mayor Espinosa read the Proclamation into the record.

4. Proclamation Recognizing TheatreWorks on Its 40th Anniversary.

Council Member Yeh read the Proclamation into the record.

Dan Garber accepted the Proclamation and thanked the Council for their recognition.

Mayor Burt spoke regarding the upcoming public budget meetings occurring over the next month.

CITY MANAGER COMMENTS

City Manager, James Keene spoke regarding the Alternatives Analysis for the High Speed Rail (HSR) process. The City was one of the recipients of the Info World Green IT 2010 awards. Update on libraries, the Main Library will need to be tented for termites over the Memorial Day weekend and the Downtown Library will be closed for its upgrades beginning May 10, 2010. The City Clerk's office was currently recruiting for three openings on the Human Relations Commission (HRC) and one unexpired term for the Library Advisory Commission (LAC). Bike to Work day is on May 13th.

ORAL COMMUNICATIONS

Ron Eadie, 877 Sharon Court, spoke regarding the eucalyptus trees at Eleanor Pardee Park and the lack of response by the City.

David Kwoh, 1140 Lincoln Avenue, spoke regarding the trees at Eleanor Pardee Park and the danger posed to the kids playing around the trees in the park.

Amy Kacher, 1324 Dana Avenue, spoke regarding the necessary pruning of the trees at Eleanor Pardee Park and of the hazards the eucalyptus trees posed.

Amy Joachim, Walter Hays, spoke regarding the trees at Eleanor Pardee Park and the legal risks to the City when the limbs break and fall.

Wynn Grcich, 30166 Industrial Parkway, SW #296, Hayward, spoke regarding fluorides in the drinking water being linked to Parkinson's disease.

Catherine Capriles, Palo Alto Fire Department, spoke regarding National Institute of Standards and Technology (NIST) fire ground field experiments.

Sylvia Sanders, 956 Varian Way, spoke regarding the Palo Alto Children's Theatre.

Laura Townsend, 733 Alvarado Court, spoke regarding the Palo Alto Children's Theatre.

Bob Moss, 4010 Orme Street, spoke regarding earthquake preparedness and building retrofitting.

Adrian Austin-King, O'Keefe Street, Menlo Park, spoke regarding the Teen Arts Council.

Mike Francois, 224 Gardenia Way, East Palo Alto, spoke regarding legalization of drugs.

STUDY SESSION

5. Update on the Library Bond Measure Projects and the College Terrace Library Infrastructure Renovation.

Staff reported that the Downtown Library closed to the public on April 24, 2010 for renovation and that the last day of operation of the Mitchell Park Library will be June 5, 2010. A celebration for the groundbreaking of the new Mitchell Park Library & Community Center will be held on Saturday,

June 12, from 1-3 pm on the site of the current facilities. The bids for the Downtown Library projects are due on May 11, 2010. The plans for the Mitchell Park project are going through final plan check. Bids on this project will be due in June. Staff introduced David Marks, of Nova Associates, the firm providing construction management services for the seismic upgrade and rehabilitation of the College Terrace Library. Mr. Marks provided an overview of the scope of this project and showed photos of the work that has been underway since November 2009. This project is currently on schedule and on budget and will be ready for occupancy in the fall of 2010. Staff then introduced Dawn Merkes of Group 4 Architecture, the firm providing design services for the renovation of Downtown Library, the construction of the new Mitchell Park Library & Community Center, and the renovation and expansion of Main Library. Ms. Merkes provided an overview on the progress on each of these projects as well as a description of the temporary Mitchell Park Library now nearing completion in the former auditorium and kitchen of the Cubberley Community Center. Floor plans for these projects were shown, including the locations of donor recognition opportunities at the three bond measure projects.

6. Presentation of the City Manager's Proposed Budget for Fiscal Year 2011.

City Manager, James Keene presented the Proposed Operating and Capital Improvement Plan budgets for Fiscal Year 2011. He read the City Council his transmittal letter from the Proposed Operating budget. He updated the City Council on the financial status of the General Fund for FY 2011, and the budget balancing recommendations proposed. He also reviewed the Budget Hearing schedule which includes two community outreach meetings scheduled for May 4 and May 15, and the opportunity for additional community outreach meetings with groups of 20 or more, six Finance Committee hearings scheduled throughout the month of May and June, and two meetings with the full City Council in June, with budget adoption scheduled for June 28.

Ann Crichton, 1062 Cardinal Way, spoke regarding the safety of children getting to and from school. She stated the traffic team was a critical factor in maintaining the safety of all of the foot and bicycle traffic.

Jack Morton, 2343 Webster Street, spoke regarding the Fire and Police Departments. He stated the fire budget needed to be reduced by seven to ten percent and the savings returned to the Community Services Department.

Penny Ellson, 513 El Capitan Place, spoke of support for the adult crossing guards and the traffic team. She stated there needed to be a proper balance between the engineering of safe streets, educating the youth on street

safety, encouraging families to use alternative modes of transportation and enforcement.

CONSENT CALENDAR

Council Member Holman stated she would not participate in Agenda Item No. 13 as one of the owners of the property is serving on a board that employs her.

Herb Borock, PO Box 632, spoke on Agenda Item No. 10 regarding recent information previously unavailable during the time of the environmental review in terms of the library being placed on dedicated parkland. He stated a library was not proper use of dedicated parkland.

City Attorney, Gary Baum stated in discussion with the Bond Counsel a Park Improvement Ordinance would address the parkland issue adequately.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Shepherd to approve Agenda Item Nos. 7-10, 12-13 and to continue Agenda Item No. 11 to a date uncertain.

7. Resolution 9050 entitled "Resolution of the Council of the City of Palo Alto Amending Rules and Regulations Governing the Provision of Utility and Public Works Services, Including Rules and Regulations 1-11, 13, 15-18, 20-27, and 29; and Repealing Rules and Regulations 12 and 14."
8. Approval of a Utilities Enterprise Fund Contract with All Day Electric Company, Inc. in the Total Amount of \$561,458 for a 4kV to 12kV Conversion Capital Improvement Project in the Area Between Alma Street, Middlefield Road, Loma Verde Avenue and East Meadow Drive (CIP: EL-08002).
9. Approval of a Water Enterprise Fund Contract with URS Corporation in the Total Amount of \$662,065 for Professional Engineering Services for the Well Testing and Rehabilitation Design of Five (5) Existing Water Wells Project WS-08002.
10. Adoption of an Ordinance Approving and Adopting a Plan for Improvements to the Nolte Property Addition to Mitchell Park.
- ~~11. Adoption of a Resolution Summarily Vacating Public Access and Public Recreation Access Easements at 600 and 620 Sand Hill Road.~~
12. Adoption of Ordinance Amending Section 2.30.360 (Exemptions from Competitive Solicitation Requirements) of Title 2 (Administrative Code) of the Palo Alto Municipal Code Regarding Contracts and Purchasing Procedures.

- 13. Ordinance 5079 entitled "Ordinance of the Council of the City of Palo Alto 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."
(First reading April 12, 2010 – Passed 8-0, Holman not participating)

MOTION PASSED for Agenda Item Nos. 7-10, 12: 9-0

MOTION PASSED for Agenda Item No. 13: 8-0 Holman not participating

AGENDA CHANGES, ADDITIONS, AND DELETIONS

Council Member Schmid requested to consider the current order of Agenda Item Nos. 18 through 21.

Mayor Burt explained the rationale for the current order of Agenda Item Nos. 18 through 21.

ACTION ITEMS

- 14. Approval of the Naming Recognition Plan for Significant Donations to the Palo Alto Library Foundation’s Capital Fundraising Campaign for Measure N Projects.

Library Director, Diane Jennings stated Staff was requesting Council to approve the naming recognition plan for donations to the Library Foundation Fundraising Campaign. She stated the City Naming Policy had been revised to address significant donations. A General Obligation Bond could not be utilized for the purchase of furniture, fixtures or equipment in the new facilities being upgraded with the passing of Measure N.

Alison Cormack, President Palo Alto Library Foundation, expressed the donors had been placed in three perspective categories: Visionary starting at \$100,000 to \$1,000,000, Leadership starting at \$1,000 to \$100,000 and Community \$1,000 and below. The Palo Alto Library Foundation was working in conjunction with the Friends of the Palo Alto Library and the Palo Alto Recreation Foundation.

Mayor Burt expressed his appreciation to the wonderful work the aforementioned groups were undertaking on behalf of the community.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Shepherd to approve the naming recognition schedule and authorize the Palo Alto Library Foundation to proceed with making naming commitments according to the plan for the organization’s “Launch our Libraries” campaign,

in support of the purchase of furniture, equipment, books and other collection items for the Measure N bond projects.

Vice Mayor Espinosa stated Measure N would not have passed without the tireless efforts from the esteemed library community and he suggested actively engaging the Council in the fundraising campaign.

Council Member Shepherd commended the Library Foundation for their selection of proposed names for the new facilities.

MOTION PASSED: 9-0

15. Public Hearing: Finance Committee Recommendation to Adopt the Draft 2010-15 Consolidated Plan, Draft 2010-11 Action Plan and Associated 2010-11 Funding Allocations and Adopt a Resolution 9051 entitled "Resolution of the Council of the City of Palo Alto Approving the Use of Community Development Block Grant Funds for Fiscal Year 2010-2011."

Chief Planning and Transportation Official, Julie Caporgno stated the 2010 Community Development Block Grant (CDBG) allocation was \$731,566. The City had over \$1 million to disburse to recipients. The Finance Committee discussed the allocation and unanimously supported the Staff and Citizen Advisory Committee recommendations.

Public hearing opened at 10:41 p.m.

Alisa Tantraphol, 750 Curtner Avenue, San Jose, thanked Council for considering the Second Harvest Food Banks proposal to increase the capability to serve and to give to the community of Santa Clara County. She noted their capacity had increased by forty percent in the past three years.

Public hearing closed at 10:43 p.m.

MOTION: Council Member Schmid moved, seconded by Council Member Holman to: 1) Allocate CDBG funding as recommended by Staff and the Citizens Advisory Committee (CAC) in the 2010/11 Action Plan and adopt the Resolution approving the allocations, 2) Authorize Staff to submit the 2010/11 Action Plan to HUD by the May 15, 2010 deadline, and 3) Authorize the City Manager, on behalf of the City, to execute the 2010/11 application and Action Plan for CDBG funds, 2010-2015 Consolidated Plan and any other necessary documents concerning the application, and to otherwise bind the City with respect to the application and commitment to funds.

MOTION PASSED: 9-0

16. Public Hearing: Finance Committee Recommendation to Consider Adoption of a Resolution 9052 entitled "Resolution of the Council of the City of Palo Alto Amending Utility Rate Schedules W-5 and S-5 of the City of Palo Alto Utilities Rates and Charges Pertaining to Water and Wastewater Service Connection Fees."

Senior Project Engineer, Roland Ekstrand stated Staff was recommending Council approval for the third phase of the forty percent increase to the capacity fees for water and wastewater.

Council Member Schmid asked for clarification of the fee differences between a new single family home and a remodeled single family home as noted on page 2 of CMR 214:10.

Mr. Ekstrand stated a remodeled home increased the water and sewer demand on the system.

Council Member Schmid stated a remodel was considered to increase the number of bathrooms or an irrigation system that would increase the homes original capacity thereby increasing their fees.

Mr. Ekstrand stated irrigation systems had little consequence on the usage; the main concern was the amount of bathrooms. However, the installation of low-flow fixtures would have minimal increase on the capacity fees.

Public hearing opened and closed without public comment at 10:49 p.m.

MOTION: Council Member Yeh moved, seconded by Council Member Schmid to adopt the Resolution to approve a 40 percent increase in capacity fees in Utilities Rate Schedule W-5 and Utilities Rate Schedule S-5 to take effect on July 2, 2010.

MOTION PASSED: 9-0

17. 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) Resolution 9053 entitled "Resolution of the Council of the City of Palo Alto amending Section 1601 of the Merit System Rules and Regulations Regarding the 2007-2010 Memorandum of Agreement", and (2) Resolution 9054 entitled "Resolution of the Council of the City of Palo Alto amending the Compensation Plan for Police Non-Management Personnel (PAPOA) Adopted by Resolution No. 8779."

Council Member Scharff stated he did not support the Staff recommendation.

Council Member Yeh stated he agreed ensuring a person who was away on military leave to support our Country should be able to return to their position in the Department they left. He noted in unyielding budget times compensation should be considered carefully.

MOTION: Council Member Yeh moved, seconded by Council Member Holman to adopt the Resolution to incorporate a side letter agreement with the Palo Alto Peace Officers' Association (PAPOA) to provide a supplemental military leave benefit of \$5,000 to compensate the employee and to reexamine the policy.

Council Member Holman wanted clarification on the Motion that it was not for a specific employee rather a policy change moving forward for any PAPOA member in the National Guard Reserve who was called to duty.

Council Member Yeh stated yes, the Motion was to review the policy moving forward.

City Attorney, Gary Baum asked for clarification of the intent of the Motion, was it for PAPOA members, a single employee or City wide.

Council Member Yeh clarified the Motion was directed towards the single employee impacted by the current lapsed policy with the intent to reexamine the reinstatement of the policy which currently had no clear direction.

Council Member Klein asked which fund the suggested compensation of \$5,000 would be taken from.

Council Member Yeh stated this pay has been framed in the staff report to supplement the income that is being received by this particular family. His understanding from previous information is that the Variable Management Compensation (VMC) was received by the Professionals and Management Group with a range between \$4 and \$5 thousand. There is a recognition of the sacrifice that this individual employee has assumed in serving our Country and this was an involuntary call to duty.

Council Member Klein asked Staff if they were requesting compensation in the amount of \$41,521.

Director of Human Resources, Russ Carlsen stated yes.

Council Member Klein stated he did not support the Motion.

Council Member Schmid asked whether the intent of the Motion was to have the policy open ended.

Council Member Yeh stated the intention was direction towards the singular employee currently effected by the lapsed policy in place.

Council Member Schmid recommended retaining the time table in the Staff recommendation of prior to June 30, 2010.

Mr. Carlsen stated the intent was to take care of the one individual who was caught between the lapsed current policy and the future policy that Staff had yet to complete in light of the current budget situation. He clarified the lapsed policy declared to maintain full benefits for employees who were called to military duty. He stated retaining good employees was vital and they needed to understand if they were involuntarily called to duty they would not lose their position or benefits.

Mayor Burt asked whether the City had historically provided full benefits to employees on active military duty.

Mr. Carlsen stated that was correct, in prior incidents the employees were compensated with full benefits whereas in this situation Staff was recommending compensating the differential between the employees' military pay and their City salary.

Mayor Burt stated if there was a historic practice of compensation there was an implied expectation. He stated he supported the Staff recommendation.

SUBSTITUTE MOTION: Vice Mayor Espinosa moved, seconded by Council Member Klein to adopt 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.

Council Member Price stated she supported the Staff recommendation.

Council Member Schmid stated unfortunately this was a budget issue of \$41,521 plus \$15,000 in overtime and with an uncovered position creating a decline in the police coverage throughout the City. Staff was recommending Council reinstate a policy that had expired.

Council Member Klein stated declining the benefit for this individual would create a decline in the morale of the fellow police officers, sending a clear message their City did not support them. He noted there was an obligation to follow prior policy.

City Manager, James Keene stated on the budget consideration side, the discussion was a one time expenditure using salary savings. He stated essentially there was an existing policy that had lapsed and was not proactively instituted into a new policy.

SUBSTITUTE MOTION PASSED: 7-2 Holman, Scharff no

18. 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.

MOTION: Council Member Yeh moved, seconded by Vice Mayor Espinosa to approve and authorize the City Manager to execute the contract with OPOWER, Inc. for administration and delivery of residential Home Energy Reports.

Council Member Yeh stated the Staff recommendation was a tool to assist residents to engage in energy efficiency programs.

Council Member Holman asked for clarification that the proposal would return to Council after a one year period for an update and consideration of continuation of the project.

Manager of Utilities Marketing Services, Joyce Kinnear stated the contract term was for a maximum of three years; however, was subject to Council budget authorization after the first year.

Council Member Schmid asked what the basis of the comparison was that the homeowners would be receiving from the information on their electrical bill.

Ms. Kinnear stated the residents would receive a letter explaining the program. The program would be comparing the resident's electric and natural gas usage with homes that were similar in size and a graph explaining how the specific residence compared to the average home in that specific comparison group.

Council Member Schmid clarified the comparative group would be of similar size and model home, residents of similar age and number of household occupants.

Ms. Kinnear stated the groups would be broken into neighborhoods.

MOTION PASSED: 9-0

19. Finance Committee Recommendation to Approve the 2010 Ten-Year Electric Energy Efficiency Plan.

Manager of Utilities Marketing Services, Joyce Kinnear stated there was a State law that required energy efficiency goals to be delivered to the California Energy Commission by June 1st of each year. There were annual incremental goals and a ten year cumulative goal. She noted in the past three years the City had exceeded the previous plans goals.

Council Member Klein stated Council had received a letter from the National Resources Defense Counsel (NRDC) urging the City to adopt the goal of one percent annually. He asked Staff's opinion on the feasibility of accomplishing that goal.

Ms. Kinnear stated Staff was in receipt of the communication and had reviewed the information. The suggested one percent would be an enormous ramp up that would be costly and would require significant resources in both Staff and contractors time.

Council Member Schmid stated the program would be more efficient if it relied on price mechanisms rather than increased Staff.

Ms. Kinnear stated pricing was not generally contemplated in the legislation with energy efficiency programs.

Council Member Schmid asked the reason behind the requested Staff increase.

Ms. Kinnear stated Staff was needed to develop and deliver the program, to manage the correspondence and respond to the customer base, to enter the information into the database and report the data to the Energy Commission.

City Manager, James Keene clarified any acquired Staff for the Fiscal Year 2011 would be temporary staffing. Permanent staffing would not take effect until the Fiscal Year 2012 budget.

Mayor Burt asked in CMR 218:10 on page 5, how specific the 7.2 percent load reduction was to Palo Alto and what was the standard for the Northern California Power Agency (NCPA) members.

Ms. Kinnear stated there were different variables to be considered dependent upon the customer load and the history in efficiency programs.

Mayor Burt asked how Palo Alto compared to other Cities throughout the Country in adoption of a program like PaloAltoGreen.

Ms. Kinnear stated there were striking differences between PaloAltoGreen and the Efficiency Program. PaloAltoGreen had a participation rate of ninety-six percent of residential customers while the Efficiency Program had a fifteen to twenty percent residential participation. The PaloAltoGreen cost was approximately ten to twelve dollars per month.

Mayor Burt stated Palo Alto electric utilities rates were lower and consequently the return on investment was poorer than most other jurisdictions. He asked the adoption rate for photovoltaic given that the City's permitting process was more cumbersome than most cities.

Ms. Kinnear stated compared to most municipal utilities excluding Sacramento Utilities, Palo Alto was fairly high on the adoption rate. There were approximately 350 systems in the City which was still a small amount considering the number of customers served. As a percentage Palo Alto was lower than PG&E; however, their top tier rate was at 48 cents which created more of an incentive for residential customers to install a solar system in the Central Valley than in Palo Alto.

Mayor Burt asked for clarity in terms of the future consumption savings.

Ms. Kinnear stated there was information available by technology type and cost effectiveness over the next ten year period. She noted the compact fluorescent lighting was not going to be mandated until the year 2020.

Mayor Burt stated the program was not specific enough to Palo Alto although it had a good foundation. He supported moving forward with the program.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Yeh to approve the 2010 Ten-Year Electrical Energy Efficiency Plan for the period 2011 to 2020.

MOTION PASSED: 9-0

20. Colleagues' Memo from Mayor Burt, Vice Mayor Espinosa, Council Members Yeh and Scharff Requesting the City Council Direct the Utilities Advisory Commission to Make Recommendations to the City Council on a Comprehensive Energy Efficiency and Renewables Procurement Strategy.

Council Member Yeh stated the Colleagues Memo focused on how the City traditionally approached the Power Purchase Agreements (PPA's) which were the primary basis for its energy purchases.

Council Member Price asked whether the \$75,000 for the consulting services was coming from the Enterprise Fund.

Council Member Yeh stated yes.

Council Member Price requested Staff be given flexibility with the requested project knowing their current workload was high.

Council Member Yeh stated the Colleagues Memo was intended as a framework for the analysis that Staff was currently undertaking to bring to the Utilities Advisory Commission (UAC) in August 2010. The consulting services were considered as a part of the research that would be necessary to return beneficial information to the UAC.

Council Member Schmid requested Recommendation Item No. 2 (Alternate mechanisms to Power Purchase Agreement-type contracts to acquire renewable supplies at a lower or competitive cost (e.g., locally-sites generation output purchased through fee-in-tariffs, investing/owning generation through the City's joint partnerships such as NCPA, ect)) have as wide of a scope as possible and to review all of the probabilities that were available.

MOTION: Council Member Yeh moved, seconded by Council Member Price to direct the Utilities Advisory Commission and Staff to analyze and make recommendations to the City Council on: 1) Relative environmental benefits, economics, and rate impacts of undertaking energy efficiency projects locally versus purchasing higher cost renewable energy supplies to meet energy loads, and 2) Alternate mechanisms to Power Purchase Agreement-type contracts to acquire renewable supplies as a lower or competitive cost (e.g. locally-sited generation output purchased through feed-in-tariffs, investing/owning generation through the City's joint partnerships such as NCPA, etc.).

MOTION PASSED: 9-0

21. Utilities Advisory Commission Recommendation to City Council to Adopt Two Resolutions: (1) Approving A Power Purchase Agreement with Ameresco San Joaquin LLC for the Acquisition of Up to 52,000 Megawatt-hours per Year of Energy Either Over Fifteen Years at a Cost Not To Exceed \$88.7 Million, or Over Twenty Years at a Cost Not to Exceed \$122.4 Million, and (2) Approving A Power Purchase Agreement with Ameresco Crazy Horse LLC for the Acquisition of Up to 52,000 Megawatt-hours per Year of Energy Either Over Fifteen Years at a Cost Not to Exceed \$80.7 Million, or Over Twenty Years at a Cost Not to Exceed \$111.3 Million; Finance Committee Recommendation to Direct Staff to Re-examine the Alternative Energy Program Policies and Goals.

Senior Resource Originator, Tom Kabat gave a brief presentation on the Renewable Portfolio Standard (RPS), and the Finance Committee

recommendations for efficiency. Staff recommended the Council approve two Purchase Power Agreements (PPA's) with Ameresco for the Crazy Horse and San Joaquin projects for terms of either fifteen or twenty years.

Energy Risk Manager, Karl Van Orsdol summarized the independent risk factors taken under energy procurement. The greatest risk to the City would be locking in a renewable energy price at the present time when the future renewable prices were unknown and could be lower.

Utilities Advisory Commissioner, John Melton, 369 Calcaterra Place, spoke of the Utilities Advisory Commission (UAC) recommendation to approve both Ameresco PPA's and to go with the twenty year term.

Herb Borock, PO Box 632, spoke of the Council reviewing the audited financial statements for Ameresco prior to committing to a decision.

John Hackmann spoke of his opposition to the Ameresco contract.

MOTION: Council Member Klein moved, seconded by Vice Mayor Espinosa to adopt Staff and the Utilities Advisory Commission recommendation to:

1) Adopt a Resolution approving a Power Purchase Agreement (PPA) with Ameresco San Joaquin LLC, a Delaware limited liability company, for the acquisition of up to 52,000 MWh per year of energy over twenty years at a cost not to exceed \$122.4 million, including, if required, a payment of up to \$1.425 million for electric transmission interconnection costs; 2) Adopt a Resolution approving a PPA with Ameresco Crazy Horse LLC, a Delaware limited liability company, for the acquisition of up to 52,000 MWh per year of energy over twenty years at a cost not to exceed \$111.3 million, including, if required, a payment of up to \$1.425 million for electric transmission interconnection costs; and 3) Waive the application of the investment-grade credit rating requirement of Section 2.30.340(d) of the Palo Alto Municipal Code, which applies to energy companies that do business with the City, as the Ameresco companies are not rated by credit agencies.

Council Member Klein stated there had been unwarranted criticism of participating in long-term contracts in the renewable energy field. The City had historically worked with long-term contracts which had worked to our advantage.

Vice Mayor Espinosa stated the Finance Committee (Committee) requested Staff achieve a thirty-three percent increase in the electric resources portfolio. Staff had presented Council with a scaled back plan and he felt the timeline and company were conducive to the goals set by Council.

Council Member Holman stated she had been informed the San Joaquin landfill was exacerbating the methane gas issue by accepting items such as paper, cardboard, wood and landscape debris. She asked Staff to comment.

Mr. Kabat stated the San Joaquin landfill received the items the community had sorted. There was no process in place for the landfill to separate the items prior to or as they were received.

Council Member Holman stated she supported the Crazy Horse project but not the San Joaquin project.

SUBSTITUTE MOTION: Council Member Holman moved, seconded by Council Member Scharff to adopt Staff and Utilities Advisory Commission recommendation to adopt a Resolution approving a PPA with Ameresco Crazy Horse LLC, a Delaware limited liability company, for the acquisition of up to 52,000 MWh per year of energy over twenty years at a cost not to exceed \$111.3 million, including, if required, a payment of up to \$1.425 million for electric transmission interconnection costs.

Council Member Scharff stated Palo Alto had a high concentration of landfill gas contracts in its portfolio and he felt that accepting one contract gave room for more opportunity in expanding its portfolio. He asked how purchasing Renewable Energy Certificates (REC's) differed from purchasing renewable energy and how that affected the market.

Mr. Kabat stated the legislature debated whether REC's would be allowed to meet part of the requirements of RPS. He expressed Ameresco had not given the City an option for accepting only the Crazy Horse contract; the discussion was purchasing San Joaquin or both.

Jim Bier, Ameresco representative, stated AB939 required all landfills in California to meet certain recycling goals and San Joaquin was exceeding said goals.

Council Member Scharff asked whether Ameresco would consider releasing the Crazy Horse contract on its own.

Mr. Bier stated the Crazy Horse landfill was the lowest priced of the four options presented to Staff which was why it had been packaged in such a manner. Therefore there would not be a single contract sale for the Crazy Horse landfill.

Council Member Holman asked whether the San Joaquin landfill continued to accept paper, cardboard, wood and items of such.

Mr. Bier stated he was uncertain as to the extent of what the landfill was accepting.

Council Member Holman stated AB939 may have a low threshold for recycling and although San Joaquin may be exceeding that State law it may not be sufficient for Palo Alto requirements.

Mr. Bier stated the San Joaquin landfill was presently generating a sufficient methane gas production amount for the size of the proposed landfill.

Mayor Burt asked why the landfills were being offered in a package situation rather than pricing them individually according to their value.

Mr. Bier stated each landfill had its own unique characteristics and the Crazy Horse landfill was cheaper due to the Air District having a more lenient permit process.

Mayor Burt stated the cost was low to supply the power, but asked what the driving force was behind the selling price.

Mr. Bier stated Ameresco had internal goals that needed to be met and with that particular site, the conditions were conducive towards offering it at a lower price.

Council Member Shepherd stated she had received confirmation that a lot of the good energy resources were already taken and Palo Alto was in possession of a number of them. She stated she supported the original Motion.

Council Member Schmid stated there had been recent reports indicating landfill methane gas was a danger and should be removed from the list of alternative energies. The indication was the future solution was waste to energy. He stated he did not support the original Motion.

Council Member Yeh stated he supported the original Motion. He shared his concern with the Ameresco credit risk.

Mayor Burt stated he supported the Substitute Motion.

Council Member Price stated she supported the original Motion. She noted neither option was perfect; although, accepting both contracts was the better option.

Council Member Holman urged her Colleagues to consider only supporting the Crazy Horse landfill as an option. She felt approving the San Joaquin landfill was fostering poor practices.

SUBSTITUTE MOTION FAILED: 4-5 Espinosa, Klein, Price, Shepherd, Yeh, no

MOTION PASSED: 5-4 Burt, Holman, Scharff, Schmid no

Assistant Director of Utilities, Jane Ratchye asked for clarification on the Motion approved.

Council Member Klein stated he left out the Recommendation Item No. 1, (A. Return to the Finance Committee before making any further recommendations on the acquisition of any new renewable energy resources with a re-examination of the policies and goals that are being used in the alternate energy program, including the energy efficiency plans and the electric acquisition policies and plans; B. In its review, staff should provide information on the flexibility of the 33% target date with the option of aligning it to the State mandated goals; and C. Return to the Finance Committee with a credit rating of Ameresco when its final quarter financial results for 2009 are available) because it had been encompassed in discussions passed previously.

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Holman reported on attending the Santa Clara Valley Water District (SCVWD) meeting last week where the topic of redistricting was discussed.

Mayor Burt stated that there were several proposals reviewed and that the one voted on by the SCVWD, combining Gilroy and Palo Alto into one water district, does not necessarily harm Palo Alto's position. He also stated that he will be attending a press conference on May 4, 2010 on High Speed Rail.

Council Member Yeh reported on attending the Northern California Power Agency Federal Policy Forum in Washington, D.C.

Council Member Price reported on attending a suicide prevention workshop last week presented by the Santa Clara County Mental Health Department. Yesterday, she also attended the Peninsula Interfaith Action meeting focusing on supporting our youth.

ADJOURNMENT: The meeting adjourned at 1:26 A.M.