

Special Meeting  
April 19, 2010

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:01 p.m.

Present: Burt arrived at 8:04 p.m., Espinosa, Holman, Klein arrived at 7:48 p.m., Price, Scharff, Schmid, Shepherd, Yeh

Absent:

SPECIAL ORDERS OF THE DAY

1. Proclamation Expressing Appreciation to the Friends of the Palo Alto Junior Museum & Zoo for Outstanding Public Service.

Council Member Holman read the Proclamation expressing appreciation to the Friends of the Palo Alto Junior Museum & Zoo for outstanding public service.

Director of the Palo Alto Junior Museum & Zoo, John Aikin spoke on his appreciation for the Friends of the Palo Alto Junior Museum & Zoo. He stated the Grand Opening Celebration for the new Bobcat Ridge would be held on June 19, 2010.

Roxy Rapp accepted the Proclamation on behalf of the Friends of the Palo Alto Junior Museum & Zoo.

2. Proclamation Expressing Appreciation to Save the Bay for Outstanding Public Service.

Council Member Price read the Proclamation expressing appreciation to Save the Bay for outstanding public service.

Senior Ranger, Daren Anderson spoke on his appreciation for Save the Bay.

Save the Bay Nursery Manager, Denise Della Santina accepted the Proclamation on behalf of Save the Bay.

3. Proclamation Expressing Appreciation to John Reinhardt for Outstanding Public Service.

Council Member Shepherd read the Proclamation expressing appreciation to John Reinhardt for outstanding public service.

Recreation Manager, Robert De Geus, spoke on John Reinhardt's contributions in the community.

John Reinhardt spoke on his efforts on the nursery project, and recognized the countless volunteers that made the project successful.

Vice Mayor Espinosa stated his appreciation for the volunteers that served the community.

### STUDY SESSION



- 3a. 1) Approval of Staff Update Regarding April 22, 2010 Effective Date for Ordinance Restricting Food Vendors' Use of Expanded Polystyrene, 2) Acceptance of Staff Update on Less-Toxic Pest Control Program for City Operations, and 3) Acceptance of Staff Update on Zero Waste Programs 2010.

Recognizing the 40<sup>th</sup> anniversary of the original Earth Day, Staff updated the City Council on three environmental programs: 1) expanded polystyrene (Styrofoam or "foam") restrictions; 2) use of less-toxic pest control methods; and 3) Zero Waste programs. Due to a recently adopted City Ordinance to face the challenge of keeping contaminants out of creeks and the Bay, foam food containers would be eliminated at restaurants and food service facilities effective April 22, 2010. In 2009, Staff significantly reduced the use of chemical pesticides at City facilities. Staff spoke on the use of trapping as an alternative to harsh chemicals for gopher control at the Palo Alto Golf Course. On July 1, 2009, GreenWaste became the City's contractor for collecting residuals from residents and businesses. Staff spoke on several new items collected curbside, including small electronic items, plastic bags and film, small scrap metal items, and all small plastic items other than foam.

Co-Chair of the Zero Waste Task Force and Chair of the Sustainable Schools Committee, Walt Hays, stated his appreciation for the progress made on environmental initiatives throughout the City. He provided an update on several programs from the Committees he served on.

Wynn Grcich, 30166 Industrial Parkway, Hayward, spoke on her approval for the City's use of nontoxic pesticides and herbicides, and her support to adopt the European banned list of chemicals.

#### CITY MANAGER COMMENTS

Assistant City Manager, Pamela Antil invited the public to a celebration marking the start of the renovation for the Downtown Library on April 23<sup>rd</sup>. She indicated the upgrade of the Downtown Library would be the first of three facility improvements funded by Measure N. The City received the Environmental Protection Agency's Green California Summit and Exposition Award for Leadership in Green Purchasing at the Green California Summit Conference held in Sacramento.

#### ORAL COMMUNICATIONS

Mark Petersen-Perez, spoke on First Amendment Rights and the nationwide rise of police officers charged with driving under the influence.

Sunny Mueller, 165 University Avenue, urged the City Council to adopt a resolution supporting the International Meat Free Monday campaign.

Wynn Grcich, 30166 Industrial Parkway, Hayward, spoke on the spraying of pesticides into the air, and fluoride and other inorganic material found in drinking water.

Paula Collins, spoke on the importance of art in the community and urged the City Council to continue funding the Children's Theatre.

Sylvia Sanders, spoke on the increased revenue from the Children's Theatre and urged the City Council to continue funding the Children's Theatre.

#### CONSENT CALENDAR

Council Member Shepherd advised she would not be participating in Agenda Item No. 4 as her husband had a property lease located in the Business Improvement District.

**MOTION:** Council Member Yeh moved, seconded by Vice Mayor Espinosa to pull Agenda Item No. 7 to become Agenda Item No. 15a.

**MOTION:** Council Member Holman moved, seconded by Council Member Scharff to pull Agenda Item No. 8 to become Agenda Item No. 15b.

**MOTION:** Council Member Scharff moved, seconded by Council Member Yeh to approve Agenda Item Nos. 4-6, 9.

4. Preliminary Approval of the Report of the Advisory Board for Fiscal Year 2011 in Connection with the Palo Alto Downtown Business Improvement District and Adoption of Resolution 9048 entitled "Resolution of the Council of the City of Palo Alto Declaring its Intention to Levy an Assessment Against Businesses Within the Downtown Palo Alto Business Improvement District for Fiscal Year 2011 and Setting a Time and Place for a Public Hearing on May 17, 2010 at 7:00 PM or Thereafter, in the City Council Chambers."
5. Approval of a Sole Source and Design/Build Agreement with Devcon Construction, Inc. in the Amount of \$113,100 for Construction of Improvements to Bobcat Facilities and Other Areas at the Palo Alto Junior Museum and Zoo.
6. Denial of an Appeal by All Signs Services of an Architectural Review Approval Condition to Delete Two Ancillary, Illuminated Wall Signs: "Liquor" and "Photo" Associated with a CVS Pharmacy Within the CN(GF)(P) Zone District Located at 2701 Middlefield Road.
- ~~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 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.~~
9. Ordinance 5078 entitled "Ordinance of the Council of the City of Palo Alto 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)." *(First reading April 05, 2010 – Passed 9-0)*

**MOTION PASSED for Item No. 4 :** 8-0 Shepherd not participating

**MOTION PASSED for Item Nos. 5, 6, 9: 9-0**

ACTION ITEMS

10. Approval of Comment Letter on the Revised Draft Program EIR for the Bay Area to Central Valley High Speed Train Project and Review of Guiding Principles.

Deputy City Manager, Steve Emslie stated the Agenda Item was to approve the comment letter on the revised draft Program Environmental Impact Report (EIR) for the Bay Area to Central Valley High Speed Train Project. He indicated the letter would continue to be refined throughout the comment period, ending April 26, 2010. He spoke on areas of concern, within the comment letter, from an outside legal consultant. He overviewed comments received from the Historic Resources Board, the City's Arborist, Dave Docktor, community member Gary Patten, and Canopy. Comments received did not change the nature of the comment letter. Staff recommended that Mayor Burt sign the finalized comment letter to the California High Speed Rail Authority (HSRA). He indicated the review of the Guiding Principles had not been reviewed by the High Speed Rail Committee; therefore the recommendation to revise the Guiding Principles was removed from the recommendation. The review of the Guiding Principles by the High Speed Rail Committee would commence on April 29, 2010, and revisions to the principles would return subsequently.

Mayor Burt stated the Agenda Item served as the second meeting for the review of the Program EIR comments.

Council Member Price requested clarification on the language contained within Sections C.7, C.7-2, and C.7-3. She inquired how the concept of environmental justice applied to various portions within the City; she indicated there was a wide range of socioeconomic conditions throughout the corridor. She inquired whether the City made differential distinctions on the scope of impacts for various elements within the proposed project. She requested a reevaluation on the application of environmental justice within the City.

Mr. Emslie stated Staff would reexamine Sections C.7, C.7-2, and C.7-3 based on Council Member Price's comments.

Council Member Holman felt providing specific instances, in addition to general comments, would be effective in eliciting a response from the HSRA. Under Section C.13-6, Noise and Vibration, she recommended addressing the current noise conditions. Under Section C.6, Cultural Resources, she recommended that a list of historical resources be incorporated. She agreed with the comments made by City Arborist, Dave Docktor, and Canopy.

Mayor Burt inquired whether the Business Plan was part of the basis for comment on the Program EIR.

Mr. Emslie stated that was correct.

Mayor Burt suggested that the Business Plan's capital cost be revised upward because the Alternatives Analysis for the San Jose to San Francisco segment was not reflected in the current capital cost. He inquired whether El Palo Alto's stature on the List of National Historic Landmarks in California should be referenced.

Council Member Shepherd inquired whether the reimbursement of expenses, time and effort for present and future costs was incorporated within the EIR.

Mr. Emslie stated yes. He stated a referenced amount could be added to the preamble.

Council Member Shepherd inquired whether specific language could be added to the EIR on how the State would reimburse the City.

Mr. Emslie stated yes.

Council Member Shepherd recommended that standards on the measurement of sound and vibration be added to the comment letter.

Mr. Emslie stated Staff could list the City's standards on sound and vibration in the comment letter.

Council Member Holman recommended that the word compatibility be used in Section C.2, Aesthetics and Visual Impacts, when describing structures and landscapes.

Dan Anderson, 2400 Carlmont Drive, Belmont, spoke on his support to eliminate the High Speed Train project passing through the peninsula.

Beth Bunnenberg, 2351 Ramona Street, spoke on a list developed by the Historic Resources Board on potential topics to consider on the comment letter.

Ray Crozier, 1687 Edgewood Drive, spoke on his recommendation to clarify sections of the Guiding Principles.

Mayor Burt stated the High Speed Rail Committee would meet on April 29, 2010 to review the Guiding Principles.

Caren Chappell, stated the High Speed Rail Committee meeting would be meeting subsequent to the comment period deadline. She spoke on the unaccountability of the HSRA's use of Proposition 1A Funds.

Mayor Burt stated this evening's City Council meeting served as a wrap-up meeting to address the revised draft Program EIR, and the next High Speed Rail Committee meeting would address other topics, including the Guiding Principles. On April 15, 2010 State Senator Joe Simitian held a Transportation Budget Subcommittee meeting which included an extensive discussion on High Speed Rail.

Council Member Schmid stated a bullet point should be added to the Guiding Principles stating that the Alternative Analysis had segments. He raised the possibility that each segment might look different and have diverse impacts. He recommended an additional sentence be added to state that the High Speed Rail Committee report back to the City Council, at the next scheduled meeting. He felt the HSRA should assure a strong economic feasibility analyses and sufficient project financing options before implementation or the approval of any selected alternative. He felt there should be a clear Guiding Principle for the draft Memorandum of Understanding with Caltrain and HSRA.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Scharff to authorize the Mayor to sign the comment letter with changes made during this evening's meeting to the California High Speed Rail Authority (Authority) detailing Palo Alto's comments on the Revised Draft Program EIR for the Bay Area to Central Valley High Speed Train Project.

Vice Mayor Espinosa spoke on his appreciation toward Staff and community members for their hard work. He stated the comment letter spoke to that conception and there were many concerns to be addressed by the HSRA. The City Council would work diligently to ensure that the HSRA was acting properly.

Council Member Holman inquired whether the Motion incorporated all comments made from the City Council and members of the public. She inquired whether the Maker of the Motion agreed with all comments received.

Vice Mayor Espinosa stated his intention was to incorporate comments made by the Council Members and members of the public. Additional comments may be received before the end of the comment period that may be incorporated within the comment letter.

Council Member Scharff complimented Staff, High Speed Rail Committee, and Californians Advocating Responsible Rail Design (CARRD) for their hard work.

Council Member Schmid thanked the High Speed Rail Committee and Staff.

Council Member Klein spoke on his travel to Washington DC, along with Vice Mayor Espinosa, to lobby on a variety of City issues. He spoke on his experience delivering the City's message and concerns for the High Speed Train to Staff Members of Congresswoman Eshoo, Senator Boxer, and Senator Feinstein. He met with representatives from the Federal Department of Transportation and the Federal Railway Administration. He indicated speaking with the Federal Railway Administration was essential because they granted California over \$2 billion. The representatives were mostly unaware of the City's concerns on the High Speed Train Project.

Council Member Shepherd requested further information on the discussion held with Senators Boxer and Feinstein.

Council Member Klein stated the message delivered to Senators Boxer and Feinstein was that the City had concerns regarding local and broad topics that may impact the community adversely.

Mayor Burt recognized the valuable role community members and CARRD played in developing the comment letter, and encouraged the community to write individual letters to the HSRA. He stated a meeting on the Alternative Analysis was scheduled on April 27, 2010.

Planning and Transportation Commissioner, Arthur Keller recommended that potential construction impacts on building systems be included in the comment letter.

**MOTION PASSED: 9-0**

Mayor Burt stated, due to a withdrawal of one Library Advisory Commission Applicant, there was only one candidate to be interviewed on March 20, 2010.

City Attorney, Gary Baum stated this subject was not on the City Council agenda; however, Staff could reopen the application process at the City Council's request.

Mayor Burt stated the City Clerk would notify the Applicant that the interview date would be rescheduled on March 20, 2010. He welcomed their continued participation.

By consensus, the City Council decided to reopen the application process.

Vice Mayor Espinosa spoke on the Special Policy and Services Committee Meeting scheduled on April 22, 2010. The scheduled topics included the Infrastructure Blue Ribbon Task Force and a discussion on the early release of the City Council packet.

11. Report on 2009 Climate Protection Plan Goals and Approval of 1) Expanding the Greenhouse Gas (GHG) Emissions Goals and Reduction Plan for City Operations in 2012 to 20%, 2) New Initiatives to Accelerate GHG Reductions and Cost Savings for City Operations.

Energy Risk Manager, Karl Van Orsdol gave a PowerPoint presentation on City activities since the approval of the Climate Protection Plan Goals adopted in 2006. He spoke on the history of the Climate Protection Plan Goals, opportunities for Greenhouse Gas (GHG) emission reductions, and cost savings benefits. He spoke on the concept of organizations metabolism, which consisted of the level of efficiency the City was able to utilize raw material to convert into services and deliverables, and minimize the output of GHG, solids, and water waste. Staff allocated energy budgets to City departments and analyzed monthly water, electric, and natural gas bills from January 2005 through present. A system was developed to manage energy costs and emissions to get a sense of where energy dollars were spent. The system managed expenses to energy budgets, increased organizational efficiencies, and identified cost savings opportunities. The City had exceeded the City Council's goal by reducing CO2 emissions by roughly ten percent for a savings of \$527,287. He indicated there was an increase in liquid fuel and water. Taken the reduction in expenditures, and increase in expenditures, the total savings was \$185,807. He overviewed the estimated distribution of savings in the General Fund compared to the Enterprise Fund, with and without water billing. Excluding water, the process of reducing GHG and becoming more efficient resulted in an approximate \$350,000 decline between 2005 and 2009.

Mayor Burt inquired whether the mentioned \$350,000 was on an annualized basis.

Mr. Van Orsdol stated that was correct.

Mayor Burt stated the cumulative savings would be significantly more than \$350,000.

Mr. Van Orsdol stated that was correct.

Council Member Klein inquired why the cost of liquid fuel had risen considering a reduction in Staffing and a poor economy.

Mr. Van Orsdol stated he was unclear why liquid fuel had risen; he stated Staff was looking into this matter.

Council Member Shepherd inquired whether the rise in liquid fuel was due to an increased in demand or cost.

Mr. Van Orsdol stated there had been an increase in liquid fuel use. He recommended the City Council expand the GHG Goals and Reduction Plan for City operations to stimulate additional cost saving opportunities. Staff proposed obtaining this new goal in four ways, as follows: 1) linking energy and material consumption to department budgets to provide the financial incentives for conservation and efficiency; 2) address City-wide issues where energy consumption and cost recovery were not linked by power management of IT infrastructure; 3) empower employees to find efficiencies and GHG reductions; and 4) reevaluate transportation strategies with commute incentives and City fleet management. He overviewed a chart which connected costs and GHG reductions which helped develop a City-wide energy management process. He spoke on potential efforts Staff would be focusing on to reach the goals for the community, as follows: 1) education and outreach, in partnership with the Community Environmental Action Partnership; 2) including data on utility users bills; 3) empower the community to reduce their GHG emissions, and provide the information to implement the reductions; 4) expand utility marketing services programs; and 5) incorporate additional measures in the Green Building Program. He spoke on the preliminary assessment of changes in emissions between 2005 and 2009, excluded transportation. He overviewed comparable GHG effort targets from neighboring cities. He indicated a focus on the community was imperative as the community represented 96 percent of the total emissions.

Council Member Price inquired whether Staff was studying successful programs, from other public and private organizations, on reducing GHG.

Mr. Van Orsdol stated Staff was benchmarking with other public and private organizations.

Council Member Price spoke on Senate Bill 375, Land Use Planning Progress, and the need to fund alternative transportation to achieve the goals of a sustainable community.

**MOTION:** Council Member Scharff moved, seconded by Vice Mayor Espinosa to: 1) Expand the Greenhouse Gas (GHG) Emissions Goals and Reduction Plan for City operations in 2012 by 20%, and 2) Explore new initiatives to accelerate GHG reductions and cost savings for City operations.

Council Member Scharff expressed his appreciation toward Staff for the thorough presentation.

Council Member Yeh stated the data presented in the presentation could assist Staff in making informed decisions on reducing GHG emissions.

Mr. Van Orsdol stated the system used to track data in City facilities could be transferred to every resident and business to help achieve the community's goals.

Council Member Yeh appreciated Staff's use of cost benefit analysis to consider the financial benefits of reducing GHG. He inquired how Staff could inform energy-intensive device users on their impact and whether Staff was considering potential policy positions on this matter.

Mr. Van Orsdol stated more analysis needed to be researched on the causes of increased energy due to energy-intensive devices. He stated the digital transition, in 2005, had increased power usage. He spoke on ideas to reduce the increase of utility power; and how Staff was researching how to achieve the maximum efficiencies on utility usage.

Council Member Holman inquired on the potential to display utility usage online as part of customer utility bills.

Mr. Van Orsdol indicated studies have shown that when consumers know their emissions and consumptions they are competitive in reducing usage. Displaying consumer usage online was a goal of Staff; however, it had not been budgeted or endorsed to date.

Council Member Holman thanked Staff for their work on the presentation and for the clarity in responses.

Mayor Burt stated utility bill history could only be seen within the last twelve months, making it difficult to view seasonal comparisons. Displaying dollars saved or spent, by reducing or conserving, may alter behavioral use.

Council Member Scharff supported the concept of adding a thirteenth month on utility bills to view seasonal comparisons.

**MOTION PASSED: 9-0**

12. Response to Colleagues Memo Directing the City Manager to Explore Ways to Reduce Potable Water Use in Palo Alto by 20% by 2020 and Approve Proposed Baseline and Strategies to Achieve the 20% Goal.

Deputy City Manager, Steve Emslie stated Staff requested the City Council to direct the City Manager to explore ways to reduce potable water use by 20 percent by 2020, and approve the proposed baseline and strategies to reach said 20 percent goal. He indicated this Agenda Item was in response to a Colleague's Memo presented in December 2009. The City was one of the highest per capita water users in the San Francisco Bay Area. He spoke on relevant State legislative activities including Senate Bill 7 and Assembly Bill 1881. He spoke on water reduction strategies including the use of demonstration gardens and education programs, City facility upgrades, updating the Green Building Program and 2010 Urban Water Master Plan, more emphasis on rebates, and watching for warnings for inefficient water usage and faulty fixtures.

Council Member Scharff inquired on the cost to achieve the proposed 20 percent goal versus the proposed 30 percent goal.

Utilities Marketing Services Manager, Joyce Kinnear stated she did not have the exact cost and more evaluation was necessary.

Council Member Scharff inquired whether Staff would be able to achieve Council's goals if the \$33 million needed, for the recycling plant, was omitted from the strategies.

Ms. Kinnear stated that if the recycling plant was not constructed, other facility upgrades would be needed and a more aggressive pricing tier would need to be created for high volume water uses. She indicated more rain harvesting systems at City facilities and the use of water pumping out of dewatering facilities would need to be analyzed.

Council Member Scharff inquired whether the \$5-10 million for proposed turf would be allocated from the General Fund.

Ms. Kinnear stated there would be a few rebates; however, the bulk of the expense would be allocated from the General Fund.

Mayor Burt stated these were capital costs. He requested cost effectiveness comparison data. He inquired on the dollar savings on the cost of water over the life of the proposed capital investment. He inquired on the number of years for cost recovery.

Ms. Kinnear stated cost recovery for water-efficient toilets in a commercial facility was a few years, and turf replacement was 12-15 years. She stated more analysis was necessary to quantify costs and benefits.

Mayor Burt requested a follow up on this data at a future date.

Council Member Klein stated spending more dollars to obtain a larger water supply was not an option. At present, there were no good alternatives to obtain additional water from the Hetch Hetchy system. He stated the City was partnering with the Bay Area Water Supply and Conservation Agency (BAWSCA) and San Francisco to analyze a long-range strategy for additional water supplies. He stated the efforts had proven problematic. An increase in population in the Bay Area would result in demands for more water than what could be supplied by the Tuolumne River. It was his belief that the easiest way to ensure a sufficient amount of water was to reduce demand for water and be cognitive of the cost-benefit analysis.

Bob Moss, 4010 Orme Street, spoke on the complexity of reducing potable water use by 20 percent and possible partnerships with other agencies.

Peter Drekmeier, 311 Fulton Street, spoke on behalf of the Tuolumne River Trust. He supported landscaping with native plants, providing wildlife habitat, and reducing water use.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Price to: 1) Approve the baseline proposed and outlined in Staff Report CMR 212:10, and 2) Approve the strategies outlined to reach the 20 percent goal by 2020.

Vice Mayor Espinosa spoke on Palo Alto as being one of the highest water users in the region. He appreciated Staff's work dividing the Agenda Item into municipal facilities and City operations, Codes and Ordinances, 2010 Urban Water Management Plan, and residential and commercial opportunities. He stated that eventually there would be funding available to study cost impacts.

Council Member Price stated the goals that the Motion addressed were appropriate; however, the City Council should be more aggressive and ambitious. She felt understanding and studying the cost implications was essential to implement higher standards.

Council Member Klein stated incentives were provided to the City by the Santa Clara Valley Water District to purchase high-efficiency toilets and appliances. He spoke on the potential need for water rationing in the future, and the City's responsibility to change the behavior of water users.

Council Member Schmid stated, under the strategies to reach 30 percent reduction below the proposed baseline, there was a list of options and alternatives. He stated these initiatives were expensive. The most cost effective way to reduce the baseline was to raise rates on the highest tiered users. He felt a long-term decline in the City's water supply was a concern for population growth.

Council Member Yeh spoke on the importance of achieving the conservation goals within the City.

**SUBSTITUTE MOTION:** Council Member Yeh moved, seconded by Council Member Klein to make the goal be a 30 percent reduction of potable water use by 2020.

Council Member Yeh stated Staff's analysis had identified areas where the City could implement actions to achieve the conservation goals. Last year, the intent of the Colleagues' Memo was to communicate to the community that the City was working on a policy due to recently passed State law. Through Staff analysis, City facilities could achieve the 20 percent water reduction, which was separate from what the community could reduce. A partnership needed to be made with the community. He appreciated Staff's analysis on cost effectiveness solutions. He felt the 20 percent goal for water reduction by 2020 was achieved in 2009, and there was a high level of awareness and a willingness from the community to adopt behavioral changes.

Council Member Holman inquired how many demonstration gardens were desired by Staff within the City limits.

Ms. Kinnear stated Staff recommended various gardens displaying different types of low water use plants.

Council Member Holman stated there was a demonstration garden at Eleanor Pardee Park. She stated she was against requiring inefficient plumbing fixtures being replaced when residences are sold. She supported the original Motion, and supported outreach to the public by Staff on education and expanded rebate possibilities.

Council Member Shepherd stated she would be supporting the original Motion. She stated there was a conflicting message to the public on the need to conserve water at this time, and the allocation of water to residents. She would like Staff to return with a report on a potential method to sell unused allocations of water to neighboring cities.

Council Member Scharff stated an issue that the City Council should work toward was a better system, during drought years, which did not punish people for being environmentally responsible during non-drought years.

Mayor Burt inquired whether the City's methodology, to determine the per capita per day, was based on residences and not the total number of people working within the City.

Ms. Kinnear stated that was correct.

Mayor Burt felt the methodology was misleading by comparison to other communities. He felt the matrix, to find the appropriate allocation of water, should be a combination of residences and the number of people employed within the City limits. He overviewed the water usage actual, projected, baseline, and targeted amount stating it did not suggest the City's current reduction to a drought or the current economic condition. He stated he would support the Substitute Motion. He requested that Staff return, within a year, with a report if the action this evening did not prevail to validate how much reduction was attributable to economic and drought trends. He spoke on the rate of implementation for existing measures. If the City Council adopted no new measures, but over time got a higher implementation of the current measures, there would be a reduction.

Council Member Klein stated BAWSCA had no power to implement any measures. He stated the City of San Francisco had the power to enforce water allocations along with other agencies. He stated the City had an Individual Supply Guarantee Agreement with the City of San Francisco; however, it did not guarantee the same rationing under their newly adopted system. He spoke on the interim supply limitation agreement.

Council Member Schmid spoke on his support for Staff to return in one year with an update on water usage rates.

**SUBSTITUTE MOTION FAILED:** 4-5 Espinosa, Holman, Scharff, Schmid, Shepherd no

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that Staff is to return in one year with an update and recommendation report of long term trends, based on current implementation methods and methods necessary to achieve 30 percent water use reduction.

**MOTION PASSED:** 9-0

By consensus, the City Council continued Agenda Item No. 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; and Agenda Item No. 8, 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, to May 3, 2010.

13. Update on City Sustainability and Environmental Initiatives Including a Report from the Community Environmental Action Partnership (CEAP).

Chair of the Community Environmental Action Partnership (CEAP), Walt Hays, gave a presentation on an update of City sustainability and environmental initiatives. He spoke on Earth Week, green procurement, Open Space and Foothills Fire Management Plan, Palo Alto Downtown Farmshop, Sustainable Urban Forest Program, Transportation and alternative commute incentives, Utilities renewable energy supply, Utilities Department conservation programs, and Palo Alto certified green businesses. He stated CEAP was created to improve the collaboration on important environmental issues. CEAP was divided into eight segments (neighborhoods, faith communities, schools, business, medical community, government, Stanford University, and non-profit organizations). A liaison was appointed to each segment that met once a month.

Chief Operating Officer for Wave One, Lisa Vandusen, stated Wave One was leading small businesses in making changes in becoming more sustainable. She indicated a significant portion of the work being done was establishing baseline benchmarking information to help companies become more aware of how they used resources to become more efficient. She indicated small businesses were the largest consumer of energy in the State. Small businesses were the most crucial and most difficult to reach segment of the commercial sector. She spoke on the challenges involved in creating sustainability with small businesses. She spoke on the following actions that were taken last year: 1) worked with the County of Santa Clara Certified Green Program to Green Certify small businesses in Palo Alto; 2) worked with Right Lights to set up lighting efficiency audits for small and medium sized businesses and used Right Lights to perform lighting retrofits; 3) worked with City and GreenWaste to educate businesses on how to reduce, reuse and recycle to minimize waste sent to the landfill; and 4) created a database of structures and businesses within the 43 contiguous blocks of Downtown. She spoke on the achievements of small businesses that have been certified in the County Certified Green Business Program.

Vice Mayor Espinosa thanked CEAP and Wave One.

14. Resolution 9049 entitled "Resolution of the Council of the City of Palo Alto Approving Additional Findings of Fact for the City's Green Building Ordinance (Ordinance No. 5006) in Compliance with California Assembly Bill 210 (2009) and Review of Report on Implementation of the City's Green Building Ordinance."

Associate Planner, Kristin Parineh, provided a background on the City's Green Building Ordinance. During the 2009 calendar year, there were 431 permit applications for projects that were covered under the Green Building Program. She stated 80 permits had mandatory Green Building requirements, including 26 projects undergoing the U.S. Green Building Council LEED Certification, and 64 Build It Green residential projects. The Green Building Projects were subject to a minimum score, or points, and most projects were exceeding the minimum number of points set by the City. Staff established key performance indicators to allow the community and the City Council to better understand the environmental and health benefits of the Green Building Program. She spoke on successful construction projects within the City. She spoke on Staff work performed on regional and federal efforts on green building issues. She stated Staff created fees to help with cost recovery. Staff was working on updating the Comprehensive Plan to ensure it addressed the sustainability needs of the City and the State's new Green Building Code and Water Efficient Landscape Ordinance. She spoke on California Assembly Bill 210, which required the City to adopt a Resolution approving additional findings of fact for the City's Green Building Ordinance.

**MOTION:** Council Member Yeh moved, seconded by Council Member Holman to adopt the Resolution approving findings to support continued implementation of the existing Green Building Ordinance.

Council Member Yeh stated the City was a leader in this field and thanked Staff for their work.

Council Member Schmid spoke on the importance of creating green and sustainable neighborhoods.

Council Member Shepherd encouraged Staff to develop a system to track the reduction of greenhouse gas emissions as it related to the Green Building Program.

**MOTION PASSED:** 9-0

15. Colleague's Memo from Council Members Holman, Klein and Scharff Requesting that the City Council Recommend to the Voters of Palo Alto That They Not Sign the Union Petition Seeking to Remove the Ability of the Council to Determine Appropriate Staffing Levels for the Fire Department.

Council Member Holman stated the Colleague's Memo was driven by the need to educate the community on the cost implications of an election should the Firefighters Union's Petition (Petition) qualify for the ballot with the necessary number of signatures.

President of the Palo Alto Firefighters Union, Tony Spitaleri, stated the Petition was to allow for public debate on the topic of public safety. It was his opinion that the Colleague's Memo discouraged public debate and set a bad precedent. He encouraged the City Council not to support the Colleague's Memo.

Palo Alto Firefighters Union Executive Board Member, Barry Marchisio, stated the Colleague's Memo contained misleading statements. He requested the Colleague's Memo be revised before moving forward.

Bob Moss, 3010 Orme Street, spoke on his support for the Colleague's Memo and recommended voters not to sign the Petition and to withdraw their signatures if previously signed.

**MOTION:** Council Member Holman moved, seconded by Council Member Scharff recommend to the voters of Palo Alto that they not sign the union petition seeking to remove the ability of the Council to determine appropriate staffing levels for the Fire Department.

Council Member Holman stated the Petition set a bad precedence. She stated the changes being sought by the Firefighter's Union would prevent the City Council from doing its job to evaluate staffing levels.

Council Member Scharff stated embedding this Charter Amendment in the Charter was poor government. He stated minimum staffing levels was a subject of Union negotiations or arbitration.

Council Member Klein stated the City Council was exercising its' democratic rights and leadership by informing the citizenry on what its views were. It was his opinion that if the Petition qualified for the ballot, and was approved by the voters, it would lead to a reverse in democracy because one group of employees would have greater rights than any other group of employees. He stated that if other employee groups took similar actions, it would require an election for any change to the City's budget which would be costly. He felt the actions of the Firefighter's Union were hurting all City employees because the election, to hold the Petition, would cost the City approximately \$190,000.

Council Member Schmid spoke on the Independent Standards of Coverage Report from an outside auditor on Fire Department staffing that started in the fall of 2009. He indicated it was due on June 14, 2010. He stated the

Firefighters had a right to use the democratic process. The memo suggested a recommendation to potential supporters to review the Petition before signing.

Vice Mayor Espinosa spoke on his concerns regarding the Colleague's Memo, as follows: 1) the memorandum contained misleading statements; 2) discouraged the democratic process by discouraging persons to place matters on a ballot; 3) the timing was in the middle of a negotiation process and may impact good faith discussions; and 4) decreased the amount of flexibility in staffing in financially difficult times.

Council Member Yeh stated codifying minimum staffing in the City's Charter was not the right direction at this time. He stated there was an opportunity for the Petition to cease and supported good faith negotiations with the Firefighter's Union.

Mayor Burt spoke on the Independent Standards of Coverage Report for the Fire Department's staffing level that was recommended by the City Auditor. He stated the effort to add a ballot initiative was an effort to circumvent an objective analysis from the potential results that the independent study may determine.

**SUBSTITUTE MOTION:** Council Member Price moved, seconded by Council Member Shepherd to continue this item to a date uncertain.

Council Member Price stated actions taken may pose other potential difficulties on the negotiations with the Firefighter's Union. It was her belief there could be a productive and collaborative discussion with the Firefighter's Union. She felt the independent Standards of Coverage Report should be completed before a decision was made.

Council Member Shepherd stated she did not support the Petition, and felt a constraint in the Charter was not the right direction for the City. She encouraged the City Council to defer the Agenda Item to a date uncertain until more information was known.

Council Member Yeh stated the Independent Standards of Coverage Report would inform the City Council. He would support the Substitute Motion if the Firefighter's Union halted the signature collection of the Petition, and commit to the spirit of the Substitute Motion.

Council Member Holman stated the Colleague's Memo was a duty of the City Council to inform voters about the impacts and implications of approving this matter on the ballot.

Mayor Burt stated the Firefighter's Union began the initiative process to create the Petition, and the City Council was exercising its right to inform the public.

**SUBSTITUTE MOTION FAILED:** 2-7 Price, Shepherd yes

Council Member Shepherd inquired whether the Maker of the Motion would consider removing Item No. 2, contained within the Agenda Item, which stated once informed decline to sign the Petition from the recommendation.

Council Member Holman stated the intent of the Colleague's Memo was to request that the public read the Petition language and not sign the Petition.

Council Member Shepherd spoke on her concerns for requesting the public to decline to sign the Petition once read. She spoke on members of the public who may have already signed the Petition.

Council Member Scharff iterated that a signature on the Petition could be withdrawn by writing a letter to the City Clerk.

**MOTION PASSED:** 7-2 Price, Shepherd no

**MOTION:** Council Member Holman moved, seconded by Council Member Scharff to continue Agenda Item No. 15a, 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; and Agenda Item No. 15b, 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, to a date uncertain.

**MOTION PASSED:** 9-0

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

Council Member Yeh spoke regarding attending the upcoming utilities federal lobbying trip to occur the last week of April in Washington, D.C., sponsored through the Northern California Power Agency.

Council Member Klein reported on the meeting with members of Congress regarding possible funding through the Corp of Engineers for San

Francisquito Creek flood control measures. He spoke with staff from the Department of Transportation for funding of the pedestrian overcrossing by San Antonio Avenue. He and Vice Mayor Espinosa also met with staff and the Executive Director of the National League of Cities to make them aware of the City's position on High Speed Rail.

Vice Mayor Espinosa stated that if any Council Members travel to Washington, D.C. it is a good idea to stay an extra day and talk to legislatures to lobby for funds for the City.

ADJOURNMENT: The meeting adjourned at 11:59 P.M.