

Special Meeting  
June 27, 2011

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6. ~~CONFERENCE WITH LABOR NEGOTIATORS~~.....303

ADJOURNMENT: The meeting was adjourned at 12:40 A.M. ....303

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:04 P.M.

Present: Burt, Espinosa, Holman, Klein, Price arrived @ 6:10 P.M.,  
Scharff, Schmid, Shepherd, Yeh arrived @ 6:15

Absent:

### CITY MANAGER COMMENTS

City Manager, James Keene stated the Twilight Summer Concert series was scheduled to start on Saturday, July 1, 2011. He said the Government Finance Officers Association awarded the Palo Alto 2010 Comprehensive Annual Financial Report the Certificate of Achievement for excellence in financial reporting. He stated the Chili Cook-off on the Fourth of July was featured on the Palo Alto City website. He reported that the Palo Alto landfill was nearing capacity and would be permanently closing on July 28, 2011 along with the compost facility; however, the recycling facility would stay open to the public.

### ORAL COMMUNICATIONS

Diana Baker spoke about staffing at the Baylands Preserve. She stated that staffing should continue as it had been in the past rather than having the Junior Museum take over that part of the children's education.

Annette Coleman spoke about the need to hire a full-time, on-site producer naturalist at the Baylands Preserve to fill the position she vacated in December 2010.

PaloAltoFreePress.com spoke against the legislation on violent video games. He stated that government cannot legislate the behavior of children and that it was the parents' job to protect, educate, and communicate with their children.

Laura Pisani spoke about the future of the Stanford Arboretum Children's Center. She stated that the University had been working with the Stanford Arboretum Children's Center Parents Board to find a satisfactory solution that would allow the Children's Center to be relocated during construction and ultimately returned to its original location.

William Landgraff spoke against increased City water rates and provided some alternative ideas to waste less water in order to avoid increasing rates.

Carrol Harrington spoke on a painting about sustainability and where the painting would be available for viewing over the next few weeks.

Winter Dellenbach spoke about the blue bins around town that seem to be for collecting books for charity. She stated that she believes most of the books were being pulped or resold online. She noted that it would be better for people to donate books to a local non-profit organization.

### CONSENT CALENDAR

Peter Drekmeier spoke regarding Agenda Item Number 2, specifically about the grant to control non-native spartina in the Baylands as well as the work in the San Francisquito Creek to replace non-native species and ivy with native species. He spoke about the importance of working with the City on removing Iланthis trees that had become invasive and damaging to the beneficial natives. He stated that there were some houses near the creek that had Ailanthus trees in their yard spreading seeds near the creek, and suggested educating the owners of those properties in an effort to replace the trees with native ones.

**MOTION:** Council Member Price moved, seconded by Vice Mayor Yeh to approve Agenda Item Numbers 1-2.

Council Member Klein advised he would not be participating in Agenda Item Number 1 as his wife was on Staff at Stanford University.

1. Resolution 9182 entitled "Resolution of the Council of the City of Palo Alto Vacating a 20-Foot Wide Public Utilities Easement at 211 Quarry Road".
2. Resolution 9181 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Apply for a Grant and Execute an Agreement With the California State Coastal Conservancy for Funds to Control Non-Native Cordgrass (Spartina) in the City-Owned Baylands".

**MOTION PASSED for Agenda Item No. 1:** 8-0 Klein not participating

**MOTION PASSED for Agenda Item No. 2:** 9-0

### ACTION ITEMS

3. Transmittal of Draft Energy/Compost Feasibility Study to Council and Opportunity for Council Direction on Completing Feasibility Study.

Mike Sartor, Interim Public Works Director, introduced the presentation on the draft feasibility study. He stated that he had last come before the Council in April for direction and input, which was to be addressed in the current study along with new data and information. He stated that none of the alternatives should be screened out as infeasible.

Phil Bobel, Acting Assistant Director of Public Works, stated Council direction was to hire the consultant and evaluate dry, anaerobic digestion. He noted that the Environmental Impact Report (EIR) had not yet been initiated, but they were still working on the energy conversion technologies and pursuing partnering opportunities for organics within 20 miles of Palo Alto. He noted that currently the organics were divided into the three categories of food scraps, yard trimmings, and biosolids. He mentioned the Gilroy composting facility, the Sunnyvale Smart Station, the proposed San Jose location from Green Waste, and the proposed Gasification Pilot Plant from the San Jose sewage treatment plant. The current plan would be to send yard trimmings to Gilroy once the Palo Alto compost facility closes. The final study should be produced in late September. Four alternatives were being studied: 1) Dry-anaerobic digestion of all three residual types at the site adjacent to Water-Quality Control Plant in Palo Alto, 2) Dry-anaerobic digestion for food and yard trimmings, with biosolids going to wet-anaerobic digestion at the water-quality control plant, 3) Green Waste at the San Jose location for food, yard trimmings would go to Gilroy, and biosolids would be processed at the Water Quality Control Plant, and 4) the Gilroy export option. He noted that there was a list of comments received at the April meeting that they did not have the time or money to handle in the current draft. He spoke about the scenarios and assumptions considered for each alternative. He noted that for each scenario they considered a couple of assumptions: ownership, financing, grant funding, rent, CO<sub>2</sub> adder, and export contingency. Scenario Two was what Staff was recommending. Scenario One was a set of assumptions that favored keeping the operation within Palo Alto. Scenario Three was the set of assumptions that favored the export options. He noted the net present value of each alternative under Scenario Two and stated that the values were planning numbers. At the preliminary planning level none of the four alternatives should be screened out. The numbers were close enough that screening any of them out was not recommended. If the Council wanted to proceed, more work could be done on all the alternatives. He stated that the next steps were completion in late September and bringing back the final Feasibility Study in early October. They still had to process comments before then. Early November was the ballot initiative on the 9-10 acre site. Staff proposed to come back to Council in December whether that passed or failed.

Winter Dellenbach stated she was concerned about the regional radius and the amount of traffic that would result from more cities participating in a Palo Alto facility. She said in the past the focus was on Palo Alto having its own facilities and disposing of its own waste, and now it was about regional participation. She noted that the facility would be in a park and adjacent to the bay.

Peter Drekmeier gave some numbers on the economics of the scenarios over a 20 year spread. He noted that dry anaerobic digestion decreased in cost over time while the alternatives continued to increase. He noted that the

City should ensure they do not lose their composting permit, and allow the Staff to integrate the studies they had talked about.

Emily Renzel spoke about her belief that many statistics and data provided were inaccurate and heavily influenced by biased parties. She noted the study did not take into account mitigation costs, removing trees that screen the sewage plant, or the relocation of landfill garbage to Byxbee Park. She stated that the parkland must not be used for a new industrial facility and instead Byxbee Park should be completed.

Tom Jordan noted some information was incorrect. For example State permission must be obtained to use the property next to the water treatment plant. A 2/3 bond vote must be achieved to acquire public financing. The State would require rent on the land so the number given for no rent was inaccurate. A grant for construction costs was unrealistic. The carbon adder should not be included in the numbers. The contingency should not be added to export costs because export contracts were firm numbers with no escalator.

Enid Pearson spoke about why Palo Alto should not build its own anaerobic digestion facility on parkland. She noted that of the amount of garbage Palo Alto produced each year, less than 20 percent was composted and therefore it would not make fiscal or environmental sense to build it. She stated that the addition of bio-solids to the study was only to make the anaerobic digestion facility feasible but they will be processed by the water plant regardless and should be removed from the study. She noted that Palo Alto parkland was not the right site for a new facility because: Excavating the garbage and placing it in Byxbee Park was expensive and wrong, garbage should instead be sent to Kirby Canyon, and the carbon adder should be removed from alternatives 2 and 3 or added to the alternatives 1a-d to be fair.

Robert Moss noted that when the City built capital equipment like the proposed site, a 10 percent contingency was built-in. He stated that this type of construction had never been done in U.S., but had in Europe, and when technology and manufacturing was transferred from another country it rarely went smoothly. He stated that the 15 percent grant and the estimated rent prices were overly optimistic. He noted that one cost not considered was the loss of value to the park by having an industrial facility at the entrance to the park.

Cedric de La Beaujardiere spoke about the comparative costs of the alternatives beyond the 20-year horizon of the study. He noted that at year 30 the dry anaerobic digestion would be cheaper than Alternatives 2a and 3a would be over only 20 years. He noted that the costs of Alternatives 2a and 3a would be decreased if, given the initiative passes, the land were made available and the Staff should be enabled to fully study the options.

David Coale presented a slide showing the lowest cost, lowest Co<sup>2</sup> impact in a graph, and found that the low cost and low Co<sup>2</sup> cases were Alternative 1a, Scenario One and Scenario Two. He noted that the carbon adder was real and had been used by City utilities, and also that the contingency estimates were incorrect because Scenario Three had none. He noted the high cost, high Co<sup>2</sup> options were all options that included the incinerator.

Carolyn Curtis spoke about the citizens who gathered signatures for the petition outside the recycling center from people who came to drop off their recycling. She noted that they found the majority of people at the site were supportive of using the parkland for a new facility because the area already had facilities right there. She noted the Wastewater Treatment Plant had been a resource for educational field trips. She stated that the Council should continue the study and take care not to lose the City composting permit.

John Kelley spoke about the environmental cost of the incinerator and stated the options including the incinerator were unacceptable. He stated that if the City wanted to move in a green direction, the incinerator did not fit in with that plan. He noted that Staff must be allowed to focus on non-incinerator options as well as be allowed to combine its work with work of consultants in reviewing the anaerobic digestion proposal with the wastewater treatment proposal.

Herb Borock stated that an agreement was originally made that if the City had the landfill then it must eventually become a park. He noted that if the Council would use agreements to go forward with other public bodies and citizens then it must not go back on its word.

Shani Kleinhaus spoke about the Council's responsibility to clarify some confusing information, such as the cost of rent on the land. She noted that the parkland by the Wastewater Treatment Facility does not have park value but perhaps had other value and would be very expensive to build a new facility on. She noted that the zero waste facility only 12 miles away had told her they would be able to handle anything coming from Palo Alto and having two experimental facilities so near each other does not make sense.

David Bubenik noted that an industrial facility on the 9-acre parkland should pay its way and ought to pay a mitigation fee for the park because it will impact the park heavily. He noted that if the parkland was taken to build the new facility this would be the first City Council to preside over loss of parkland.

Alex DiGiorgio spoke about other dry-anaerobic digestion facilities around the United States and the financial benefit they had for their cities. He noted that Europe's systems were more advanced and Sweden ran municipal

public transit buses on bio gas harvested from sewage plants, so the idea that the anaerobic digestion system was uncertain and not cost effective was false. He stated the incineration would certainly hurt Palo Alto's green image and make it difficult to work towards more green initiatives in the future.

Brandy Faulkner spoke about her belief that Palo Alto should take care of its own garbage, and that building its own anaerobic digestion facility on the nine acres of parkland was the best solution available. She noted that she was among the volunteers collecting petition signatures at the current composting facility with less than 1 percent were in opposition to the new facility. She stated that carbon accounting was real, and Palo Alto had aggressive greenhouse gas goals that must be met. She noted that opponents say refuse rates would skyrocket, but they were arguing for higher rent that would transfer money from ratepayers to the General Fund.

Bob Wenzlau spoke briefly about the excitement this project was creating with environmental engineering students at universities in the area, and he invited the Council to step into the future and enjoy what was a fine moment for the community.

Council Member Klein asked what was necessary to keep the compost permit active and what it would cost.

Mr. Bobel stated that speakers were talking about moving current aerobic facility to the nine acre site fairly soon and keeping that current permit active to do so, but he noted that keeping the current aerobic permitting intact would not help with a larger permit for a larger and different facility.

Council Member Klein noted there was a permit right now with material placed there until July 27<sup>th</sup> and asked to clarify that after that there will no longer be a permit.

Mr. Bobel stated the landfill was closing to the public July 28<sup>th</sup>, but the compost operation would keep going some months longer to produce material for the cap process.

Council Member Klein asked what the conditions of the permit were after composting stops.

Mr. Bobel said research must be done on that because of the nuances. He said it could be possible to keep the current aerobic operation going, moved to a different location, keeping the permit intact for the aerobic processing.

Council Member Klein said his question was if the nine acres was removed from parkland and Council went forward with a scenario requiring a permit,

would keeping the present permit be helpful in getting that new permit or not.

Mr. Bobel said he doubted it would help.

Council Member Scharff noted that Scenario Three would cost \$78 million while the other two scenarios would cost \$89 million. He asked if the difference was the carbon adder and the 15 percent contingency. He noted that when he did the math for the 15 percent contingency he was getting a higher number than \$89 million and that was without the carbon adder.

Jim Binder, ARI Representative, clarified that the corrected number for Scenario Two was actually \$91 million, with the difference between 1 and 2 being the method of financing.

Council Member Scharff asked if Scenario Two was for trucking garbage to Gilroy with public financing.

Mr. Binder noted that in Scenario Two, bio-solids would be processed locally with wet-anaerobic digestion. Scenario Two had a higher estimate because it had private financing. Scenario Three was a lower estimate because there was no contingency on exports and no carbon adder.

Council Member Scharff clarified that he could not just take 15 percent and add it to \$78 million to get \$89 million.

Mr. Binder noted that the \$78 million was a result, so he would review the number before taking 15 percent off. There was such a mix of different assumptions in Scenario Three that it was not that simple.

Mr. Bobel noted that the net present values included operating costs and capital costs. The 15 percent related to capital costs, and that was why that math did not work.

Council Member Scharff noted that the plan costing only \$59 million stood out as something that was a better economical outcome than the other scenarios, but putting all three streams together was not feasible. He had been told that it destroyed compost and had not been done before, and asked if that was true

Mr. Bobel noted that Alternative 1a put bio-solids in dry anaerobic digestion, which had not been done before. He noted that it was assumed that there would be separate vaults for the dry-anaerobic digestion of bio-solids, and yard and food waste. The dry anaerobic digestion had not been executed on a commercial scale for bio-solids.

Council Member Scharff asked if the Council could do that.

Mr. Bobel said it was not the sort of thing they would normally do.

Council Member Scharff asked that if the voters approved the measure would Scenario One be on or off the table, and how would it be piloted.

Mr. Bobel noted that it would depend on timing. He stated that if it were to be started immediately it wouldn't be a Staff recommendation to do Alternative 1a because Palo Alto was a small city and we would normally wait until a larger City pilots something first.

Council Member Scharff stated that if Alternative 1a was taken off the table then that would make sending to Gilroy or San Jose the most economically sensible. He noted that originally they had been concerned about the greenhouse gas effect of sending garbage to Gilroy. The carbon adder put in for trucking to other cities would still be more effective. He asked if that was correct.

Mr. Bobel stated that was logical. He noted that they had concluded that the numbers weren't different enough to proceed with only one option at this point. He stated that in other similar situations in other cities people had retained options, done performance standards, and let the market system give true market-based costs before making a final decision on technology.

Council Member Scharff agreed. He asked about how much would actually be spent were they to make a Motion to complete the study.

Mr. Bobel said not very much because almost everything had already been spent. They would be taking the comments they had received confirm the numbers, and then finalize the study.

Council Member Scharff asked if they would be spending \$10,000 or \$20,000 dollars finishing the study.

Mr. Sartor noted Staff would not return to the Council to ask for more money for the study. It will be completed under the scope of the contract.

Council Member Scharff asked how much was left in the scope.

Mr. Binder said it was probably close to \$10,000 left and the remaining mission could be accomplished with that amount.

Mr. Bobel stated the intention was to take all the comments received, do the best job within the budget, and then produce a final report without asking for more money.

Council Member Shepherd asked how much rent at the San Jose plant would cost.

Mr. Bobel stated that there was not a definitive answer on that yet. He noted they were not looking at rent yet because of a multitude of things still being negotiated.

Council Member Shepherd asked how the State Land Commission would be involved if the vote passed in Palo Alto.

Mr. Sartor noted that the State Land Commission had jurisdiction over the entire Baylands and no rent was paid to the Commission for the operation of the Water Treatment Plant on that land.

Council Member Shepherd asked if there would not be interference if the community voted to un-dedicate the parkland.

Mr. Sartor replied there would not be.

Council Member Shepherd noted that there was no point in doing more work on the feasibility study until they know whether or not land was available. She asked if they could postpone completion of the study.

Mr. Sartor noted that they were not going to do any more analysis on the feasibility study. The plan was to conduct a wrap-up of the study based on the comments received on the draft.

Council Member Shepherd asked for confirmation that Staff would not start on the next process.

Mr. Sartor replied that she was correct.

Council Member Shepherd asked if finishing up and using the money was something that would need to be done anyway.

Mr. Sartor stated that they could shelve the current draft until December.

Council Member Shepherd asked about the waste treatment study.

Mr. Sartor noted that Carollo Engineers were studying replacement of the incinerators with an anaerobic digestion facility.

Mr. Bobel added that the studies were complementary to each other. The engineers had produced an estimate on wet anaerobic digestion at both the sewage treatment plant and the nine acre site creating the values in the feasibility study. An estimate of what it would take to rebuild the current incinerator was also used for the incinerator option.

Council Member Burt asked if the project life was 20 years with a 20-year return on the capital investment because of the bond term.

Mr. Binder replied that the technology for food and yard material was new to the United States. Because of this they had to use a typical financing period for projects of this sort which was 20 years versus 30.

Council Member Burt noted that was for funding purposes, not for useful life.

Mr. Binder replied that if it wasn't funded it wouldn't be built, so they had to use the more conservative assumptions.

Council Member Burt stated that he was interested to know the range of useful life the City may experience.

Mr. Binder stated the companies that responded to the Request for Information foresaw a 20-year design life, including repair and replacement of equipment.

Mr. Bobel noted that the engineering life of this type of project was new to the United States and required a conservative assumption because of uncertainties.

Council Member Burt confirmed that 20 years was a moderately conservative expectation of a useful life.

Mr. Bobel stated the concrete was going to last longer but the piping and other equipment was less predictable. He noted that the progressiveness of the field may cause the equipment to be changed out prior to 20 years.

Council Member Burt asked when the Wastewater Treatment Plant was built and what repairs had been done on it.

Mr. Bobel stated that after 30 years the incinerator was replaced. He noted that when it was built, it was standard technology.

Council Member Burt asked if the experience with wet anaerobic digestion was better than with dry.

Mr. Bobel replied yes.

Council Member Burt asked if the wet was anticipated to have the same useful equipment life.

Mr. Bobel said that was the assumption used in the study.

Council Member Burt noted the replacement cost of the incinerator with a wet fluidized bed was much higher than what was currently in place. The current incineration process was basically one that was antiquated.

Mr. Bobel said yes, it would not be rebuilt. If it were to be rebuilt it would had a fluidized bed.

Council Member Burt asked when the next rebuild would be.

Mr. Bobel replied it would have to be in 30 years. It was rebuilt in 2000 so it might be able to keep going until 2030, although Staff would recommend sooner.

Council Member Burt referred to the Climate Protection Plan and the discussion around the incinerators because they were the largest City generators of greenhouse gases and largest City users of natural gas. He noted the timeframe for the rebuild of the Water Treatment Plant, including the incinerators, put it in the 2015 – 2020 timeframe.

Mr. Bobel noted the financing for the incinerator was through 2024, so they believed it would be prudent to replace or rebuild by 2020. Staff will bring back a long-range facility plan in the summer of 2012.

Council Member Burt asked if, under the ballot language, the land could be used for any other purpose.

Ms. Stump did not recall that there is, under the ballot language.

Mr. Keene noted that it would revert to parkland at the end of 10 years.

Council Member Burt noted that any portion not used for the facility would revert to parkland. He noted that since the land could only otherwise be parkland, it does not make sense to make rent calculations based upon a private industrial use. He asked where the \$108,000 for rent came from.

Mr. Bobel noted that the \$108,000 came from an appraiser that used similar parkland to come up with that number.

Council Member Burt noted that it should be very transparent what the land will be used for when the voters make their decision. He noted Mr. Bobel had looked at both wet and dry anaerobic digestion and stated that dry was used less widely than wet. He asked how the complexity of the technology compared to the technology at the Wastewater Treatment Plant.

Mr. Bobel stated that it was not as complex as the incinerator. It did not require as sophisticated of an operation. He noted the most complex part of the facility would be the air handling system and methane recovery system.

Council Member Burt asked how difficult it would be to create a model showing the net present value if the incinerator was retired in 2020. He asked if they could also model a 20 and 30 year usable equipment lifespan.

Mr. Bobel stated that any new alternative was a major problem because of funding.

Council Member Burt noted that it was only computational because all the data was already there.

Mr. Bobel stated that all the four summary alternatives assumed retiring the incinerator in 2015. The data for different alternatives was not available.

Council Member Price asked if all of the scenarios would be included with each of the four alternatives.

Mr. Bobel stated that they would be finalized with all the comments. He noted that Staff was not recommending that all four move forward, rather they were recommending not screening any out.

Council Member Price said the lack of the word 'recommendation' was a key point. She asked about ownership and if there was capacity within the contract to look at any other hybrid models.

Mr. Bobel noted that there was not enough money to do anything new.

Mr. Binder added that the options they were looking at were public-private partnerships. They all included private design and construction, no matter if they had public or private ownership. The two discussed in the feasibility study were being used in most jurisdictions when they move forward with these types of projects because they offer the most protection.

Council Member Price asked about the statement in the Staff report calling for extensive pilot testing for alternative 1a prior to construction.

Mr. Bobel stated that the dry anaerobic digestion for yard and food had not been done in the United States, and had not been done anywhere for bio-solids, so pilot work was necessary as a step.

Council Member Holman asked Staff to clarify the 15 percent contingency export option.

Mr. Bobel stated there were contracts in place and it was a conservative approach to believe that they would not be able to retain those prices for the length of the contract.

Council Member Holman asked how the reduction of water and garbage waste would affect the costs. She asked if there was a Palo Alto facility. She asked, if Staff would ask other cities to participate at this facility to keep rates down.

Mr. Bobel noted that a number of people wanted an estimate of what the reduction in yard trimming would be over the years and there were applicable scenarios. He stated they could estimate that reduction, and that there had not been a reduction over the past few years to base one on.

Mr. Keene added that the fixed cost for collection would track under any of the scenarios as being the same.

Council Member Holman asked if Staff could handle the wrap-up with all the comments or if they need the consultant to handle that.

Mr. Bobel stated that he did need the consultant because many of the comments were about revising the models and the data. It would be difficult for Staff to do that without consultant help.

Council Member Holman clarified that they were not generating any new studies, only putting together current data.

Mr. Bobel agreed.

Council Member Schmid noted that the Compost Task Force designated anaerobic digestion as an interim solution pending better technology. He stated it seemed that there were alternate technologies within California. He noted that he found that people with anaerobic digestion technology already had to deal with odor and noise in both California and in Europe. He asked for clarification of the terms "low cost" and "high cost".

Mr. Bobel noted that vendors fell into two categories, some were more complex and therefore a higher cost and some were less complex and therefore lower cost.

Council Member Schmid asked if low cost meant people were not dealing with concrete issues that crop up in an Environmental Impact Reports (EIR).

Mr. Binder stated that in the RFI there were requirements for odor and noise as well as other environmental requirements. He noted the difference in cost was in how the waste was fed to the chamber, the temperatures, and recirculation. He noted it did not take away from environmental controls that all parties had to meet. The higher cost technologies were better suited to larger volumes of waste than what Palo Alto produced.

Council Member Schmid asked if it would be an issue for the anaerobic digestion to offset the California Air Resources Board's payment for exceeding acceptable emission levels.

Mr. Binder noted that there were not air emissions from the facility until looking at how to treat the bio-gas – combustion, for example. He noted that typically emissions were not an issue.

Council Member Schmid asked about the compost once it came out, and noted that in Salinas Valley they had 35-40 potential buyers but none were committed to the purchase. He said only three would take the compost. The consultant said it's okay to include the fact that there was no market for it, but Staff should also run an alternative which examines paying for the landfill. He asked if that was a concern.

Mr. Binder stated that they accommodated marketing compost in the economic analysis by assigning it zero value. He noted that there appeared to be a growing market for clean compost in California.

Council Member Schmid noted that there were critical issues that ought to be dealt with in the economic feasibility, drawing on examples of other areas going through the processes. He asked if it was possible to use the remaining \$10,000 to study what was already happening in California.

Mr. Bobel stated Staff had remained focused on the Council's direction, but if the Council felt the need to use the \$10,000 as Council Member Schmid suggested Staff could accommodate that.

Vice Mayor Yeh asked which City Enterprise Funds would be associated with project costs.

Mr. Bobel stated that the funds were based on the materials used rather than the land.

Vice Mayor Yeh noted that the Finance Committee was dealing with the health of the Refuse Fund, and bonding capacity would not be easy. The Regional Water Quality Control Plant had three cities collaborating making it more feasible by sharing costs across more entities. Staff was anticipating that level of analysis to occur post-November 2011 election.

Mr. Bobel noted that discussions had begun with Mountain View and Sunnyvale as well as some other cities that were not partners yet.

Vice Mayor Yeh asked to what extent the City would forgo rate-setting authority for private financing.

Mr. Bobel did not believe the City would have to give up rate-setting authority because of the financing.

Mr. Binder agreed and noted that the City would be charged by the private entity per ton of delivered material, but the rates for residents would be set by the City.

Vice Mayor Yeh asked if some of the operating costs would be determined by the external entity.

Mr. Binder noted that whatever the cost per ton would be, it would include both the debt cost and the operating cost.

Mayor Espinosa asked about mitigations that San Jose was considering and what those costs might be.

Mr. Bobel did not have information on the mitigation.

Mayor Espinosa stated that they had to start looking at where mitigation fit into the models for what they may have in Palo Alto.

Mr. Bobel stated that Staff could not estimate the mitigation costs.

Mayor Espinosa noted that they would receive feedback from the City Attorney's Office on the issue of limiting the use of the land through ballot language and how that will affect rent rates on the land. He asked where people could go to see examples of this type of facility.

Mr. Binder replied that the best facilities were in Europe, but in the feasibility reports were photos of reference facilities from all companies that responded to the RFI.

Mayor Espinosa asked if there were any local places that were similar. He noted that it was important for people to get a sense of the experience of having this type of facility locally.

Mr. Bobel stated that while there were no dry anaerobic digesters locally there were wet anaerobic digesters in Sunnyvale and San Jose.

**MOTION:** Council Member Scharff moved, seconded by Council Member Klein to direct Staff to submit the Final Feasibility Study to Council by the end of September 2011.

Council Member Scharff noted the press reports stated that it was cheaper to go with dry anaerobic digestion; however, it seems like Alternative 1a would not be all that feasible. He added that the proponents made their case and

it was economically feasible. The actual cost may depend on the real numbers.

Council Member Klein noted that the issue at this meeting was completion of the report. He noted that the voters should chime in before spending more money, and completing the report would help voters in November.

Council Member Holman asked if the Motion would indicate that completing the report was responding to questions, not doing new analysis.

Mr. Bobel replied that there would be no new alternatives or scenarios.

Mr. Keene noted that there would not be questions coming in between now and October.

Mr. Bobel stated that they would take limited questions perhaps over the next few days but would have to cut it off.

Council Member Klein stated that it would be a limited number of answerable questions within the budget.

Mr. Bobel agreed.

Council Member Holman asked if the timing would allow for the Council to take a position prior to mail-in ballots.

Mr. Bobel noted that the timing was agreed upon a while ago with no reference to the ballot.

Council Member Holman requested the mail in ballot to be considered when determining a specific date.

Mr. Bobel noted they were scheduled to finish the document by the end of September.

Mr. Keene stated the study was mostly finished now and anything new would not likely change anyone's mind.

Council Member Holman stated it should get to the Council in time for the Council to take a position prior to the election.

Mr. Keene stated that finishing the document in late September would give the Council time to formally take a position.

Council Member Schmid noted the ratepayers must pay over the next five years to offset seven years of losses in the Refuse Fund. He stated the loss

happened because of sets of assumptions that didn't work, and he asked the Staff to note which items were risk-bearing to help with decision-making.

Mr. Bobel agreed to include that in the Staff report.

**MOTION PASSED: 9-0**

4. Direction on Submission of Letter of Interest to Foothill College Regarding new Education Center at Cubberley Community Center.

City Manager, James Keene stated the Staff was recommending that Council direct them to submit a letter to Foothill College to pursue discussions to locate a new education center on the city-owned eight acres at the Cubberley Community Center. He stated if the City did not submit a Letter of Interest soon then Foothill College would leave Cubberley. Ultimately all of the community uses at Cubberley could be eliminated. The status quo meant Foothill Community College would leave Palo Alto and Cubberley, and if it was retained there were concerns related to Palo Alto Unified School District and there would be an impact on the tenants at Foothill. Not doing either meant the School District would take over all of Cubberley and convert it to a school He noted that even if the City submitted a letter, it may not be chosen as the preferred use of that site.

Deputy City Manager, Steve Emslie stated the Cubberley site was located in South Palo Alto and the entire site encompassed 35 acres of which the City owned 8 acres in the northeast corner of the site adjacent to the Charleston Shopping Center. He noted the bulk of the playing fields and open space were not a part of the City's 8 acres. He gave a brief update on the history of the site noting the site was built in the mid1950's amidst the post-war Baby Boom to accommodate the rapidly growing school aged population. He stated a number of campuses closed in the late 1970's, including the Cubberley site. The City acquired the right to Terman Middle School in the early 1980's and the City negotiated with the School District to address the community concern about school closures. There was a covenant that the School District placed on its remaining open school sites which the City pays for on an annual basis and the lease for the entire 35 acres of the Cubberley site. The School District expressed the need to re-open the Terman Middle School but since the City had the rights to a portion of the school there was a land exchange executed granting the City the 8 acres of the Cubberley site for the release of their rights to the Terman Middle School in early 2000's. He noted most recently there had been three offers of expression of interest by the Foothill College to occupy the Cubberley site since 2007. He reviewed a map showing the boundaries between the owned and leased sections and the uses of the site. The map showed the tenants who resided on the City owned acres and leased directly from the City which generated fee revenue of \$400,000 annually excluding Foothill which paid approximately \$933,000 annually for all of their facilities on the site. He stated Foothill occupied

roughly 39,000 square feet of the entire site not including shared space such as the shower or gymnasium facilities. He stated the split was 18,000 square feet leased from the City and 21,000 from the School District. He stated the parking was provided on surface level lots and the bulk of the parking was on the School District side of the property and the City controlled 130 spaces on their 8 acres. He gave a breakdown on the types of occupants who filled the 108 buildings on the site broken down further by for-profit and non-profit organizations. He stated the rent ranged from \$0 to \$1.79 per square foot for the non-profit tenants, the rents paid by for-profit was slightly higher up to \$2.08, and the rents paid by Foothill were \$2.96. The revenue generated by hourly rentals for events such as weddings and other special events was over \$1 million. The City rents office space which attributed to \$2.5 million annually in outside income. The non-maintenance operating expenses were approximately \$2.25 million per year. There was a considerable amount of deferred maintenance; both waiting to be addressed as well as planned Capital Improvement Projects (CIP) over the next 25 to 30 years. The first phase of the scheduled maintenance was anticipated as being \$10 million over the next five years and then for the remainder of the term another \$6.5 million. He noted the amounts presented were anticipated costs but the funds had not been set aside; the funding sources for the \$16.5 million had not yet been identified. He stated the City's first phase of the lease had completed and was currently in the first ten year option period of the lease which expired in 2014; there needed to be notice given to the School District of the City's intent to renew for another five years end of 2013. The agreement entered into between the City and the School District in the early 1980's prescribed the following payment schedule: the annual lease payment for the remaining 27 acres was \$4.48 million, the covenant not to develop was \$1.73 million, there was a \$600,000 paid for the use of school sites for after school child care, and the utility bills were approximately \$500,000. He stated Staff was requesting direction from the Council whether to sell or lease, the belief of maintaining maximum flexibility was important and keeping the option to sell or lease the site to Foothill on a long-term basis. There were relocation issues and many non-profit and community based organizations based at the Cubberley site that could be impacted. Parking was an issue because Foothill was requesting 1,200 stalls when the current number available was only 750. Foothill had indicated moving forward in phases, the first phase was between 40,000 and 60,000 square feet. Foothill itself was a provider of the opportunity to partner and create synergies with other educational community services because they would be located amidst a variety of other learning opportunities. He noted the loss of Foothill would be financially burdening since they were the highest rent payer and \$1 million reduced revenue would be a significant concern. He noted if the lease option was not extended there was a concern for the community programs if the School District was to regain the site for public school purposes.

Mr. Keene stated that Foothill already had funding for Phase 1 from a bond, but there was no funding for phase 2. The Foothill-de Anza Board gave direction to its' Staff to submit request for offers to the private sectors with a submission date of June 20 and to entertain negotiations with Palo Alto and Sunnyvale. Tonight's decision was about submitting a letter to Foothill. If Council opted to not send a letter no additional work would be required. If they do, they need discussion about what would go in that letter.

Mayor Espinosa asked for public comments.

Charles Bangs stated that it was clear that Staff had made up their mind about where they wanted to go. He stated that the Council had negotiated with tougher entities in the past and should bring those skills to negotiations with Foothill. He stated the notion of selling the land before PAUSD repossessed it would not be a valid argument for moving ahead.

Karen Chin, Chair of the Board of Directors of the Children's Pre-school Center in Palo Alto, spoke about the services her pre-school center provided to parents and their children. She noted the importance of reliable childcare centers, and stated that the CPSC would undergo severe hardship to find a different space to operate.

PaloAltoFreePress.com stated the Council should have total transparency with zero tolerance for closed doors on any discussions concerning Cubberley.

Smita Joshi stated that anyone holding land in Palo Alto would surely refuse to sell it knowing its tremendous value, and she urged the Council to consider this for the city's land. She noted that the Council cannot anticipate what uses there will be for that land and what kind of economic return it will have. She stated that Staff should be able to find other candidates to fill the area that Foothill currently fills, and still keep the community services already in Cubberley.

Joan Larrabee stated that Cubberley High School was built for residents of Palo Alto, which was experiencing a baby boom. She noted that daycare centers were extremely impacted, and in the future these babies will be attending Palo Alto public schools. Therefore Cubberley may be needed again as a high school or middle school in the future, and in the present its daycare centers were needed.

Laurie Leventhal-Belfe spoke about the importance of preserving the arts at Cubberley for children and teenagers. She stated that the preservation of the Cubberley dance studios was given a low priority, but they were an extremely important community resource.

Teresa Kelleher spoke about the importance of the Cubberley organizations for her family and asked the Council to consider saving those organizations. She stated the businesses operating out of Cubberley could not survive without that space.

Daphne Chao spoke about the Acme Education Group, an after school care and Chinese school inside Cubberley, which she founded in 2001. More than 90 percent of the 200 students at Acme were Palo Alto residents, and Acme would have trouble finding a good school site like Cubberley elsewhere within Palo Alto.

Lucy Erman asked the Council not to submit the Letter of Interest. She stated that the Cubberley Community Center supports studio space for dance, music, video, the Palo Alto Philharmonic orchestra, and library book sales. She stated that losing the center would impoverish the cultural life in the community at a time when Foothill College was already cutting their arts.

Peter Chou stated that Foothill College contributes to the Palo Alto community; however, the creativity fostered by the Cubberley Community Center was an important outlet outside of work. He stated that as an engineer, he chose to stay in the area because of its creativity.

Peggy Huang spoke about the political and social value and implications of the Letter of Interest and stated that it would jeopardize the reputation and image of Palo Alto. She stated that a regional junior college would change the demographics of Palo Alto. She noted that legally the letter could be used against Palo Alto in the future.

Laura Zweig spoke as a teacher at Dance Vision Studio in Cubberley and stated the school had 500 students at the moment.

Jean Wilcox spoke in support of the sale or lease of 8 acres to Foothill College. She stated that the buildings were dangerously in need of repair, and the sale or lease would be an opportunity to revitalize Cubberley. She noted that PAUSD still had the Greendale site as well as the remaining acreage available for a new school in the future. She stated that because of the spread of classes throughout the day and night, traffic would also be spread out, and she also noted that three bus routes served Cubberley. She noted that by the time the city's lease would end in 2014 the Mitchell Park Library and Community Center would be ready for use.

Brian Carilli believed Staff provided a subjective report. He noted that the opportunities provided at Cubberley were not available anywhere else in Palo Alto, and stated that Foothill had parking lots that could be used to build classrooms. He noted that the cost of deferred maintenance at Cubberley was not very high per square foot.

Valerie Lisiewicz spoke about the tendency to not value things that don't have metrics, goals, and measurable progress. She stated there should be a place for people to grow and develop artistically without competing for a grade or getting credits, and Cubberley was that place.

Beth Bunnenberg stated that in the past schools were sold off because of zero population growth and now they were needed because of the increasing population. She urged the Council to learn from the past.

Linda Gass spoke about the importance of having affordable and dedicated spaces to make art within a community of artists. Relocation would be expensive with or without renovation of the part of Cubberley outside the 8 acres. She noted that sale of the acreage would yield short-term profits but would have long-term social, cultural, and financial costs. She noted that keeping the acreage allowed the community to change it in the future.

Nancy Krop spoke about how she originally moved to Palo Alto because of the reputable schools, but now the concern was that the high schools were becoming larger than the ideal. She stated the City should not sell property, it should preserve it because there will need to be another high school soon.

Catherine Perman said there were possibilities of preserving the artistic activities at the center while not getting bullied by Foothill. She suggested Council search for a creative solution.

Jo Gilbert spoke about how it seemed that Foothill College was pushing the City, in an attempt to get what they wanted. She urged the City to study how the site could be utilized without Foothill.

Brent Yamashita spoke against sending the Letter of Interest. He stated that the Cubberley was an important asset to the City that had an artistic reputation. He spoke about the traffic impact if selling or leasing to Foothill. He stated that PAUSD would need the land for a high school in the future.

Edwin Ho stated that Foothill would increase their footprint by increasing the amount of commuters coming into Palo Alto with their cars. He stated the City would be solving a short-term revenue issue with a long-term sale of property.

Tim Foy stated that Cubberley was more than just an asset on the City's balance sheet. He stated it was a community gift and there were more people to consider than just the tenants, as thousands were served by the center. He asked the Council not to sell just because someone was interested in buying. He stated the math given on parking spaces and square footage doesn't add up in a community where traffic was already overcrowded.

Kendra Hornbostel asked the Council not to proceed with the Letter of Interest. She stated the project was too big for the site, and the traffic congestion would undermine all efforts from the past two years to fix that problem in south Palo Alto.

Claire Kirner spoke about the increase in households and children in Palo Alto, and how that affected the requirement of schools and community services. She stated a sale or lease to Foothill would be short sighted.

Elayne Groechel spoke about the dance studios at Cubberley and the length of time they had been there. She stated the City must act as a protector of its treasures, and if the land was sold or leased, at least insure there was a transition plan and a new home for the artists.

Kathy Torgerson spoke about her enthusiasm for the opportunity to build an extraordinary educational and community center at Cubberley. She spoke about Palo Alto's reputation for innovation and educational excellence. She stated a new Foothill College would follow that tradition.

Bob Moss urged the Council to offer only a lease to Foothill because Cubberley will need to be reopened as a high school eventually, and what would be left after a sale would not be a viable high school. He stated the City could sell half the site back to the School District and still retain a number of non-profits and community organizations.

Ray Bacchetti stated that having Foothill College permanently at the Cubberley site would open up many possibilities, but the School District should hold on to some of the site because higher education was changing so rapidly. If Foothill were to leave Palo Alto, the City would lose a lot of educational potential.

Penny Ellison spoke about the parking issue if Foothill were to build a regional junior college on Cubberley. She stated Foothill was not required to comply with the same zoning regulations as other businesses. She spoke about the impact to the community to lose daycare facilities.

Ken Horowitz stated that Foothill was offering the opportunity of a brand new, state of the art facility allowing for a more diverse student body with different needs. He stated that Foothill College would offer opportunities for high school students as well. He suggested building a second story at the existing high school. He stated that commuters to the college could walk or use buses, so traffic would not become an issue.

Lynn Brown stated that top priority of the community was the School District, followed by community arts. She noted that once the letter was

sent out, the action was set in motion and would be difficult to stop. She stated that taking that step would violate community priorities.

Carolyn Tucher stated that Foothill should stay in Palo Alto, but Cubberley was the last site large enough for a new high school and middle school, which would be needed soon. She urged the Council to make plans for Palo Alto students 30 years from now. She noted some of the acreage would be needed for parking in Foothill's Phase 2, and the 16 acres of fields should not be turned into school buildings.

Diane Reklis noted the increase in PAUSD enrollment as more houses were built, and long-term plans were needed for schools, community services, preschools, and traffic. She stated the sale or lease of the land was too short-term.

Kelly Tsai, president of Hua Kuang Chinese Reading Room at Cubberley, spoke about the benefits of having the room at a location convenient for south Palo Alto, and its free services to the public. She urged the Council not to sell or lease Cubberley to Foothill College.

Elizabeth Alexis spoke about Cubberley's success, and the School District's interest in reclaiming its space. She stated the organizations in Cubberley would be left without a location when space was already expensive and difficult to find in Palo Alto. She noted Foothill would take more than just the 8 acres.

Lisa Steinback noted that all six tennis courts at Cubberley were located on the 8 acres that Foothill wanted. She stated it would not be difficult to find someone to replace Foothill were they to vacate. The main Foothill campus was not far to drive to and was near a freeway.

Herb Borock stated that staff's figures on the rental space were correct, but should have been broken down between the part the City owned and the part it was leasing. He stated that if a relocation plan goes forward, the space that Foothill currently subleases from the City on the part owned by the School District should be used. He observed that when the City has negotiated with a School District, the School District always ended up with a better deal. The Letter of Interest from Foothill in 2009 should be made public and the same should be done with the new Letter of Interest.

Mike Cobb stated that if the sale were pursued there would be significant repercussions to the community and to PAUSD by compromising future City services and creating further traffic congestion. He stated a sale would create services for commuters while diminishing services for residents. He noted the increase in housing and stated there would be more demand for fewer services.

Lanie Wheeler spoke about the increase in students and the need for more classrooms in the future, and stated every possible bit of land will be needed for that. She stated that closed door meetings to discuss price and payment terms prior to making a public decision to sell or lease was contrary to principles of transparency. The City should be in talks with its constituents and PAUSD rather than Foothill.

Xuhui Shao noted that he moved to Palo Alto for the great schools, and pays a premium for that. He noted homeowners do not pay a premium because of Foothill. He urged the Council to consider the long-term financial welfare of homeowners and property taxes.

James Schmidt, President of Friends of the Library of Palo Alto, located in Cubberley, spoke about the contributions they have made from fundraising. He noted that a Letter of Interest protects no options, and the issue was a question of community values.

Ginger Levy spoke about the places outside of Cubberley that would be affected by a sale or lease because of construction, parking, and traffic. She stated it would be more difficult for parents to get kids to their activities around that area. She noted that previously there had been discussions about developmental assets in Palo Alto, and stated that many of the organizations in Cubberley created those assets.

John Tuomy noted that the reason Foothill was a good school was because graduates of PAUSD go on to it. He noted relocation costs and issues from the land swap with Terman. He stated it was not up to City Council to decide what the education program for PAUSD will be, and synergy between PAUSD and the City will take work. He stated the issue was about community values and therefore was a community decision. He stated the City should not sell Cubberley without a public vote.

Council Member Schmid asked for clarification on the acreage being discussed. He stated there were 32 acres in Cubberley, of which the City owned eight. Fifteen acres were subject to the Naylor Act, leaving 12 acres for the School District, which included two gyms, an auditorium, and a parking lot. He asked if that was correct.

Mr. Emslie replied that the total acreage was 35.

Council Member Schmid stated that Foothill was a full partner in Palo Alto University and therefore had a permanent place in the community. He asked if that was right.

Mr. Emslie replied that he could not answer that.

Mr. Keene stated that their presence in Cubberley was not permanent.

Council Member Schmid said that it was an additional presence. He asked what rent the School Districts were receiving and if it was close to what Foothill was paying the City.

Mr. Emslie said he was not familiar with the release payments.

Council Member Schmid stated that the lease agreements with the School District state when the site is returned it will be ready for school use. He asked if that meant it must be kept in its current condition even though there would be very few classrooms left if Foothill took the eight acres.

Mr. Emslie asked if he was talking about the eight acres or the other space.

Council Member Schmid clarified that he was talking about the end of the lease. He stated there was a clause in the lease that when it ends, it must be returned to the School District and it should be able to be used the next day.

Mr. Emslie replied that was correct.

Council Member Schmid stated that nothing could be done with that lease part. He stated it must remain in its current condition. He noted that Foothill included that they must have the right to park outside the 8 acres. He asked for the Staff's interpretation of that clause.

Mr. Keene replied that the Council should state the conditions that would be acceptable. Foothill identified their parking needs. If the City had conflicting needs the two parties would have to negotiate. Council would have to provide directions to negotiate items such as this to the negotiating team.

Council Member Schmid noted that what was missing from the Staff report was the connection between the Cubberley agreement and the agreements with the School District. Palo Alto's long-term economic prosperity comes from the growth of property taxes, and young families moving in must be willing to pay a premium. In the 1980s, many schools were sold off. The union of the City and the School District came from this, to protect for the future. He stated the City must not sell critical assets.

**MOTION:** Council Member Schmid moved, seconded by Council Member Holman to: 1) continue this discussion until July 11<sup>th</sup>, 2) direct Staff to return with a report that outlines alternative advantageous uses of the 8 acre site, 3) Staff was to provide ideas where nonprofits, artists, and services could relocate, if necessary, and 4) request the Palo Alto Unified School District Board provide the City with ideas how they could purchase or share the financial burden of Cubberley Community Center.

Council Member Schmid stated that the City must take care of its future, its assets, and work with the community to guarantee that ten years from now Palo Alto will still be a prosperous city.

Council Member Holman stated Staff had indicated that they could continue this item to July 11. She noted she was not clear on what a Letter of Interest is. She read from a Foothill-De Anza document and noted that it sounded like the City would be making a proposal that Foothill will consider and immediately go into negotiations were they to choose the City. She asked Staff to explain that.

Mr. Keene asked what document she was reading from.

Council Member Holman said it was a Request for Offers.

Mr. Keene stated that it was a solicitation targeted to the private sector. He stated the Letter of Interest would be a proposal made from the Council. Its specificity may have a bearing on how it would be received. He stated it was not a bid, or a process with exact specifications. It was connected to the policy choice the Council had to make.

Council Member Holman asked what could be submitted to make the City competitive with others.

Mr. Keene stated it would be premature to put a price in. The question was whether or not the City would sell or lease or both.

Council Member Holman asked why Foothill had an August 2011 deadline.

Mr. Keene stated that Staff's understanding was that it was the timeline the Foothill Board had established for their Staff. He disagreed with comments regarding Foothill bullying, and the City wanted to sell the property to get revenue. He said it was an opportunity to determine whether or not something with potential benefit to the community could be maintained at that site.

Council Member Holman asked if there was any flexibility with the date.

Mr. Keene stated that the Council would have to ask Foothill.

Council Member Holman stated that Foothill was a great institution, but the Council needed to weigh the impacts of their actions. She asked what would happen if the City was chosen. She asked when the environmental analysis would take place.

Mr. Emslie stated that the analysis on parking or traffic could begin at any time. He stated this wouldn't become a project for CEQA purposes until there

were more details on what Foothill was proposing to do. He stated that would probably happen concurrently with the negotiations.

Council Member Holman asked how the revenue from Foothill could be replaced. She noted there could be a possible tenant to replace them.

Mr. Keene stated that the point was that if Foothill left, that would be lost. He stated it could be replaced, but he noted that if the property were sold, the rent would disappear. He noted that Staff's understanding of the conversation was dealing with the question of the public value of Foothill being in Palo Alto.

Council Member Holman asked if there was any notion of what would happen with revenue from selling the land.

Mr. Keene replied that it had not been discussed yet.

Council Member Holman stated that would be important, because if that were used for rebuilding or restoration, it would be cashing out a long-term investment for a short-term fix. She asked about Staff meetings with the School District, Foothill, and the Council. She noted the letter from Kevin Skelley and its mention of a request that the Council had not made yet. She noted the full Council would have to provide guidance to Staff before any serious negotiations take place.

Mr. Keene noted that's what the current meeting was about. He stated that the meetings were mostly sharing information. He noted he had a meeting with Staff counterparts at Foothill and the School District sharing information about programming plans and potential synergy. He noted he had regular conversations with the School Superintendent. He stated that how the School District views the matter was important for the City to consider.

Council Member Holman noted that the Palo Alto Comprehension Plan addresses the demand for child care as it continues to grow.

Council Member Burt stated that Foothill was a tremendous community asset, and had shown interest in modernizing and expanding community programs in Palo Alto to serve the community better. He noted that they had not done any sort of bullying, and they should not be characterized as such. He stated that in a discussion with Foothill a year and a half ago, the question was if the City could allocate their 8 acres to Foothill's purpose and still accommodate the non-profits and other organizations at Cubberley. He stated that since then it had become clear to PAUSD that they will need to take back, at a minimum, the areas of Cubberley that they don't own, and they indicated that they wanted the area that the City owns. The issue had become what to do with the eight acres that the City owns. The community members that had spoken about valuing that space must realize that the

issue isn't primarily around the eight acres and what Foothill would do with that, it was around what the School District will do with the rest of it. He noted the School District had interest in the eight acres also. He noted that Foothill would be a great asset if the City didn't have to give back the eight acres, but that was not a choice. He stated that given those issues, as well as the parking demands, the community and School District need to recognize that the District needs to be a full participant with the community on how to make more efficient use of the public space. He stated there would not be daycare, dance studios, and the other elements without full participation by the School District. He noted that the City received and spent about the same on Cubberley, plus the \$5.2 million a year given to the School District that could be used otherwise. There must be a conversation on addressing the competing needs, and it would not be an easy solution.

**SUBSTITUTE MOTION:** Council Member Klein moved, seconded by Council Member Scharff to direct Staff to prepare a Letter of Interest (Letter) for Council's consideration to be brought back on July 11, 2011.

Council Member Klein stated that the Substitute Motion was to provide clear direction to Staff. The questions in the Motion by Council Member Schmid should be answered, but a clear signal should be sent. This was not the first time this has been before the Council, and there seems to be no significant new facts. He stated this included Foothill-De Anza. He stated that only four or five speakers even mentioned Foothill, and the important contributions it has made to the community. He stated Foothill added a great deal to the community, and disagreed with the speakers that suggested Foothill should not be in the community at all. He noted that many Palo Alto High School and Gunn High School graduates go on to Foothill, as well as many students returning to school. He noted this conversation was between organizations that respect each other. He stated that effort should be made to make a deal with Foothill. The School District had the option to purchase the eight acres from the City, if given notice the City wanted to sell. Hopefully they would endorse the letter from the City to Foothill. He disputed the idea of holding the property for some other purpose, because the land would be sold to a school, not something like a supermarket. He noted that parking would need to be worked out, but did not believe it would be as bad as it seemed. He stated Foothill would not be able to get parking off-site. He noted it would be worthwhile to find an option for joint use of the site.

Council Member Scharff noted the School District had the option to purchase the site. He stated there were three parts to the issue: the School District, the community center, and Foothill. He agreed that Foothill was an asset to the community. They would build a 50,000 square foot facility within the eight acres, and already had parking. He stated that the School District would need the remaining 27 acres, which leaves no room for a community center unless a new one was already built, but there had been no discussion

of that. He stated that living with the status quo was not an option. He stated that the numbers were coming out to more than \$17 million.

Mr. Emslie stated that some items on the sheet had already been done, so the \$17 million was outstanding.

Council Member Scharff stated he did not understand where that money would come from. He noted that if the School District took it, the City would not put \$17 million into it. He stated that Cubberley will need to be a public school, but it could not remain in limbo. He stated that moving forward was important, and not submitting the Letter of Intent would mean Foothill would no longer be in the community, which would be a loss. He stated there was enough land for the School District, buildings, and parking. He stated in the next meeting the Letter of Intent needed to be defined.

Council Member Shepherd stated that she enjoyed Foothill and its employees, and spoke about the possibility of a partnership between Foothill and the School District. She noted that she realized as she heard from the community groups that this was just temporary for tenants because of the rising enrollment, and the City needed to help address that. She stated that it was important to understand the School Districts interest in the eight acres. She noted that the Cubberley issue had been coming for a while and had been difficult to get on the agenda. She stated that Palo Alto had always been about education, and Palo Alto wouldn't work if education didn't work. She noted that public education was in a crisis, and the Council should take the weeks before July 11 to see what type of partnership could be made. She stated that if there was a way to form a partnership so that it would work, then the community deserves to have that conversation.

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to include in the Letter options to either sell the property or for a long term lease.

Council Member Shepherd also asked for an analysis on the traffic and the parking situation, or a transit study.

Council Member Klein disagreed. He noted it was premature.

Council Member Scharff agreed with Council Member Klein.

Mayor Espinosa stated that the Maker and the Seconder did not accept the traffic or transit study portion.

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to request Palo Alto Unified School District begin an open process of examining their support and possible collaboration of partnership opportunities with Foothill College.

Council Member Scharff noted he would like to get a letter of support from the School District.

Council Member Shepherd stated that Stanford was asked to put a transit director in their process of building a hospital and stated that question had to be asked when looking at this sort of thing. She stated that if the process goes forward, that had to be looked at.

**AMENDMENT:** Council Member Shepherd moved, seconded by Council Member XXXXX to have Staff bring back an alternative transportation study for the Cubberley site as part of a potential agreement.

### **AMENDMENT FAILED FOR LACK OF A SECOND**

Council Member Price stated that the proposal and the opportunity to express an interest was a good one. She stated it did not suggest that the current uses of the eight acres were not valued. She stated it would provide stronger support for education in the community and open up conversation with the School District. She stated that it would be possible to have a new education center that's creative, innovative, and forward-thinking that would compliment PAUSD's goals on the remainder of the site. She stated there would be design solutions that could be taken advantage of. She stated that there should be sufficient space on the site, and going forward with a Letter of Interest would be helpful and help clarify the vision for the whole Cubberley site.

Mayor Espinosa stated he was concerned about discussions on sale of land, but could imagine a long-term lease. He noted his concern about non-profits on the site, and relocation planning needs to begin either way. He stated that it would be difficult to put Foothill and another PAUSD school on the site. He noted this would not be a decision to sell or lease, only allowing for more conversation with the community and the School District.

Vice Mayor Yeh proposed that acknowledgement of the relocation needs and/or coexistence for existing non-profit partners and organizations be included in the Motion.

Council Member Klein disagreed with the shared use portion. He stated that it would be unlikely for Foothill to find space for those organizations within their new buildings, but relocation was necessary.

Council Member Scharff stated that the City was obligated to relocate the tenants, but it should not be included in the Letter of Interest because Foothill would not be involved with that.

Mayor Espinosa asked if Vice Mayor Yeh would like to change the language.

Vice Mayor Yeh noted the community event venue that Foothill included in their request for offers, and stated that there was an existing relationship between the City of Palo Alto and the non-profit organizations. He stated there was an opportunity for dialogue between the two with a shared vision on providing community programs. The Letter of Intent did not compel, but was an area of topics for discussion. He noted the importance of incorporating the concerns expressed by the public.

**AMENDMENT:** Vice Mayor Yeh moved, seconded by Council Member XXXX to incorporate language into the Letter relating to the relocation and/or shared use of the Foothill site facilities with existing non-profits and community partners.

Council Member Scharff stated that putting relocation in the Letter of Interest was asking Foothill to pay for relocation, which would be a mistake. The Amendment could be about the Council having the discussion about relocation, but not in the Letter of Interest to Foothill.

#### **AMENDMENT FAILED FOR LACK OF SECOND**

Vice Mayor Yeh noted his agreement with the Substitute Motion. He stated that Cubberley needed to be refurbished and the City did not necessarily have those resources, so the opportunity for partnerships would be very important. He stated it would be important to see how much information would be shared publicly about the long-term future of the entire Cubberley site. He noted the importance of addressing the concerns of the public move when determining a process to move forward.

Council Member Holman noted that Staff said that if Foothill moved the college would maintain a presence at Cubberley. She shared the Mayor's concern about selling city-owned land. She stated there was no plan for what to do with the money or the nonprofits, and no knowledge of the actual cost of relocation. She stated that Foothill paid no property or sales tax, and if the City was looking to sell the property for some other purpose, they should review uses that could generate tax. She noted there had been no analysis of other uses, and that even though it didn't have the money currently to build, the City itself needed land for facilities.

Council Member Burt agreed with the sentiments of the Substitute Motion, but not the math. He stated that it might work without Phase 2 and he spoke about the amount of square footage used if Foothill built a two-story facility that would allow most of the community services to remain in the space. He noted that he did not understand how Phase 2 would work, especially with the parking. He stated exploratory conversations with Foothill about whether there was interest in a more limited use of the site would be advisable. He also asked what might happen if the land was

offered to Foothill and the School District exercised their right of refusal causing the City to lose the eight acres.

Council Member Holman noted that there was no indication of the content of the Letter of Interest.

**SUBSTITUTE MOTION AS AMENDED PASSED:** 6-3 Burt, Holman, Schmid  
no

5. Resolution 9183 entitled "Resolution of the Council of the City of Palo Alto Amending the Water Utility Rate Schedules W-1, W-3, W-4 and W-7 or Selection of an Alternative Water Utility Rate Structure". (continued from June 20, 2011).

City Manager, James Keene, referring to Council's discussion regarding postponing this item, stated that it would be difficult to have this conversation in a future meeting.

Utilities Director, Val Fong noted that bringing the information back with changed rate schedules and updated numbers would push it back to September.

Council Member Price left the meeting at 12:24 am.

Mayor Espinosa said Staff's request was to discuss the item and provide feedback. He noted it had been discussed previously and might take less time than other items.

Council Member Scharff noted that adding Tier 3 would not be in conformance with Proposition 218, so the choice was between Alternative 1 and 2. He stated it did not matter, but he would prefer Alternative 1. He noted the rates were both lower on Alternative 1.

**MOTION:** Council Member Scharff moved, seconded by Council Member Klein to direct Staff to move forward with Alternative 1 which includes: 2-tiered residential rates with the Tier 1 breakpoint at 6 ccf, priced at \$3.60, and one tier for commercial rates.

Herb Borock noted that there were two California Constitutional goals being implemented. One goal was from Proposition 218 and related to charging users for a good and service based upon what each was using. Another goal was conservation, which was setting up a rate structure to benefit the entire class of users. In balancing the two goals the rates were established. He noted that the proposed alternatives were unclear in that they were getting the same amount of money as in the original proposal, but in a shorter amount of time. He thought the original proposal was better than the alternatives, and suggested including the amount of rate differences. He

noted the tiers force conservation and as established in the Cost of Services Study, they satisfy Proposition 218.

Council Member Scharff stated that he believed Alternative One to be in line with Proposition 218.

Council Member Shepherd stated she strongly supported Alternative Two.

**SUBSTITUTE MOTION:** Council Member Shepherd moved, seconded by Vice Mayor Yeh to move Staff recommendation to:

1. Increase overall retail water rates and annual revenues for the Water Fund by 12.5 percent or \$3.4 million in Fiscal Year (FY) 2012; and
2. Amend Utility Water Rate Schedules W-1, W-3, W-4, and W-7, as attached.

Council Member Shepherd stated that during the Finance Committee discussions on this subject Staff provided an explanation about the analysis of the interest that Palo Alto residents had in conservation and moving forward with Proposition 218 compliance with fixed rates increasing by 100 percent both this and next year. She stated that would be more appropriate for the Palo Alto community.

Council Member Burt stated it should be clear to the public that under Tier 1 there was a reduction, absent the increase in fixed rates. He noted it was adding 100 percent this year, and only 50 percent next year.

Council Member Shepherd disagreed.

Council Member Burt asked for clarification on the increase.

Ms. Fong stated Council Member Burt was correct.

Council Member Schmid noted that there was a Cost of Services Study that focused on customer classes. He stated that the requirements on the residential side had not been addressed. He stated that moving forward, even if the rates were approved, there would be a Cost of Services study for any rate increase that might be appropriate next year. He asked if that was correct.

Ms. Fong replied yes.

**SUBSTITUTE MOTION FAILED:** 3-5 Schmid, Shepherd, Yeh yes

**AMENDMENT:** Vice Mayor Yeh moved, seconded by Council Member XXXX for Staff to draft a letter to State Legislators requesting legislation to address conservation pricing for water utilities.

Council Member Scharff noted it was a constitutional requirement trumping any legislation.

Mr. Keene noted there was some legislation related to conservation pricing.

City Attorney, Molly Stump noted they could come back with a strategy to address the underlying interest.

**AMENDMENT FAILED DUE TO LACK OF SECOND**

**MOTION PASSED:** 7-1 Yeh no, Price absent

Ms. Fong stated that the first tier went to 6ccf in Alternative 1.

Vice Mayor Yeh stated that he did not know if there was a Motion for legislation regarding conservation pricing or if that was what the City Attorney was already tasked with bringing back to Council.

Ms. Stump suggested working on it offline and coming back with something.

Mayor Espinosa asked Staff to move labor to 5:00 pm the next day.

Mr. Keene agreed with the time.

Ms. Grider noted there was a Special Policy and Services Committee Meeting the next day at 7:00 pm.

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Yeh to move the Closed Session Items to Tuesday, June 29, 2011 at 6:00 PM.

**MOTION PASSED:** 9-0

~~CLOSED SESSION~~

~~Public Comments: Members of the public may speak to the Closed Session item(s); three minutes per speaker.~~

~~**THE FOLLOWING CLOSED SESSION WILL BE HELD WITH THE City LABOR NEGOTIATORS.**~~

~~6. 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, Sandra Blanch, Marcie Scott, Darrell Murray)~~

~~Employee Organization: Palo Alto Police Officers Association (PAPOA)  
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, Sandra Blanch, Marcie Scott, Darrell Murray)  
Employee Organization: International Association of Fire Fighters, (IAFF) Local 1319  
Authority: Government Code Section 54957.6(a)~~

**MOTION:** Council Member Holman moved, seconded by Council Member Scharff to move the Redevelopment Agency Agenda Item to July 2012.

**MOTION PASSED:** 9-0

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

None.

ADJOURNMENT: The meeting was adjourned at 12:40 A.M.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.