



CITY OF PALO ALTO CITY COUNCIL DRAFT MINUTES

Special Meeting
May 7, 2012

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:00 P.M.

Present: Burt, Espinosa arrived @ 6:26 P.M., Holman arrived @ 6:05 P.M., Klein, Price, Scharff, Schmid, Shepherd, Yeh

Absent:

CLOSED SESSION

1. CONFERENCE WITH CITY ATTORNEY - EXISTING LITIGATION
Subject: City of Palo Alto et al. v. California High-Speed Rail Authority
Superior Court of California, County of Sacramento, Case No. 34-2010-80000679
Authority: Government Code section 54956.9(a)
2. CONFERENCE WITH CITY ATTORNEY-POTENTIAL/ANTICIPATED LITIGATION
Subject: Written liability claim against the City of Palo Alto, et al. by Michael Siegel, et al., Palo Alto Claim No.: C11084
Subject: Written liability claim against the City of Palo Alto, et al. by David Morse, Palo Alto Claim No.: C11084-1
Authority: Government Code Sections 54956.9(b)(1) & (b)(3)(C)

Herb Borock asked the Council to pursue litigation separate from other litigants for Agenda Item No. 1.

The City Council reconvened from the Closed Session at 7:00 P.M. and Mayor Yeh advised no reportable action.

Council Member Price left the meeting at 7:00 P.M.

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STUDY SESSION

3. Long Range Facilities Plan for the PA Wastewater Treatment Plant (RWQCP).

The Public Works Regional Water Quality Control Plant's (Plant) Long Range Facilities Plan (LRFP) was presented and discussed. Council was given an overview of the LRFP, long-term operational footprint and site planning, long-term capital costs and financing alternatives, and next steps for staff. The key solids and liquid treatment capital projects were explained. The need for incinerator retirement was presented. An explanation of the four recommended solids handling options was given; staff explained that the options would be further studied in a Biosolids Facility Plan. Costs for the four main solids handling options were reviewed. Preliminary debt service impacts for the major capital projects were explained. The Financing Plan needed after the LRFP was explained. Potential nutrient regulatory actions for the Plant were reviewed. One member of the public encouraged better integration with the Measure E Energy / Compost facility. Council Members inquired about source control for nutrients, salt marsh conversion mitigation options related to the Plant's outfall, level of interaction with partner agencies, grant funding opportunities, and food waste handling issues.

SPECIAL ORDERS OF THE DAY

4. Presentation by Keith Bechtel on the Tsuchiura Japan Marathon Race.

Keith Bechtel stated Tsuchiura was located near Tokyo on Kasumigaura Lake, and the race route was along the lake shore. He presented photos of the race, events surrounding the race, and local cultural sites. There were 22,000 runners in the marathon, and the marathon was the third largest in Japan. He finished 19th in the race. He thanked the Council for asking him to participate in the marathon, and presented a gift to Mayor Yeh from the Mayor of Tsuchiura.

Mayor Yeh congratulated Mr. Bechtel on his finish in the marathon as well as being a representative of the City and community of Palo Alto.

CITY MANAGER COMMENTS

James Keene, City Manager spoke about: 1) two trees to be removed from the Palo Alto Art Center site; 2) Public Service Recognition Week; 3) City Auditor award; 4) the new City Website has been soft launched effective today; 5) US Dept. of Energy Wind and Power, City of Palo Alto Utilities was

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selected for the 2012 wind award; 6) Earth Day Celebration Mayor Yeh water reduction; and 7) Thursday May 10 6:30-9:00 Bike to Work Day.

Council Member Price returned at 8:07 P.M.

APPROVAL OF MINUTES

MOTION: Council Member Schmid moved, seconded by Council Member Shepherd to approve the minutes of January 23, 2012 and January 30, 2012.

MOTION PASSED: 9-0

ORAL COMMUNICATIONS

Craig Allen, President of the Palo Alto Golf Club, indicated the members were interested in the changes proposed for the Golf Club. The Finance Committee recommended Option G, which was designed with the intent of removing 10 acres and reserving that area in a land bank. This renovation could be performed for an additional \$3 million as compared to Option D, which was preferred by most members of the golf community. That \$3 million did not include lost revenue for closing the entire course for a year. The Golf Club's Board of Directors voted to support Option D, and expressed serious concerns about the viability of Option G. He asked the Council to closely review the numbers involved, both the cost estimates for construction and projected estimates provided by the National Golf Foundation. The National Golf Foundation report correctly indicated some of the risks involved with those plans. If the City wanted the acreage, they should pay for part of the changes necessary to make that happen.

Aram James stated the Independent Police Auditor's report indicated the Police Department had not discharged a Taser in the last three reporting periods. He commended Chief Burns for ensuring officers complied with case law. He felt it was time to revisit the use of Tasers for any reason in Palo Alto. Some new scientific reports suggested cardiac arrest was triggered by Taser use. The cost of maintaining a weapon that was not being used should be revisited in this time of limited resources.

Chuck Jagoda requested any documents, records, or digital representations regarding any break-ins, burglaries, robberies, thefts, and defacements. He had previously discussed parking spaces for people who were unhoused. There was evidence people had received relief by employing a night watchman. He wanted to make that available to more members of the community, and would appreciate any help from the Council.

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Omar Chatty stated Caltrain had killed 181 people since 1995, 21 since the beginning of 2011, and 5 in 2012. Many victims in the last two years had been Palo Alto residents. In the last six weeks, 4 people had been injured by Caltrain. He hoped the Council would review the Caltrain corridor for an option for Bay Area Rapid Transit (BART), which was safer.

CONSENT CALENDAR

Council Member Klein advised he would not be participating in Agenda Item Number 8 as his wife was a member of the Stanford Faculty.

Mayor Yeh advised he would not be participating in Agenda Item Number 8 as his wife was a Stanford student.

Omar Chatty stated the next death on Caltrain would happen any day. He felt High Speed Rail (HSR) was stupid. He suggested the Council consider supporting state legislation to block 152 from being a toll road. He felt BART met all the legislative priorities, and three land use priorities. BART was compatible with the bike path, with Union Pacific Railroad, benefited the budget, demonstrated local support, and tracks were incompatible with HSR.

Jeff Hoel spoke regarding Agenda Item Number 11, He stated Staff was developing a comprehensive plan and strategy for undergrounding all districts in Palo Alto. He wanted to know why District 47 was compatible with that plan. For this particular district, the City and AT&T had not reached terms about the cost. He suggested cost should be determined before the Council approved it. He hoped undergrounding included fiber optics to the premises.

Chuck Jagoda indicated the Addendum for Agenda Item Number 12 stated it was reviewed by homeless advocates. It was not sensitive to the situation of many unsheltered people. In Section 6, it restricted the rights of homeless people. The language seemed to state free speech was not allowed. Section 18 seemed to be a strategy of forcing homeless people out. The Addendum stated there was no resource impact. There was a resource impact for unsheltered people. It also indicated it was appropriate for the public at large, not all of the public.

Aram James asked that Agenda Item Number 12 be removed from the Consent Calendar to review the legality of some of the proposed provisions. The Police Auditor's report presented April 9, 2011 spoke regarding a man handing out pamphlets at the theater. This ordinance appeared to target specifically the man's hate speech. That was not appropriate, because hate

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speech was protected by the First Amendment. He asked the City Attorney to determine if it was targeted at one person's hate speech.

MOTION: Mayor Yeh moved, seconded by Council Member Schmid to pull Agenda Item No. 12 to become Agenda Item No. 12a.

MOTION: Council Member Espinosa moved, seconded by Council Member Price to approve Agenda Item Nos. 5-11.

Council Member Burt asked Staff to comment on Agenda Number 12 not being presented to the Policy & Services Committee (P&SC).

Greg Betts, Director of Community Services reported there were regulations for the Civic Center, the libraries, the parks, and the community centers. Past protocol had been to have these items reviewed by the Library Commission if it pertained to Library Rules and Regulations or the Parks and Recreation Commission if it pertained to Park Regulations. Community Center Rules had been reviewed by Parks and Recreation Commission (PARC) in the past.

Council Member Burt inquired if there were comparable considerations of social policy.

Mr. Betts indicated the last time regulations were presented to the City Council was in February 2012 for an update of Park Regulations. He could not recall any controversy in February; there were changes to the use of utilities in the parks, changes to the Community Garden Rules, and changes for the swimming pool. It had been a few years since Community Center Rules and Regulations had been updated.

James Keene, City Manager stated Agenda Number 12 generally seemed to extend existing regulations to specifically courtyards, doorways, and walkways.

Council Member Burt was interested in Council Members' opinions regarding P&SC review of the Item.

Mayor Yeh inquired whether the current Item could follow the same process as the Vehicle Habitation Ordinance, which had been reviewed and discussed.

Mr. Betts worked with the Planning Department on the Vehicle Habitation Ordinance. One area that had changed concerned leaving materials unattended. This did not change if people were carrying materials with

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them; it was a matter of people leaving them unattended. Unattended materials would be taken to the Lost and Found where people could reclaim them.

Mayor Yeh appreciated the discussion being driven by the public and stakeholders. He asked if the Vehicle Habitation Ordinance would be presented to the P&SC before being presented to the full Council.

Mr. Betts was not sure, and would report back.

Council Member Holman indicated it was on the P&SC Agenda.

5. Approval of Contract with SAP Inc. for Software Maintenance Support Services to the City of Palo Alto.
6. Request for Authorization to Increase the Existing Blanket Purchase Order with OldCastle Precast, Inc. by \$200,000 for Fiscal Year 2012 and to Approve a \$500,000 Blanket Purchase Order with OldCastle Precast, Inc. for 2013 for the Purchase of Concrete Vaults and Pads.
7. Approval of the City's 2012 Federal and State Legislative Program.
8. Ordinance 5153 entitled "Ordinance of the Council of the City of Palo Alto Approving an Amendment to the 1997 Sand Hill Road Development Agreement to Extend Lease on El Camino Park and to Remove Approximately 10.25 Acres of Land (Searsville and Fremont Roads) in Santa Clara County from Special Condition Area B to be Used for Central Energy (Cogeneration) Facility". (*1st Reading passed 4-16-12, 6-0 Espinosa absent, Klein, Yeh not participating*).
9. Ordinance 5154 entitled "Ordinance of the Council of the City of Palo Alto to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Palo Alto to Implement California Government Code Section 20475: Different Level of Benefits Provided for New Employees, Section 21363.1: 3.0% @ 55 Full Formula, Section 20037: Three Year Final Compensation, and Without Section 20692: Employer Paid Member Contributions for Safety Fire Employees". (*1st Reading passed 3-5-12, 8-0 Yeh absent*).
10. Approval of Amendment No. 2 to Agreement Between the City of Palo Alto and the Midpeninsula Community Media Center, Inc. in the Amount of \$50,000.

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11. Resolution 9245 entitled "Resolution of Intent of the Council of the City of Palo Alto to Establish Underground Utility District No. 47 (Middlefield Road/ Addison Ave/ Cowper Street/ Homer Ave) by Amending Section 12.16.020 of the Palo Alto Municipal Code".
- ~~12. Approval of Revisions to Regulations of the City of Palo Alto Regarding Prohibited Conduct at or in Community Centers, Theaters, Interpretive Buildings and the Art Center.~~

MOTION PASSED for Agenda Item Nos. 5-7, and 9-11: 9-0

MOTION PASSED for Agenda Item No. 8: 7-0 Klein, Yeh not participating

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 12a. (Former No. 12) Approval of Revisions to Regulations of the City of Palo Alto Regarding Prohibited Conduct at or in Community Centers, Theaters, Interpretive Buildings and the Art Center.

Council Member Holman asked the date the Vehicle Habitation Ordinance would be presented to the Policy & Services Committee (P&SC).

Greg Betts, Director of Community Services stated it was on the P&SC Agenda for June 12, 2012.

MOTION: Vice Mayor Scharff moved, seconded by Council Member Shepherd that the City Council adopt the Staff and the Parks and Recreation Commission recommendations to the revisions to the Rules and Regulations regarding prohibited conduct at or in community centers, theaters, interpretive buildings and art center.

Vice Mayor Scharff stated the actual changes were reasonable. The change regarding smoking was a compliance issue.

Mr. Betts reported the regulations stated 20 feet, and in order to meet platinum certification the requirement from Leadership in Energy and Environmental Design (LEED) was 25 feet.

Council Member Shepherd felt the Item was not substantive, and would create a better opportunity for theater goers and the community in general.

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Council Member Burt could accept the intent and the language. The key language was anyone who repeatedly left belongings after being requested not to do so. There were adequate safeguards.

Council Member Price concurred with comments and would support the Motion. She was comfortable with the process that had been used.

Council Member Schmid stated it was appropriate at community centers to have rules and regulations. He asked where transients went and what they used for their belongings. He felt it was an appropriate question for Council to confront.

SUBSTITUTE MOTION: Mayor Yeh moved, seconded by Council Member Schmid to refer this to Policy and Services Committee for discussion in June.

Mayor Yeh agreed with quite a few of the issues. It was a separate but related issue, particularly around Item No. 1; No person other than authorized City staff or other persons specifically authorized by City staff shall enter or remain in the covered facilities, including courtyards, doorways and walkways, after posted closing hours, because it related to a person rather than things. Delaying the Item for one month was not improper.

Council Member Shepherd would not support the Substitute Motion, because this issue was not different from the issue of belongings on the streets. These policies were basic and supported the actions needed at community centers.

Council Member Klein did not see the need for an additional discussion at P&SC. This was a straightforward and balanced approach. This was not the same type of issue as sleeping in vehicles, but was a method to ensure reasonable behavior in public facilities. He would not support the Substitute Motion.

Mayor Yeh understood the language was less strict, knew it would be an important discussion for P&SC in June, and appreciated the City Manager's comments regarding efficiency.

Council Member Burt stated this would basically say that no un-housed person could be in a covered area after regular hours. As the language was written, it also applied to any person using public facilities after Staff had departed. He would be more receptive if the language described certain unacceptable behavior. This outlawed the general public from sitting in covered courtyards after hours. That item was poorly written. The intent was to prohibit sleeping in covered areas.

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James Keene, City Manager noted the Council had the ability to modify the language. He suggested the Council excise certain language and adopt the remaining portions.

Mayor Yeh wanted further discussions to understand the implications of Item No. 1. He understood the City Manager's suggestion to be a Motion for approval of all language except Item No. 1.

Mr. Keene was not making a recommendation. The change from existing policy was the addition of the underlined language, which was made at the suggestion of the Parks and Recreation Commission.

SUBSTITUTE MOTION FAILED: 3-6 Burt, Schmid, Yeh yes

Council Member Burt indicated the purpose of the language was to address people remaining in those areas. He was not sure of the appropriate language to distinguish between people walking through public facilities. He asked if Staff had any recommended language to address his concern.

Mr. Betts indicated this was consistent with current rules for City parks. The intent was to have defined hours for the safety of the public.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to strike the words "enter or" in Rule Number 1: No person other than authorized City staff or other persons specifically authorized by City staff shall ~~enter or~~ remain in the covered facilities, including courtyards, doorways and walkways, after posted closing hours.

MOTION PASSED: 9-0

ACTION ITEMS

13. PUBLIC HEARING: to Hear Objections to the Levy of Proposed Assessments on the Palo Alto Downtown Business Improvement District and Adoption of a Resolution 9246 entitled "Resolution of the Council of the City of Palo Alto Confirming the Report of the Advisory Board and Levying Assessment for Fiscal Year 2013 on the Downtown Palo Alto Business Improvement District".

Council Member Shepherd advised she would not be participating in this Item as her husband had a lease in the Business Improvement District (BID).

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Mayor Yeh indicated Staff had prepared a script regarding a public hearing on the levy of an assessment on businesses in the Palo Alto Downtown BID for Fiscal Year (FY) 2013. In February 2004, the City established the Palo Alto Downtown BID. The City Council must hold a public hearing annually to authorize the levy of an assessment in the next fiscal year. On April 23, 2012, the Council set this time and day as the time and date of the public hearing on the proposed levy of an assessment for FY 2013. The Council appointed the Board of Directors of the Palo Alto Downtown Business and Professional Association as the advisory board for the BID. The Advisory Board had prepared its Annual Report for FY 2013 and submitted it to the Council. The City published the required notice in a local newspaper of record regarding re-authorization of the BID for 2013 as required by bid law. All interested persons would have an opportunity to provide testimony. At the conclusion of the public hearing, the Council would determine whether a majority protest existed. A majority protest would exist if the owners of businesses that would pay 50 percent or more of the proposed levy of an assessment had filed and not withdrawn a written protest.

Thomas Fehrenbach, Economic Development Manager requested approval of Staff's recommendations to hold the public hearing, absent a majority protest to re-authorize the BID for FY 2013, and to accept the Annual Report. The BID was managed by the Palo Alto Downtown Professional and Business Association. There had been a number of improvements, as outlined in the Report. The Association had helped with and expanded events such as the tree lighting, Earth Day, May Fete, World Music Day, and the Giant's Trophy. He was pleased to announce the implementation of the enhanced cleaning schedule for Downtown.

Council Member Burt stated BID's improvements and maintenance had contributed to Downtown. He asked if the activities noted in Section 7 were the only activities for which BID could use its funds.

Molly Stump, City Attorney reported Section 7 characterized and described the types of improvements and activities that were appropriate for expenditures. The description, while general, was a limitation on the work and activity of the BID. With respect to activities, it included promotion of public events, furnishing of music, and general activities to benefit businesses located in the District. It did not include political advocacy or lobbying.

Council Member Burt inquired if Downtown businesses could advocate on policy matters through themselves as individuals or through organizations such as the Chamber of Commerce.

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Ms. Stump stated that was a fair characterization.

Public hearing opened and closed without public comment at 9:00 P.M.

Mr. Fehrenbach indicated there was no majority protest.

MOTION: Council Member Burt moved, seconded by Vice Mayor Scharff to approve the Resolution confirming the report of the Advisory Board and levying an assessment for Fiscal Year 2013 on the Downtown Palo Alto Business Improvement District.

Vice Mayor Scharff thanked Russ Cohen for his work with the Downtown businesses and BID.

Council Member Holman appreciated the cleaner sidewalks as that had long been a concern.

Mayor Yeh appreciated the BID's efforts. The level of activity in Downtown was exciting.

MOTION PASSED: 8-0 Shepherd not participating

14. Acceptance of the Long Range Financial Forecast for Fiscal Years 2012 to 2022.

Lalo Perez, Director of Administrative Services reported the Long Range Financial Forecast (LRFF) was not a plan or a budget, but was a tool to forecast the potential financial condition of the General Fund based on several assumptions. The LRFF was a ten-year forecast that included the continuation of structural changes the Council had made over the past few years. The Council had reduced the General Fund Budget by more than \$14 million and eliminated more than 60 positions because of the deep recession. Revenues had improved somewhat, while expenditures continued to increase. The Council had structural deficits to address. The LRFF included the assumption of balancing the estimated FY 2012 budget gap of \$2.3 million through a draw on Reserves. That assumption contained the assumption of an increased cost for retiree medical. Staff projected a deficit of approximately \$1 million for FY 2013 and approximately \$3.7 million for FY 2014. That was included in the base model. For FY 2015-2022, Staff projected a combined deficit of \$83.4 million. The accumulated deficit was approximately \$88.2 million, including certain assumptions. The Finance Committee (FC) would begin discussions of the FY 2013 Proposed Budget the following night, with meetings scheduled over the next few weeks. The FC would review and approve or amend the assumptions included in the

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model, and then the Council would consider them. The FY 2013 Proposed Budget included a one-time savings of \$2.7 million. This resulted from freezing 15 Public Safety positions, 6 in the Fire Department and 7 in the Police Department. The Proposed Budget also included one-time expenditures of \$1.6 million for technology, election costs, and a loan to the Airport Fund. The net one-time savings were approximately \$1 million. Outsourcing Animal Services was also included in the Proposed Budget. The \$600,000 in net annual savings assumed the exodus of Mountain View from the partnership and outsourcing services. If the City did not outsource Animals Services and maintained the facility, then the impact on the General Fund would be \$1.1 million. The FY 2013 Proposed Budget included a net savings of \$116,000 from the Library. Five positions in Library would be frozen as a result of the remodeling in the Library System. Staff expected to break even in FY 2014, and an estimated net cost increase of approximately \$1 million beginning in FY 2015. Over the next ten years, the average increase in net revenues was \$2.8 million and the increase in expenditures was \$3.4 million, resulting in a structural deficit. FY 2012 revenues had exceeded FY 2008 revenues; however, FY 2012 expenditures had also exceeded FY 2008 expenditures. The FC requested the inclusion of \$2.2 million per year for infrastructure keep-up. Tax receipts, approximately 50 percent of the Budget, were less than the expenses for salary and benefits. Medical costs were increasing by 10 percent. The California Public Employees Retirement System (CalPERS) had decreased its rate of return assumption for the pension portfolio. Concessions from the Fire Fighter and the Fire Chief Associations were approximately \$1.6 million, and approximately \$1.5 million from the Police Officers Association. Staff had included a 2 percent cost of living increase for miscellaneous or non-Public Safety employees beginning in FY 2014 and going forward. Since 2000, General Fund Full-Time Equivalents (FTE) had decreased by approximately 18 percent; however, salary and benefits had increased by 50 percent. Since 2002, pension expense had increased six fold. The retiree medical annual contribution had grown by \$2 million in the General Fund. In the Citywide pension trend, FY 2016 and 2017 included the direction of 3 percent growth per year. Staff included the 10 percent cost increase assumption for healthcare. Staff had not included the Infrastructure Blue Ribbon Commission (IBRC) recommendations of \$4.2 million per year over ten years for catch-up and \$210 million for new construction of facilities. Staff had not included revenues from new hotels at the FC's direction. The FC also asked Staff to include only negotiated concessions from employee groups. There were no assumptions for a revenue initiative related to infrastructure. One alternative scenario assumed the frozen positions in Public Safety became permanent reductions, which would reduce expense by 40 percent. A second scenario suggested changing the 3 percent rate of return for CalPERS to 1.5 percent for those years without a CalPERS

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estimated payment increase. That resulted in a 29 percent impact to the accumulated gap. Combining scenarios 1 and 2 provided a 62.5 percent decrease. If the Council made those assumptions part of the LRFF, the gap would be \$1 million in FY 2013, the same for FY 2014, and \$2.9 million in FY 2015. The Council would need to continue structural changes to the Budget, but at a manageable level. The City had almost the same number of retirees under medical as current employees. Staff anticipated concessions from Public Safety groups in FY 2012, but was not successful in achieving them all. The City received unexpected revenues of \$3.7 million to help fill the gap. The City needed to continue infrastructure funding of \$2.2 million annually for keep-up, and to determine the \$4.2 million solution for catch-up and funding for projects not currently funded. Staff asked the Council to consider lowering the 3 percent annual CalPERS annual increase assumption to 1.5 percent from FY 2016 forward, accepting the FC recommendation of increasing funding for infrastructure by \$2.2 million, and accepting the Report. The City needed additional employee cost sharing. Staff had discussed the reason and the need with employees. The City needed agreements with the remaining bargaining groups to meet the same level of cost sharing. The City was not able to maintain the current compensation plans. The City also needed to explore regional service delivery, additional public-private partnerships, additional efficiencies, and fee adjustments. The Cost of Service Study would determine the net cost of programs, and allow the Council to make policy decisions. This LRFF was subject to the assumptions contained therein.

James Keene, City Manager felt the conclusions and solutions were appropriate. The Council would have to balance the FY 2013 Budget, regardless of future events. The LRFF was reviewed and updated annually, allowing the Council to change directions as needed. The City had demands and needs that were not funded. Staff and the Council was not only making a choice to maintain programs, but also attempting to plan funding for necessary programs. Since 2000, the City had reduced the number of employees in the General Fund by 18 percent, but had 50 percent more costs. The Council had worked hard to reduce costs, but that required time. The Council had to rethink the provision of services and consider future costs. He asked the Council not to continue funding services without understanding the structural gap. The purpose of the LRFF was to show multi-year impacts. Staff's recommendations were attempting to reduce current year costs as well as long-term costs, because the trajectory of some cost increases was not sustainable.

Council Member Klein stated the Council should not make decisions about the LRFF, but about the budget. The Council should accept rather than

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approve the LRFF. He asked if the benefits cost was a summation of the increases in pension and healthcare costs.

Mr. Perez answered yes.

Council Member Klein asked if the LRFF included an increase in salaries and if so, how much and for which employees.

Mr. Perez indicated the LRFF included a 2 percent salary increase for the miscellaneous group starting in FY 2014. This group had not received a salary increase since July 1, 2008. Not addressing that salary position could result in the City not being able to attract employees. There was no increase in FY 2013 and 2014 for Fire Fighters, but a 2 percent increase beginning in FY 2015. There was no increase for Police Officers until FY 2016 when a 2 percent increase began. The LRFF assumed the same FTE numbers, but that was not realistic based on the current numbers.

Council Member Klein asked what the numbers would be with no increase rather than a 2 percent increase.

Mr. Perez would have to research that question.

Council Member Klein felt the unions had received an increase through the cost of healthcare and pensions.

Mr. Perez reported the increase was for salary rather than total compensation. Within the step program, employees at the top step received salary increases, and employees at lower steps received salary increases by advancing through the steps.

Council Member Klein inquired if there was an assumption for savings from restructuring the Fire Department.

Mr. Perez indicated details would be presented to the FC and then to the Council. There were efficiencies resulting from restructuring and minimum staffing. Minimum staffing was a redeployment of the method for delivering services. Because the majority of calls were for paramedic services, Staff had included overtime funding for the second paramedic unit. There were significant reductions in the Fire Department as a result of these changes.

Mr. Keene stated savings in FY 2013 were projected into subsequent years; however, subsequent savings could increase throughout the LRFF.

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Council Member Klein inquired if there was a number factored into the FY 2013 Proposed Budget.

Mr. Keene answered yes.

Council Member Klein asked for that number.

Mr. Keene indicated there were savings from the Stanford Linear Accelerator Center (SLAC) and the restructuring.

Council Member Klein asked for the cost savings resulting from minimum staffing.

Mr. Perez reported the six frozen positions would save approximately \$1.1 million.

Council Member Klein stated that was \$1.1 million for FY 2013 and perhaps more going forward.

Council Member Schmid stated the two long-term reports provided the context for Council discussions throughout the year. Funding sources did not grow with income. The City did not have an income tax, and sales tax revenue tended to be regressive. The City relied on a slowly growing sales tax base and property tax. Property tax was critical. The business share of property tax had been decreasing every year over the last 30 years. The Council needed to make decisions that would influence and affect long-term revenue growth. New taxes and increased rents and fees did not grow with income. Expenditures were growing faster than revenues. There was a dichotomy between salary growth and benefits and pension growth. Revenue was projected to increase by 3.25 percent and tax revenue and salaries and benefits by 4.5 percent over the next decade. Salaries were growing at 2 percent and benefits at approximately 7 percent. Salary increases were going to benefits rather than compensation. He asked if that was an incentive for the younger workers the City wanted to attract. The Council needed to confront and deal with that issue in each Budget. Decreasing the CalPERS rate saved tens of millions of dollars. Staff was assuming the CalPERS rate of return would grow higher than the average growth rate of the economy. Staff disregarded the recommendations of CalPERS's actuary and the City's actuary, and assumed a higher rate of return. Not accepting the City's problems made it difficult to negotiate.

Council Member Shepherd noted Staff positions had decreased, and asked if the City relied on Staff members to pay into CalPERS to keep the City's portion low.

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Mr. Perez indicated she was correct. The employee contribution had been very small, and the Council would change that. The share for Fire Department employees was 9 percent, and Staff was working to make the percentage standard for all employees.

Council Member Shepherd stated the LRFF helped the Council understand where the City was going by understanding the current position. Animal Services was a prime example for understanding the problem with the Budget. The Council never captured the legacy of those 13 FTEs who rolled into pension. The City was not collecting that portion of Animal Services costs, but was collecting only actual expenses. The Council needed to consider actual costs to understand the Budget problems.

Mr. Perez reported the City had a continuing obligation for retiree pension and healthcare costs when a City service was eliminated or outsourced.

Mr. Keene indicated the City's obligation increased as employees continued to work and to increase their benefit.

Mr. Perez stated the cost savings was not straightforward because some costs continued.

Mr. Keene said an increasing cost trajectory resulted in an ever-widening funding gap. The Council needed to project costs ahead. As the Council closed the funding gap, future costs would continue to grow faster than revenues.

Council Member Shepherd stated understanding the full costs helped her to make wise decisions. The community needed to assist public-private partnerships in order to retain City services. She was considering the legacy of services and costs to make funding decisions.

Council Member Holman stated one challenge was responsibility versus compassion. Some comments referred to the need for State reform, and there had been some movements in that direction. She asked Staff if the positions to be eliminated were logical reductions from a performance standpoint.

Mr. Perez noted five positions in the Library Department and 13 positions in Public Safety were being frozen. Because Staff wanted to see the effects of these decisions, they were not making a permanent recommendation. The Council had reduced non-Public Safety positions in the past, and now needed to reduce Public Safety positions.

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Council Member Holman looked forward to the Public Works Organization Review, and asked for the timing on that report.

Mr. Perez reported the Public Works Director presented a restructuring plan to reduce the level of management, reduce positions, and consolidate operations for the General Fund and the Refuse Fund. He felt the Public Works Director had done a good job of restructuring the Department.

Council Member Holman wanted some flexibility on a one-time basis for Animal Services when discussing that at P&SC, because the issues had occurred suddenly.

Council Member Price recalled prior discussions regarding the \$210 million recommendation by the IBRC, and asked whether that was a base number for discussion purposes.

Mr. Perez reported Staff wanted to be consistent with the numbers until the Council provided directions. There had been discussions regarding the correct amounts and titles.

Council Member Price stated the LRFF was a guideline for current and future decisions. The Council's immediate concern was the FY 2013 Budget, and then future implications through 2022.

Mr. Perez indicated this discussion provided a base for decisions and impacts of decisions.

Council Member Price felt technology could provide solutions for increased efficiency, but came with significant costs. The Council and the public had to manage their expectations with regard to the types of services offered and the quality of services. If a population increased and services remained static, delivery of services had to be reexamined.

Vice Mayor Scharff felt it was important for the Council to take the assumptions seriously, and change them if the Council disagreed with them. Medical and pension costs were rising at a unsustainable rate and crowding out everything else. The Council needed to decrease pension and medical costs, but it was hampered by State law, legacy issues, and the inability to change preexisting costs. The trend appeared to be fewer employees and services to benefit older employees. That should not be the plan. The Council should attempt to keep the same level of service. Salary increases should not be included in the LRFF, because concessions were not included.

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One without the other made no sense. He asked for an explanation of the decrease in the CalPERS contribution.

Mr. Perez explained CalPERS had not provided an estimate of the amount of growth of the City's contribution for the outer years. Therefore, the Council had directed Staff to use 3 percent. Because CalPERS had not made an adjustment, the Council could reconsider that percentage. He suggested the City use 1.5 percent as that was the current estimate.

MOTION: Vice Mayor Scharff moved, seconded by Mayor Yeh to: 1) accept the Long Range Financial Forecast for Fiscal Years 2012 to 2022, 2) lower the 3 percent annual CalPERS pension increase assumption to 1.5 percent, 3) include \$2.2 million per year in additional infrastructure funding assumptions in the LRFF, and 4) remove 2 percent salary increases built into the LRFF for labor groups.

Vice Mayor Scharff felt the 3 percent contribution for CalPERS was too aggressive. Including the funding for infrastructure was a wise move. Neither salary increases nor concessions should be included in the LRFF, because the Council did not know their effects.

Mr. Keene stated the 2 percent salary increase enlarged the gap between revenues and expenditures and contrasted the need for cost savings. Newer employees did not have the same level or value of benefit or costs; therefore, it may be necessary to consider paying them more to attract them into the workforce. Somehow the Council had to maintain the dynamic tension between revenues and expenditures. The assumptions of the Motion were maintaining FTEs, not providing any cost of living increase, and absorbing the benefit costs. Any action would provide an incomplete picture.

Mayor Yeh asked Staff to provide the ten-year cumulative deficit for the prior three LRFFs. It was essential to include the \$2.2 million expenditure for infrastructure. Forecasts or projects were better demonstrated through bands, because they were a range for consideration. Having LRFFs and actuarial reports allowed Staff to integrate all data and information. He understood the need to reflect an increase in salaries, but did not want to assume any cost of living increase.

Mr. Perez reported a \$940,000 savings if the 2 percent increase was eliminated, using FY 2012 as a base.

Mr. Keene stated there was not a 2 percent increase in FY 2012.

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Council Member Burt agreed with Vice Mayor Scharff's concerns about including a salary increase without concessions, but he suggested the LRFF should contain the best estimate of both.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct Staff to put in the LRFF the conservative projected concessions along with the conservative 2 percent salary increase.

Vice Mayor Scharff asked whether including both would affect negotiations.

Mr. Keene stated Staff was attempting to estimate future costs from a baseline, and had to make assumptions.

Council Member Burt suggested the percentage should be a conservative projection for both salary increases and concessions.

Mr. Keene stated the Council was moving beyond the traditional method for using the LRFF. The Council should use it in a dynamic fashion during the course of the year. A dynamic approach would foster the idea of variability.

Vice Mayor Scharff felt the concept of bands made the LRFF more dynamic.

Council Member Burt felt the 1.5 percent rate was reasonable if the Council assumed CalPERS would earn 7.5 percent. The annual increase should be based upon the estimated rate of return as well as any anticipated change in the rate of return.

Mr. Perez stated 1.5 percent was a suggestion, and 3 percent was acceptable. If the decrease from 7.75 percent to 7.5 percent represented 1.5 percent and CalPERS accepted the actuary's recommendation of 7.25 percent, then that would be the 3 percent.

Council Member Burt indicated Staff had factored in an expectation of a lower return.

Mr. Perez was comfortable with 1.5 percent, but would accept 3 percent.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to retain in the LRFF with the current 3 percent and incorporate bands to reflect the different CalPERS scenarios into the LRFF.

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Council Member Burt stated the population had increased while the number of employees had decreased, but that had not been noted. The ratio of employees to residents had decreased.

Mayor Yeh suggested the LRFF could keep the 3 percent and show the 1.5 percent if bands were used.

Mr. Perez reported Staff could show that as a scenario within the final draft.

Council Member Burt felt using scenarios was the appropriate method to reflect the alternative.

Mayor Yeh indicated the actuary had provided an analysis for this number. He was more comfortable with a band.

Council Member Burt noted the bulk of employee reductions had occurred in the prior three years. He inquired whether approximately 40 employees were shifted to Enterprise Funds.

Mr. Perez stated the majority were shifted to Information Technology (IT).

Council Member Burt recommended a notation to reflect that.

Mr. Keene reported 10 percent employee reductions over the past three years.

Council Member Burt inquired if the City charged other cities for current costs and long-term liability costs of providing services.

Mr. Perez indicated the City was loading the costs for pension and retiree healthcare.

Council Member Burt asked whether the Citywide Healthcare Expenditure on page 14 included current employees and retirees. He wanted to see the medical and pension trend for retirees. The base model began in FY 2012, so the Council could not see the trailing trend of salary and benefits. He suggested educating the public regarding the CalPERS rules to facilitate the public's understanding of constraints. He felt new employees were disadvantaged with regard to compensation, but not to pension and benefits.

Council Member Espinosa felt the Council was attempting to make policy during the discussion rather than making model changes; however, Council Member Burt's suggested changes moved away from that. The LRFF had improved over the past few years. He had assumed that specific projects

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and aggressive pursuit of those projects over a specific time would be the basis of the Economic Development Plan, but that had gone in a different direction. Understanding the numbers and specific projects combined with the LRFF would help the City move forward.

Mr. Perez agreed with Council Member Espinosa, and stated that would be the next step. For the Council to have a broader discussion, Staff would need to supply more information. Staff would provide options and paths to consider in closing structural deficits. Unfortunately, that would not be ready for the current Budget discussions, because the drivers were the Cost of Service Study and the Utility Organization Review.

Council Member Espinosa explained eliminating 15 positions did not mean 15 less people were needed. As more staffing changes happened, he wanted to ensure a conversation regarding flexibility in reassigning employees occurred, and that Staff received the support they needed.

Mr. Keene said being adaptive to the needs of the present and future and providing more opportunities within the organization for employees to do new things were key parts of productivity improvements; but staffing transitions required time.

Mr. Perez reported a base model cumulative deficit from FY 2010 through FY 2012 of \$147.4 million, from FY 2011 through FY 2021 \$98.4 million, and tonight's deficit of \$88.2 million. The chart demonstrating the split in current employee and retiree healthcare costs was in the Budget and would carry forward to the LRFF.

Mayor Yeh stated the cumulative numbers were essential to highlighting the Council's past actions in reducing deficits.

SUBSTITUTE MOTION: Council Member Klein moved, seconded by Council Member Price to accept the Long Range Financial Forecast.

Council Member Klein felt it would be a serious error to adopt the original Motion. The LRFF was not a plan. The Council had discussed some assumptions in the LRFF, but there were many more. If the Council adopted the original Motion, the public would perceive it as a Long Range Plan. The LRFF was not intended to be a finished product or a plan, but the Council was trying to convert it to a plan. The Council could use the LRFF to make decisions, but the decisions would be made in the budget process.

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Council Member Price explained the LRFF was a framework for discussion. Staff had heard differing opinions and suggestions for future LRFF. It was advisable to support the Substitute Motion.

Council Member Holman stated the LRFF was not a Budget or a plan, because some things had not been determined. She supported the Substitute Motion. She asked if the \$800,000 in additional technology investments for the Development Center noted on page 7 was correctly placed.

Mr. Perez explained the intent was to show it as a one-time expense.

Mr. Keene agreed with Mr. Perez.

Council Member Shepherd supported the Substitute Motion. It was hard to reconcile and explain expense reductions with increasing real estate prices.

Council Member Burt opposed the Substitute Motion, and felt the original Motion was a forecast. A forecast used a series of long-term assumptions. Staff presented alternative scenarios which were alternative assumptions for some of the key components. Proposed changes were clarifications. The Council has proposed modifications to the LRFF, but it was still a forecast.

Council Member Espinosa stated the Staff Report noted the LRFF was a model, and Staff asked for comment and clarification. The proposed changes were broader than Staff requested. He supported the original Motion.

Vice Mayor Scharff supported the original Motion, because the LRFF with proposed changes remained a forecast. Staff's request for input and the Council's comments did not make the LRFF a plan. It was not appropriate to blindly accept all the assumptions without thought or comment.

Mayor Yeh would not support the Substitute Motion. Bands were meant to facilitate the forecast nature of the LRFF and to recognize the uncertainty of the out years while considering information that impacted local finances. Portraying this as a plan based on the original Motion would not be accurate. He asked if the Substitute Motion assumed the 3 percent rate of return and the 2 percent salary increase.

Council Member Klein said the Substitute Motion stood as stated. He was trying to convey that the LRFF was Staff's document and tool for the Council to use. The Substitute Motion was to accept the document and to use it as a tool.

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Mr. Keene indicated the Council had not balanced anything under any of the scenarios; the gap still existed. Staff's request for comments reflected last minute changes and was a courtesy.

Mayor Yeh was unsure if Staff needed clarity regarding those two issues in the Substitute Motion.

Council Member Klein felt there was confusion between the Council accepting and adopting the report. Adopting the report meant the Council was endorsing the report prepared by Staff. The Council did not have to answer Staff's request; Staff had heard a variety of answers.

SUBSTITUTE MOTION FAILED: 4-5 Holman, Klein, Price, Shepherd, yes

Council Member Price believed the two items incorporated into the Motion changed the Motion. She asked if the phrase regarding the 2 percent salary increase was replaced by the items incorporated into the Motion.

Mr. Keene explained the net effect to the base model was to accept it in that format with the change to inject a conservative concession scenario and to utilize bands. The base model included the 3 percent rate of return, \$2.2 million in infrastructure funding, and the 2 percent salary projection.

Mr. Perez indicated that having the miscellaneous employees pay their entire share of pension would result in a \$14.3 million savings over ten years.

Mr. Keene stated the Council should leave the change at that, because that was just one of 50 possible concession scenarios.

Council Member Burt clarified that the Motion stated accept and not adopt.

Council Member Holman asked if the first amendment to add salary increases and concessions included the 2 percent salary increase.

Vice Mayor Scharff wanted to allow Staff to make the percentage determination of a conservative scenario.

Council Member Holman understood the Motion to state 2 percent was the conservative scenario.

MOTION AS AMENDED PASSED: 8-1 Klein no

15. PUBLIC HEARING: Adoption of a Resolution 9247 entitled "Resolution of the Council of the City of Palo Alto Approving the Proposed Fiscal

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Year 2013 Community Development Block Grant (CDBG) Funding Allocations and the 2012/13 Draft Annual Action Plan”.

Steven Turner, Advanced Planning Manager requested the Council approve adoption of the Community Development Block Grant (CDBG) Funding Resolution as recommended by Staff, the Finance Committee (FC), and the Human Relations Commission. Palo Alto received annual funding from the Department of Housing and Urban Development (HUD) as an entitlement city under the CDBG Program. Palo Alto used those funds for activities consistent with CDBG's national objectives to benefit low and very-low income persons, aid in the prevention or the elimination of blight, and meet other community needs particularly urgent for the low-income community. Palo Alto had been a CDBG entitlement city since 1988. The level of funding had been approximately \$700,000 for the prior four or five years. Funding in the prior year was reduced by approximately 11 percent. The current year's funding was reduced by almost 29 percent, because the formula for determining the allocation had changed. Staff expected the current funding level to remain stable for the next few years. Under Public Services, Staff sought funding of approximately \$95,600 for the Palo Alto Housing Corporation, Catholic Charities, InnVision, YWCA, and Project Sentinel. There was a maximum 50 percent funding cap for Public Services. Staff requested approximately \$98,000 to administer this program, a reduction from the request of \$133,000. Planning Administration had a 20 percent funding cap. Economic Development, Housing and Public Facilities did not have a cap. Remaining funds would be used for Downtown streets, Palo Alto Housing Corporation, Mid-Peninsula Housing, Avenidas, and Achieve Kids. The FC voted 3-1 to approve this funding request. The FC discussed ways to add funding to those service providers that experienced cuts because of the overall reduction in funding. The FC did not provide specific directions, but suggested reviewing the General Fund and HSRAP for additional funds.

Public hearing opened at 11:31 P.M.

Olivia Garcia, Catholic Charities of Santa Clara County, appreciated the Council's long-term support of Catholic Charities. The Long Term Care Ombudsman Program was authorized by the federal Older Americans Act and California's Older Californians Act to advocate for the rights of seniors and disabled residents in long-term care facilities. The program was distinguished by its mandate to represent long-term care residents. Program staff visited facilities, resolved complaints, investigated abuse allegations, and reviewed use of restraints and drugs to control behavior. Because the mandate was unfunded, the program relied on grant money.

Public hearing closed at 11:34 P.M.

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Council Member Shepherd reported HSRAP did not have increased funding for the upcoming fiscal year. The FC would discuss funding in the budget process.

MOTION: Council Member Shepherd moved, seconded by Council Member Espinosa to accept Staff and Finance Committee recommendation to: 1) adopt the funding Resolution allocating CDBG funding as recommended by Staff and the Human Relations Commission in the 2012-13 Action Plan; 2) authorize Staff to submit the 2012-13 Action Plan to the Department of Housing and Urban Development by the May 15, 2012 deadline; and 3) authorize the City Manager, on behalf of the City, to execute the 2012-13 application and Action Plan for CDBG funds and any other necessary documents concerning the application and to otherwise bind the City with respect to the application and commitment of funds.

Council Member Espinosa noted the City had long-term partnerships with organizations to serve citizens. This was an important partnership for providing essential services, and not merely grant making.

Council Member Schmid inquired if the 29 percent funding reduction was caused by reductions in federal funding or by demographic statistics.

Mr. Turner indicated the reduction was based on the change in the funding allocation formula for the CDBG Program. It was a change in the methodology and formula for all CDBG entitlement cities throughout the country. The factors of that formula affected Palo Alto more than other cities.

Council Member Schmid asked if it was a permanent reduction because of future statistics.

Mr. Turner answered yes.

Council Member Schmid asked what would occur if they were to add \$19,000 to the grant for the Palo Alto Housing Corporation and InnVision.

Molly Stump, City Attorney stated the agenda item was the disposition of the CDBG funds. Discussions to add funds from other sources should occur under an agenda item.

Mayor Yeh remarked that cities were submitting comment letters to highlight the impact of funding reductions on local non-profit groups. He suggested

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Palo Alto participate in those group efforts and comment on the impacts and on revised methodologies.

Curtis Williams, Director of Planning and Community Environment stated Staff would research that issue and return to the Council with information.

Council Member Burt stated if the Council wished to find a way to restore the bulk of funds through additional funding to HSRAP that was good guidance for the FC. These programs addressed the neediest people in the community.

Council Member Shepherd indicated this discussion would occur at the FC, and this would be a good way to protect these programs that worked with the most challenged people.

Mr. Williams indicated the Community Services Department Budget was scheduled for the following night at the FC.

Council Member Shepherd stated that would be considered early in Budget discussions.

Council Member Holman supported trying to restore funding for the disadvantaged in the community.

Mayor Yeh also supported additional funding for these programs.

MOTION PASSED: 9-0

Mayor Yeh inquired whether Council Members wanted to continue with the remaining Agenda Items.

Council Member Price asked if there were time constraints with the Community Development Block Grant (CDBG).

Lalo Perez, Director of Administrative Services reported federal deadlines occurred in May 2012.

Council Member Price asked if that was not debatable.

Mr. Perez answered yes.

Council Member Burt suggested Item No. 16 would have a long discussion and public comment. He asked for alternatives.

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Council Member Holman agreed with continuing Item No. 16.

Donna Grider, City Clerk indicated the May 14, 2012 Agenda included a Study Session on the Bus Rapid Transit update, and Action Items on Arts Center Connectivity and 195 Page Mill Road. The Agenda for May 21, 2012 included a public hearing on the Bicycle and Pedestrian Plan and the Utilities Advisory Commission (UAC) recommendation regarding carbon neutral electric portfolio.

James Keene, City Manager reported the Planning and Community Environment Director would not be present on May 21, 2012, and felt he needed to be present for discussion of the Gateway Project. The Council could substitute the Gateway Project discussion for the Item regarding 195 Page Mill Road on May 14, 2012.

16. ~~PUBLIC HEARING: Adoption of a PC Ordinance for the Proposed Lytton Gateway Project to Amend the Zoning Map of the City of Palo Alto to Change the Zone Designations From CDC P and CDN P to a Planned Community (PC) District to Allow a Mixed Office and Retail, Four Story, 50 Foot Tall Building (and a 70 Foot Tall Corner Tower Feature) on the Former Shell Station Site, Located at 355 And 335 Alma Street. The Project Includes Exceptions to the Daylight Plane and 35 Foot Height Limit Within 150 Feet of Residential Property. *Quasi-Judicial.~~

MOTION: Council Member Burt moved, seconded by Council Member Holman to: 1) reschedule Agenda Item No. 16 to May 14, 2012 Council meeting and for it to be heard first under Action Items, and 2) move 195 Page Mill agenda item to a date uncertain.

Council Member Espinosa suggested placing Item No. 16 near the beginning of the Agenda.

Council Member Klein suggested making it the first item after the Consent Calendar.

Mr. Keene noted a Study Session was the first Agenda Item.

Ms. Grider stated the Study Session was agendized before the Consent Calendar.

Mr. Keene stated Item No. 16 would be agendized before the Arts Center Connectivity Item on May 14, 2012.

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Council Member Burt noted the Amendment was to place Item No. 16 immediately after the Consent Calendar.

MOTION PASSED: 8-1 Shepherd no

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Mayor Yeh reported he attended the Northern California Power Agency annual meeting two weeks ago where there were discussions on Secretary Steven Chu's letter, tax exempt financing, and homeland security. He also attended the Silicon Valley Leadership Group meeting whose primary discussions focused on H-1 Visa Reforms, and repatriation of overseas revenues.

ADJOURNMENT: The meeting adjourned at 11:50 P.M.