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July 2, 2012

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# MINUTES

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:11 P.M.

Present: Burt, Espinosa, Holman, Klein, Scharff, Schmid, Shepherd, Yeh

Absent: Price

## SPECIAL ORDERS OF THE DAY

1. Appointments of Candidates for the Architectural Review Board for Two Full Terms and One Unexpired Term Ending on September 30, 2015.

First Round of voting for the Architectural Review Board for three terms ending on September 30, 2015 (one term will begin serving immediately):

Voting For Michael Alcheck:

Voting For Naseem Alizadeh: Burt, Espinosa, Klein, Scharff, Shepherd, Yeh

Voting For Peter Baltay: Holman, Klein, Schmid, Yeh

Voting For Alexander Lew: Burt, Espinosa, Holman, Scharff, Schmid, Shepherd, Yeh

Voting For Sassan Padramrazi:

Voting For Randolph Popp: Burt, Espinosa, Klein, Scharff, Schmid, Shepherd

City Clerk, Donna Grider announced that Alexander Lew with seven votes, and Naseem Alizadeh and Randolph Popp both with six votes were each elected to two full terms ending on September 30, 2015. A second ballot was cast to determine which of the non-incumbents would serve in the term beginning immediately and who would serve in the term beginning October 1, 2012.

Second Round of voting for the Architectural Review Board. Council was instructed to select only one of two applicants, Naseem Alizadeh or Randolph Popp. The candidate with the most votes would serve the term that began immediately:

Voting For Naseem Alizadeh: Burt, Schmid, Yeh



# MINUTES

Voting For Mark Weiss:

Voting For Henry Wong:

City Clerk, Donna Grider announced that no candidate received the required five votes for the term expiring July 31, 2013.

**MOTION:** Vice Mayor Scharff moved, seconded by Council Member Klein to reopen recruitment for the Planning and Transportation Commission unexpired term ending on July 31, 2013.

Vice Mayor Scharff felt the Council was divided, and reopening the recruitment could solve the issue.

Council Member Burt noted one candidate was unavailable for an interview, and was currently part of the process.

Council Member Shepherd confirmed those candidates previously interviewed would remain candidates. She asked if the Council would interview the previous candidate as well as new candidates.

Ms. Grider reported the ballot would include prior candidates as well as new candidates.

Council Member Shepherd inquired whether the Council would interview previous candidates a second time.

Ms. Grider stated that was the Council's decision.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that only new applicants would be interviewed.

**SUBSTITUTE MOTION:** Council Member Holman moved, seconded by Council Member Schmid to interview the candidates who did not get selected along with any new applicants who submitted applications when the recruitment reopened.

Council Member Holman noted it would be some time before interviews could be scheduled, and felt prior interviews would be stale at that time.

Mayor Yeh suggested the Council vote a third time. He advocated for Susan Fineberg, and would not support the Substitute Motion.

# MINUTES

Council Member Burt stated he would introduce a Motion to interview the one candidate who was not interviewed previously.

Council Member Holman withdrew her Substitute Motion in favor of Mayor Yeh's comments.

## **SUBSTITUTE MOTION WITHDRAWN**

**SUBSTITUTE MOTION:** Council Member Burt moved, seconded by Council Member Espinosa to interview Henry Wong, and then return to the full Council for a vote without reopening recruitment.

Council Member Espinosa stated Mr. Wong's application was strong, and having all Council Members present for a vote could lead to a decision.

Council Member Klein supported the original Motion. This would not be a one-year term, because the Council historically reappointed that person to a full term.

Vice Mayor Scharff would vote for the Substitute Motion. If it failed, he would then vote for the original Motion.

Council Member Holman had wanted Mayor Yeh to lobby further for another round of voting. She would vote against the Substitute Motion.

Mayor Yeh stated he would vote for the Substitute Motion to avoid the extended process of reopening the recruitment.

**SUBSTITUTE MOTION PASSED:** 5-3 Holman, Schmid, Klein no, Price Absent

### 3. Appointments of Candidates for the Utilities Advisory Commission for Three Terms Ending on June 30, 2015.

First Round of voting for the Utilities Advisory Commission for three terms ending on June 30, 2015:

Voting For Audrey Chang: Burt, Espinosa, Holman, Klein, Shepherd, Yeh

Voting For Theodor Colbert:

Voting For Steve Eglash: Burt, Espinosa, Holman, Klein, Scharff, Schmid, Shepherd, Yeh

# MINUTES

Voting For Jonathan Foster: Burt, Espinosa, Holman, Klein, Scharff, Schmid, Shepherd, Yeh

Voting For Mark Harris: Scharff, Schmid

Voting For T Meredith Ross:

City Clerk, Donna Grider announced that Steve Eglash and Jonathan Foster each with eight votes and Audrey Chang with six votes were elected to the Utilities Advisory Commission for three terms ending on June 30, 2015.

## CITY MANAGER COMMENTS

City Manager, James Keene reported the 31st Annual Summer Festival and Chili Cook-Off was scheduled for July 4, 2012, 12:00 P.M. to 5:00 P.M. at Mitchell Park. As of July 1, 2012 the sales tax in Santa Clara increased from 8.25 percent to 8.375 percent as a result of the 2008 Bay Area Rapid Transit (BART) measure. A community survey had been placed on the City's website to gather feedback about Rinconada Park. Information gathered from the survey would be used to guide the design of a Long Range Plan. Staff anticipated presenting Plan proposals to the Council in late October 2012.

## APPROVAL OF MINUTES

**MOTION:** Council Member Espinosa moved, seconded by Council Member Schmid to approve the minutes of March 19 and 26, 2012.

**MOTION PASSED:** 8-0 Price absent

## CONSENT CALENDAR

4. Approval of Change Order Fifteen in the Amount of \$278,710 to Flintco Construction for the Mitchell Park Library and Community Center Project.

**MOTION:** Council Member Espinosa moved, seconded by Council Member Klein to approve Agenda Item Number 4.

**MOTION PASSED:** 8-0 Price absent

# MINUTES

## ACTION ITEMS

5. Public Hearing: Discussion and Direction Regarding City Policy for the Use of Utility Substation Sites, City Hall and Other City Property for Siting Wireless Communications Facilities (continued from June 25, 2012, Public Hearing closed).

Curtis Williams, Director of Planning and Community Environment recalled this Item was continued from the June 25, 2012 meeting, because of Council concerns regarding the language of Staff recommendations. Staff had broadened the recommendation to be generic with regard to the development of a wireless plan, and included the list of details for a Request for Proposal (RFP) in the discussion item rather than the general recommendation.

Council Member Klein inquired whether a representative of AT&T was present.

Mr. Williams answered no.

Council Member Klein noted receipt of a letter from AT&T and, based on that letter, felt AT&T would not be cooperative. He asked if Staff had discussed AT&T's interest.

Mr. Williams indicated Staff had discussed the issue with AT&T approximately six months ago. AT&T stated its antennas would need to be less than 100 feet tall. He responded to AT&T that antennas for its system could be lower than 125 feet, but Staff would need more analysis to determine that. AT&T would wait for the analysis, and indicated it was not legally bound to use City towers.

Council Member Klein inquired whether AT&T had a firm rule for the height of towers.

James Keene, City Manager said Staff could not speak to AT&T's intentions. AT&T would proceed with other distributed antenna system (DAS) installations in the City, even if the City constructed towers.

# MINUTES

**MOTION:** Council Member Klein moved, seconded by Council Member Shepherd to accept Staff recommendation and direct Staff to issue a Request for Proposal (RFP) for services to develop a citywide proposal to provide for wireless communication facilities, including the potential use of City electric utility substations, City Hall and other city-owned properties by wireless communications providers, to better meet the community's need for a City-wide wireless network. Council should specifically direct Staff to:

1. Initiate the request for proposal process, including preparing the RFP, seeking bidders and selecting a vendor.
2. Evaluate zoning ordinance amendments to address height and site development standards for such facilities, and to provide for expeditious review of projects and subsequent collocations.
3. Explore and develop City actions to encourage the use of collocation facilities, including but not limited to approaches such as a ministerial permit review process and streamlined utility and encroachment permit reviews.
4. Within 6 months of Council action, report back to Council with the citywide service proposal and study, as well as initiate proposed code modifications and any recommended incentives to use the City's proposed network.

Council Member Klein indicated Staff recommendations were now clear.

Council Member Shepherd expected Staff to move forward on this Item, because it was a good thing for Palo Alto.

Council Member Burt asked Staff to explain why the recommendation did not contain the list of elements for an RFP.

Mr. Williams reported Staff was concerned that revisions to the list during the RFP process would require a return to Council, and that other elements could not be added. The level of specificity restricted Staff too much.

Council Member Burt was comfortable with Staff following the general thrust of the elements, but procedurally he had misgivings. The Council should consistently provide clear directions.

Council Member Holman inquired whether Staff's report in six months would be an information or agenda Item.

Mr. Williams stated it would be an agenda Item to allow the Council to provide input and direction. He did not know whether the study would be complete or substantially complete.

# MINUTES

Council Member Holman asked how Staff would collect visual simulations of proposed facilities if it was not a part of the RFP.

Mr. Williams indicated it would be a part of the RFP.

Mr. Keene stated the goal was to issue a RFP that was both general and specific to elicit the kind of responses that Staff wanted. The RFP would include some general components to provide a framework for proposals. General components allowed respondents to demonstrate initiative and to pitch a proposal.

Mayor Yeh suggested Staff hold pre-submittal meetings or conferences with interested respondents to discuss context.

Mr. Keene indicated Staff held those kinds of meetings quite often.

Mayor Yeh felt AT&T had moved forward most aggressively with its DAS system compared to other carriers. Verizon had also begun to move forward with a potential DAS application.

Council Member Holman inquired whether Staff could incentivize co-location and not move expeditiously with DAS permits.

Mr. Williams stated Staff would review that.

**MOTION PASSED:** 8-0 Price absent

6. Resolution 9270 entitled "Resolution of the Council of the City of Palo Alto to Support of the Santa Clara Valley Water District's Safe, Clean Water and Natural Flood Protection Plan (Plan) and Placement of the Plan on the November 2012 Ballot".

Mike Sartor, Public Works Director reported Staff recommended the Council 1) approve a Resolution supporting the Santa Clara Valley Water District's Safe, Clean Water and Natural Flood Protection Plan (Plan) and 2) recommend the Plan be placed on the November 2012 election ballot for Santa Clara County.

Joe Teresi, Senior Engineer indicated this was a follow-up measure to an existing tax passed in 2000. The existing measure would expire in 2016; therefore, the Water District wanted to place a measure on the November 2012 ballot to supplant the original measure.

# MINUTES

If the Plan was placed on the November 2012 ballot and was approved, it would become effective in 2014 at the same rate as the existing measure. The Plan included a project to replace several bridges and provide 50-year flood protection for San Francisquito Creek between Highway 101 and Middlefield Road. This project would lay the groundwork for the San Francisquito Creek Joint Powers Authority to move forward on its own ballot measure to enable 100-year protection. The Plan identified \$35.5 million to be applied to the San Francisquito Creek project. Another \$20 million would be applied to the study of options for improving the Bayfront levees to afford flood protection from tidal flooding.

Rick Calendar, Director of Government Affairs with Santa Clara County Water District reported the Plan received endorsements from 120 individuals and organizations as well as municipalities and chambers of commerce. The Water District Board would consider placing the Plan on the ballot at its July 24, 2012 meeting. A scientific poll indicated approximately 69 percent support for the Plan, which would need a two-thirds vote. The Plan would not increase any tax rate.

**MOTION:** Council Member Burt moved, seconded by Council Member Holman to: 1) adopt the Resolution supporting the Santa Clara Valley Water District's (District) Safe, Clean Water and Natural Flood Protection Plan (Plan), and 2) recommend the District place the Plan on the November 2012 general election ballot.

Council Member Burt indicated the measure was a continuation of the current tax rate and not a new tax. \$35.5 million was a large portion of the funds needed to construct a comprehensive solution to the watershed. There had been a recent focus on a comprehensive plan for tidal flooding, because tidal levees were inadequate. The Plan included funding to plan, design and complete the construction documents. This was a vital program for emergency preparedness and included strong environmental protection initiatives and recreational initiatives.

Council Member Holman concurred with Council Member Burt's comments.

Council Member Schmid supported the Motion. The Water District was broadening its horizon to include the shoreline, which traditionally had not been a consideration. Moving the expiration date from 2016 to 2014 was an indication that the Water District wanted to move ahead quickly with its new design.

**MOTION PASSED:** 8-0 Price absent

# MINUTES

7. Acceptance of the Long Range Facilities Plan (LRFP); Provide Direction to Staff to Develop a Financing Plan, and, for Biosolids, to A) Retire the Incinerators; B) Prepare a Biosolids Facility Plan; and C) Coordinate Biosolids Options with the Energy/Compost Facility Evaluation; Regional Water Quality Control Plant CIP WQCP 10001.
8. Energy/Compost Facility Action Plan Presentation; and Approval of Amendment No. 2 to Contract C11136602 with Alternative Resources, Inc. in the Amount of \$290,224 for a Total Amount Not to Exceed \$517,682 for Assistance with the Energy/Compost Facility Action Plan Implementation and Adoption of Budget Amendment Ordinance.

Mayor Yeh announced that Item Nos. 7 and 8 would be discussed together and a member of the public could speak to both at the same time.

Mike Sartor, Director of Public Works summarized Staff recommendations.

Phil Bobel, Assistant Director of Public Works noted Item Number 7 was presented in a Study Session a few weeks earlier. The Long Range Facilities Plan (LRFP) considered facilities needed for the next 50 years. The concept was to renovate and replace facilities. A major component of the renovation category was incinerators, which would cost \$90 million. Potential future regulatory requirements could result in an expenditure of \$150 million. Staff would identify the needs for renovation and future regulations; confirm plant sizes were sufficient; optimize energy use; minimize expenditures; and protect human health and the environment. Without a LRFP to sequence these projects over time, the City could construct one project in one location which would be negative to another needed project. The newest parts of the plant were 40 years old, and exceeded the design life envisioned for all facilities. Extreme wear was visible in incinerators. Certain projects had to take place in the immediate future. Staff needed to coordinate with the energy/compost work. Palo Alto could be a leader in the future with respect to using wastewater as a resource, while minimizing greenhouse gas and carbon dioxide production. A biosolids facility was the most pressing need in terms of facilities. Staff had not prepared a financing plan. Voters approved Measure E, the energy/compost measure, which undedicated 10 acres of Byxbee Park for a period of ten years while the Council considered action on the Energy/Compost Facility. The landfill closed to the public in July 2011; the compost facility closed in April 2012; and the recycling center closed February 1, 2012. The household hazardous waste facility remained open, and Staff would return to the Council for more action in the coming months. A total of 43 acres associated with the landfill could now be used by the public.

# MINUTES

Of the 51 acres not capped, 8 acres had been undedicated and an additional 2 acres not part of the landfill had been undedicated, for a total of 10 acres. The key objectives were to cap the landfill and open Byxbee Park to the public; consider an Energy/Compost Facility; minimize costs; and maintain compliance with regulations. Staff suggested the Council direct them to prepare an Organic Resource Recovery Strategy (ORRS). The Request for Proposal (RFP) process was the key feature of the Action Plan. Staff requested acceptance of the Action Plan, because the details would change. The RFP for landfill capping would occur in 2013, and Staff would present it to the Council in early 2014. If the Council decided to proceed with an Energy/Compost Facility, then Staff would negotiate a contract with construction beginning in 2015. Staff expected the facility to be complete and open in 2018. If the Council chose to export biosolids, Staff could execute the export option in 2014. The biosolids process would occur concurrently with the Energy/Compost Facility process.

James Keene, City Manager reminded the Council that Staff recommendations would take significant time to occur, and Staff could return to the Council during that time with interim reports.

Council Member Shepherd noted Mountain View during peak wet flows had 50 million gallons per day (MGD), and inquired whether it needed that amount.

Mr. Bobel reported all partner cities had the same fundamental problem of infiltration and inflow during rain. The average flow of slightly more than 20 MGD increased to as high as 80 MGD, which was the plant peak instantaneous capacity.

Council Member Shepherd referenced the chart on page 2-5.

James Allen, Manager Water Quality Control Plant stated the chart indicated the capacity of a trunk sewer and not the capacity of the treatment plant. Most of the trunk sewers carried mainly Mountain View sewage.

Mr. Bobel advised this was only one of the pipelines coming into the sewage treatment plant.

Council Member Shepherd inquired how partner cities participated in these decisions.

# MINUTES

Mr. Bobel stated the three principal partners to the sewage treatment plant were Los Altos, Mountain View, and Palo Alto. Any individual, major Capital Improvement Program (CIP) project required individual approval and an amendment to the agreement with partner cities.

Council Member Shepherd asked if Staff had presented these Items to City Councils' of the partner cities.

Mr. Bobel reported Staff had offered a presentation, but only Los Altos and the East Palo Alto Sanitary District accepted.

Council Member Shepherd wanted to understand how the process worked.

Mr. Bobel indicated staff from partner cities had provided a great deal of input.

Council Member Shepherd inquired whether Staff was concerned that partner cities would not receive adequate information to make informed decisions.

Mr. Bobel stated Mountain View had provided informational reports to the Mountain View City Council as discussions occurred.

Council Member Shepherd inquired about contests of the Measure E vote.

Molly Stump, City Attorney reported a writ contesting the lawfulness of Measure E had been filed. A decision should be issued later in the summer. There was nothing to prevent the City from moving forward.

Council Member Shepherd inquired about integrating the slope into the 10 acres.

Mr. Bobel said it would be a challenging issue, because the 10-acre plot would run into a steep slope. Staff was considering how to engineer that. A Study Session was planned for November 2012.

Mr. Keene commented it was a challenge and an issue due to the number of variables.

Council Member Espinosa stated more information was helpful for those concerned about the financial feasibility of a proposed compost facility. Part of true costs might be a combined facility or combined planning, and that could influence the numbers.

# MINUTES

He inquired whether Staff recommendations preempted decisions, or whether decisions would be made in the future with information available at that time.

Mr. Bobel reported it was difficult to move forward with the analysis without precluding options or making decisions. The RFP process provided for private sector cost estimates without making decisions. One conflict was capping the landfill, and a series of scenarios would be presented to the Council in the January 2013 timeframe.

Council Member Espinosa asked when in the timeline would the Council make other decisions.

Mr. Bobel stated the next key decision would be in early 2014, when Staff would present information from the RFP process. The early 2014 timeframe would determine whether the Energy/Compost Facility would proceed. One complexity was the need to move forward with the biosolids facility, because the incinerators needed to be replaced. Staff attempted to sequence projects such that options were not precluded before the Council made a decision on the Energy/Compost Facility.

Council Member Espinosa inquired how Staff factored in differing timelines of the partner cities and how that affected the Council's decisions.

Mr. Bobel indicated differing timelines would extend the City's timeline if the projects were integrally linked. At that point, the Council would have to decide whether to extend the timeline or separate the projects.

Council Member Espinosa asked if Staff had communicated a sense of urgency to the partner cities.

Mr. Bobel was concerned about that as well. Staff had provided schedule information and held partner meetings.

Council Member Holman asked if public speakers would have more than 3 minutes to comment.

Mayor Yeh answered no. The Council could follow up with questions.

Council Member Holman noted references to California Environmental Quality Act (CEQA) approval in the slides, but she found no mention of the Environmental Impact Report (EIR) process. She asked Staff to comment on that.

# MINUTES

Mr. Bobel agreed Staff did not provide the CEQA timeline, but could provide more detail.

Council Member Holman felt scoping a project this complex was important, and it was not included in the schedule. She asked if all costs that were not captured during the campaign would be incorporated into the RFP.

Mr. Bobel indicated costs would be incorporated into the City's analysis. Staff would not ask vendors to estimate capping; Staff would add that.

Council Member Holman inquired whether the Council could delay until a decision in the legal action was issued.

Ms. Stump stated she would provide a complete timeline with respect to the litigation. There was not a business need to suspend planning efforts. Public Works wanted to move forward with the timelines for operational reasons. Staff did not anticipate any substantial reason to adjust the timeframe. If developments in the litigation caused Staff to change its view, Staff would inform the Council.

Mr. Keene noted differing and divergent perspectives in the community about what should happen. Staff had no predetermined outcome, other than the fact that there were complex factors to consider. The Council needed additional information to make decisions. Staff was proposing processes that allowed it to provide more details and information to the Council.

Council Member Holman felt it would be prudent to wait a few months for a decision, rather than spending \$290,000 and then the court deciding against the Measure.

Ms. Stump indicated the litigation system had an element of unpredictability. She felt the trial court would provide a decision in a few months. One party or another could appeal the decision, resulting in a delay of quite a few months.

Council Member Holman asked if a decision about the rest of the park would occur in 2014.

Mr. Bobel reported Staff would return the Item to the Council in early 2013, and the Council would decide whether to completely cap, partially cap or defer capping of the landfill. In early 2013, the Council would be faced with the decision of the landfill.

# MINUTES

Council Member Holman believed the Council would not have all the answers or could change directions in 2013, such that a final decision would not be made until 2014.

Mr. Bobel indicated the Council's decision in early 2013 could include waiting to cap the landfill until 2014. Another option would be to proceed immediately in 2013 with completely capping the landfill or to have a compromise.

Vice Mayor Scharff noted Staff expected to have a draft ORRS in January 2013, and asked whether Staff would present that to the Council in 2013.

Mr. Bobel answered yes. The draft ORRS would be part of the performance standards presented for Council input. The ORRS would determine the amount of biosolids, the amount of food waste, and the amount of yard waste. The amount of biosolids, food waste, and yard waste would be part of the performance standards given to the vendors.

Vice Mayor Scharff inquired if the Council would review performance standards in January 2013.

Mr. Bobel answered correct.

Vice Mayor Scharff inquired whether regional participation would affect the ORRS, and whether regional information could be available by January 2013 as regional partners had not reviewed the City's proposal.

Mr. Bobel reported the total amount of biosolids was needed for the RFP process, and Staff had that information. Staff could not separate the amount of biosolids for each partner or have a strategy for each partner.

Vice Mayor Scharff asked if the ORRS included food waste.

Mr. Bobel responded yes. Biosolids was a component of the ORRS.

Vice Mayor Scharff inquired about a regional strategy to collect food waste from other cities.

Mr. Bobel indicated there was a lack of interest from five regional partners in joining with Palo Alto on food and yard waste. The other cities had long-term contracts and plans in place. Staff did not anticipate other neighboring cities wanting to participate.

Vice Mayor Scharff asked whether a consultant was drafting a study.

# MINUTES

Mr. Bobel said Staff would prepare the ORRS. Jim Binder of Alternative Resources, Inc. would provide assistance, but the ORRS would be a Staff document.

Vice Mayor Scharff asked what the \$174,000 would cover.

Mr. Bobel advised that was the amount of the Budget Amendment Ordinance. The total amount of the contract amendment was \$290,000. The contract amendment covered the entire RFP process; determining performance standards, conducting public outreach, receiving the Council's input, issuing the RFP, answering vendor questions, evaluating proposals, and assisting with a decision.

Vice Mayor Scharff noted the decision points in 2013 for the Council would be performance standards and landfill capping. He asked for an explanation of the landfill capping decision.

Mr. Bobel indicated in January Staff would ask the Council to decide how to proceed with capping the landfill. If the Council wanted to build an Energy/Compost Facility there, then that portion of the landfill would have to be uncapped and some portion of the material moved. Another option would be to defer capping; however, regulatory agencies did not favor that. One reason to defer capping was to prevent the expense of capping and uncapping. Between those two options, Staff would provide one or more alternative options involving a partial cap and seeking approval from regulatory agencies to defer capping a portion of the landfill.

Vice Mayor Scharff inquired if Staff would list the pros and cons of each option in the Staff report.

Mr. Bobel responded yes.

Council Member Burt asked how Staff would narrow the list of issues for consideration found on page 306 of the Council Packet. He had heard other cities might be interested in participating in yard waste.

Mr. Bobel reported Staff had spoken to the communities closest geographically to Palo Alto, and they had not expressed interest to date.

Council Member Burt inquired if those discussions included our San Mateo County partners as well as partners in the wastewater treatment plant.

# MINUTES

Mr. Bobel advised Staff had not contacted all the San Mateo County partners.

Council Member Burt believed that outreach needed to be performed before Staff could determine the quantity per type of feedstock and provide that information within the RFP.

Mr. Bobel said Staff would try to contact everyone.

Council Member Burt suspected Staff would not receive definitive answers from surrounding communities.

Mr. Bobel agreed. The other variable was the length of a contract, which would be important.

Council Member Burt asked if the RFP would provide scenarios ranging from one technology for all waste streams to separate technologies for each waste stream, and asked how Staff would evaluate that.

Mr. Bobel suggested Staff would not dictate that in the RFP. Most facilities were built and operated by the private sector as a partner to government. Staff would attempt to have the vendors determine the market for each waste stream. The RFP would contain minimum amounts and, if the vendors felt the market would support a larger facility, then they could propose that.

Jim Binder, Principal of Alternative Resources Incorporated agreed. The RFP could provide a base case in terms of quantities, as well as optional cases for larger amounts of these materials. If there was interest in a regional facility, then the RFP would be open to proposals including materials from sources not identified by the City. The RFP process was meant to gather information in a way that provided firm market response in terms of technology and size of facility. He envisioned a base case situation and perhaps some options in an RFP that would allow for flexibility and market response while preserving the City's objectives and needs.

Council Member Burt stated the private sector bidder would potentially identify the market for whatever materials it proposed to treat. Thus, the bidder would be contacting cities to determine their interest in participating. He felt the City should contact cities to determine their interest, and then provide that information to the bidders. That method seemed to be more productive. He asked Staff to let the Council know if its help was needed to interact with elected colleagues to determine interest.

# MINUTES

Council Member Schmid expressed concern that the City had a history of putting the refuse ratepayer at risk. In planning for the long term, the Council needed to consider the variables. He was disturbed by the lack of consideration of technologies beyond organics. Twenty cities in California were investing in technologies that used organics and other materials. He asked how Staff could have a planning process with no shared data on the experience of these other twenty cities.

Mr. Bobel reported organics was the feature of Measure E, and the Council directed Staff to follow-up on that.

Council Member Schmid indicated the directive was to explore organics or other technologies. It would be relatively easy to present information regarding the twenty California communities to the Council.

Mr. Bobel inquired if Council Member Schmid was talking about exploring technologies for organic and non-organic material, such as oxidation and high temperature.

Council Member Schmid believed the Zero Waste policy was to reach 100 percent reuse of waste.

Mr. Bobel said Staff could, if directed by Council, review alternatives which addressed streams beyond organics.

Council Member Shepherd felt the Zero Waste objective was to reduce waste destined for the landfill to zero. She asked if Council Member Schmid was talking about methods to eliminate waste streams not destined for the landfill.

Council Member Schmid answered yes. Other communities were planning both organics and other waste at the same time in the same facilities. He inquired whether Staff was overlooking a possibility of dealing with waste on a regional basis in a richer way.

Council Member Burt felt the terms organic and inorganic were being interpreted differently by the Council Members. Some of those 20 communities could be considering waste streams beyond the three the City identified.

Council Member Schmid was referring to communities such as Salinas Valley where 98 percent of the waste stream was processed into renewable energy.

# MINUTES

Mayor Yeh asked Staff to respond to Council Member Schmid, and then the discussion would continue.

Mr. Bobel indicated Staff would look at gasification as a technology for treating organic material.

Council Member Klein stated Agenda Item Nos. 7 and 8 were clear. It was not appropriate for Council Members to discuss other systems, except to use that as a reason for voting no on the current Items. Voters directed the Council to determine whether this was technologically and financially feasible.

Mayor Yeh asked whether regional partners would assume cost sharing with respect to biosolids as part of shared management of the Regional Water Quality Control Plant.

Mr. Bobel answered yes for biosolids.

Mayor Yeh felt Staff should plant the idea of cost sharing with regional partners. He asked Staff to list the cities they contacted.

Mr. Bobel could not list all of the cities contacted for food and yard waste, because Staff did not have a definitive list.

Mayor Yeh reported elected officials had expressed interest to him. The Council should move forward on this initial analysis. If partners in cost sharing were brought in early in the process, then that would signal a willingness to continue. He inquired about the length of a long-term contract.

Mr. Bobel stated typically the solid waste contracts were in the ten-year timeframe.

Mayor Yeh meant where the contracts were in the cycle.

Mr. Bobel said Staff would obtain and provide that information.

Mayor Yeh asked Staff to describe the financing structure and identify costs borne by private and public entities in private financing options.

Mr. Binder indicated typically communities would consider private financing of new technologies when they did not want to assume a debt risk. A private party had many different methods for financing a project.

# MINUTES

Typically equity partners provided 30-40 percent of funds with the balance from a lender. Private parties would fund costs for project development, design, construction, acceptance testing, and possibly operational costs.

Mayor Yeh asked for the total costs borne by private entities versus total costs borne by public entities.

Mr. Binder stated 100 percent of costs were borne by the private party in private financing. That 100 percent was divided with 30-40 percent coming from equity partners in the project and the balance from a lender.

Mayor Yeh asked about management structure. He was curious where economic feasibility fit into an analysis of the different project types.

Mr. Binder said economic feasibility would be done as part of the proposal evaluation. If the RFP requested private financing, each private party would propose the type of private financing, which would be reflected through a service fee such as cost per ton. The City would determine how the service fee translated to ratepayer costs.

Mayor Yeh inquired whether the per ton cost would be a detail included in a proposal.

Mr. Binder replied yes. He expected firm price proposals to be submitted with technical proposals as part of this RFP process.

Mayor Yeh asked how the public sector in a privately financed model retained negotiating position. If it was a simple pass through with the public entity not being able to negotiate or contest changes in contract, then that was not to the benefit of the public entity.

Mr. Binder reported if the Council chose a privately owned and financed project with costs per ton for service that cost per ton would be guaranteed for the term of the contract except for an escalator index. Proposed costs would be written into the contract as guaranteed prices maintained over the term of the contract.

Mayor Yeh inquired if the consultant would consider the ORRS in the scope of services being considered.

Mr. Bobel reported ORRS was an integral part of determining performance standards, and Staff would be in charge of the document. Outreach to neighboring cities would be difficult, because they were not accustomed to finding solutions outside of their own purchasing process.

# MINUTES

Mayor Yeh stated scaling a project would be difficult without knowing changes in waste volumes resulting from inclusion of partner cities. The process was complex, and the parallel paths were a smart way to move forward.

Bob Wenzlau was an author of Measure E. He supported development of the ORRS and the Alternative Resources, Incorporated contract. Delay raised the cost of an organics energy strategy, and was a disservice to the electorate. Food waste was a discretionary dial that the project could adjust. Homeowners made the choice of placing food waste into the garbage bin or the garbage disposal. The budgeted expenditure was relatively small in comparison to a \$500 million total project for organic management. The insights of Alternative Resources, Incorporated and Staff were brilliant.

Emily Renzel stated capping the landfill was not a simple decision. The Council would foreclose other possibilities in deciding to or not to cap the landfill. She preferred the configuration of Byxbee Park not be changed. This issue had always been about impacts on the Baylands and Byxbee Park. Measure E undedicated 10 acres of Byxbee Park, not the remaining 43 acres. She asked the Council not to allow this facility to destroy what remained of an open-space park. If the project moved forward, it should not count on using Byxbee Park as a dumping area for excavations. She asked that the transition be natural rather than a 20 foot cliff or unnatural slope. She urged the Council to continue the Item until it had adequate information.

Alice Smith recommended the Council move forward with an anaerobic facility as quickly as possible. The City could use some of the excavation to protect the facility from future water. She urged the Council to proceed and to provide an opportunity for each community in the Bay area to participate.

Walt Hays felt Ms. Renzel attempted to revive arguments against Measure E. The only method to solve the problem was to proceed with specifications and a RFP. Delays were commonplace in litigation. In order to reduce costs, the Council needed to move as quickly as possible. He asked the Council to support the Staff recommendations.

Cedric de La Beaujadiere supported Staff recommendations. The RFP included bids for export options, which could be more affordable than the current default plan. He suggested Staff ask in the RFP how respondents would handle biosolids from the wastewater treatment plant and Palo Alto's organics; and ask what amount of materials would be most cost effective for the proposed technology. A local option was feasible and effective.

# MINUTES

Excavation was significantly more effective if done before the landfill was capped. The total cost of capping and then excavating the landfill was a small fraction of the total 20-year cost. There was a great deal of community support for the Staff recommendations.

Carolyn Curtis spoke regarding the volunteer effort and support for Measure E. She urged the council to support Staff recommendations.

Alex Digiorgio encouraged the Council to pass the Action Plan, and agreed with previous supporting comments. He attended the Zero Waste conference, where attendees discussed Palo Alto as a model. The lawsuit was frivolous.

Peter Drekmeier indicated Palo Alto had a tradition of greener and less expensive energy. Palo Alto would be at the mercy of GreenWaste if it did not have its own project. A feasibility study for Measure E found that the City could save \$2 million a year and have environmental benefits. The City could save more money if it did not use the private sector. He had discussed the project with elected officials in partner agencies, and they were enthusiastic. A Judge would not uphold the challenge.

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Scharff to accept Staff recommendation to: 1) accept the Long Range Facilities Plan (LRFP) for the Regional Water Quality Control Plant (Plant) (hardcopies of this report were provided to the Council, and copies of the report are available for public viewing on the City's public website and at libraries and the City Clerk's office); 2) direct staff to prepare a biosolids facility plan to finalize a biosolids treatment and disposal option and retire the Plant incinerators as soon as practical; 3) direct Staff to evaluate biosolids treatment options including potential green waste, food waste, and other organic treatment options arising from the Energy/Compost Facility evaluation; and 4) direct staff to develop a Financing Plan for the LRFP. Furthermore, to accept Staff recommendation to: 1) Accept the Action Plan and Timeline for Consideration of an Energy/Compost Facility (Attachment A), 2) Adopt a Budget Amendment Ordinance 5160 (Attachment D) in the amount of \$174,157 to provide an additional appropriation for Amendment No. 2 to Contract No. C11136602 with Alternative Resources Incorporated, 3) approve and authorize the City Manager or his designee to execute the attached Contract Amendment No. 2 to Contract No. C11136602 (Attachment C) with Alternative Resources, Inc. in the amount of \$290,224 for assisting the City in implementation of the Action Plan and Timeline for Consideration of an Energy/Compost Facility, for a total not to exceed contract amount of \$517,682, and 4) direct Staff to prepare an Organics Resource Recovery Strategy (ORRS).

# MINUTES

Council Member Klein indicated the voters' intent was for the Council to make final determinations whether this was technologically and financially feasible. The Council was not in a position to make those decisions at the current time. Tonight's decision was whether to develop the expertise and knowledge needed to make future decisions. He urged the Council to focus on the task at hand rather than future tasks. Delaying the project to await the Court's decision would cost the City more money. The Council needed to move forward expeditiously and assume its actions were legal.

Vice Mayor Scharff believed the electorate voted to undedicate 10 acres of parkland if the Council chose to move forward. The electorate asked the Council to review the financial and technical aspects. The Council would seriously consider the project. Everyone wanted to ensure the project was logical in all aspects.

Council Member Shepherd believed Palo Alto was known for its process. Palo Alto should not wait for a decision in the litigation. Determining how to retire incinerators intersected with proposed options. The primary decision would be shaping and capping the landfill. She lacked confidence in partner agencies moving forward with waste treatment modernization. The contract with partner agencies expired in 2035. She suggested Staff mention extending the contract in discussions with neighboring communities.

Mr. Bobel stated Staff could mention that. Staff was attempting to coordinate two projects regionally: 1) biosolids and 2) food and yard waste. With respect to the sewage treatment plant, Staff would raise the issue of the contract expiration date with partners. The sewage treatment plant partners were linked to Palo Alto through a set of expensive pipes, and did not have many options beyond 2035. Food and yard waste was a different matter.

Council Member Shepherd felt the contract expiration could be a means of placing the concept of the emerging compost to energy composition on the agendas of the sewage treatment plant partners; Mountain View, Los Altos, Los Altos Hills, East Palo Alto Sanitary Department, and Stanford. She was concerned about Palo Alto being the solution for everybody.

Mr. Bobel indicated Staff could discuss that with the partner agencies.

Council Member Burt concurred with comments by the Maker and Secunder of the Motion. He noted the flow and load projections used the Association of Bay Area Governments (ABAG) population projections from 2009. The Council had been skeptical of the ABAG estimates.

# MINUTES

As sections of the wastewater treatment plant were rebuilt, he encouraged Staff to consider a regional solution to the levee system or elevating structures for protection from tidal floods.

Council Member Holman could not find information regarding the Energy/Compost Facility EIR process. She asked Staff to integrate the EIR process into the timeline so that CEQA analysis was built into the project.

Mr. Bobel indicated Staff would add the scoping process, and present it to the Council in November 2012.

Council Member Holman stated that process on the timeline stretched from July to October 2012. She inquired if Staff would create the checklist first, and then present the scoping in November.

Mr. Bobel reported Staff would begin the checklist immediately, but could add it sooner if needed.

Council Member Holman felt sequencing of the landfill cap and CEQA analysis did not fit on the chart. She asked Staff to review that and ensure its accuracy.

Mayor Yeh believed a list of cities contacted by Staff would be helpful. Council Members would then contact other elected officials to initiate the conversation.

Mr. Keene reported having specific action by the Council and a directive in hand made this project more concrete. He would work with the Mayor to contact elected officials and City Managers in other cities.

Mayor Yeh indicated parallel tracks allowed consideration of all options. Options ranged from biosolids only to a fully integrated site.

## **MOTION PASSED:** 8-0 Price absent

9. Colleagues Memo From Vice Mayor Scharff and Council Members Burt, Holman, and Schmid on Council Direction Regarding "Benefits Strategy".

Council Member Burt reported the Memo attempted to lay the groundwork for systematic and long range discussions on the reforms needed to create a sustainable system of employee pensions, benefits, and compensations. Council Members wanted City services to continue at the level expected while still having strong compensation and benefits for the workforce.

# MINUTES

The Memo outlined a number of different policy directions for review, which were aligned with the initiatives of the Governor and the California League of Cities (League). In addition, the Memo outlined a number of other areas open to exploration. Council Members requested Staff return with an agenda item in September for full Council discussion on these topics. Staff should answer the bulk of the questions to the extent reasonable and feasible by September; those questions requiring research could be agenda item for a subsequent meeting. Staff should also identify any legal constraints to implementing initiatives and actions taken by other cities, the League and the Legislature on related issues. Legislative action in the coming weeks would likely affect future discussions, because State level constraints would need to be corrected to enact the Governor's proposed reforms. That legislation would enable cities to adopt similar reforms.

Council Member Holman advised that most action regarding labor agreements concerned negotiation and were held in Closed Session. This was a method to have a public discussion and to educate and inform the public about opportunities and constraints. She hoped labor groups would participate in public discussions, and looked forward to creative methods for addressing employee retention and job satisfaction.

Council Member Schmid reported the engendering of this Memo was Governor Brown's pension reform proposal. He asked Staff to define those issues subject to the Council's discretion and those subject to State level constraints and regulations. Staff and union input were critical to the process.

Vice Mayor Scharff welcomed a public discussion of the issues and constraints. The Memo raised many issues, and now was the time for Council Members to raise other issues.

Council Member Shepherd reported the League was working to get a proposal to the Legislature to make significant changes. It would address many items in the Memo.

Mr. Keene stated many laws restricted local governments' abilities to make decisions about benefits and costs. The League's main focus was ensuring the Governor's proposed reforms were extended to local governments. State laws, California Public Employees' Retirement System (CalPERS) regulations and interpretations, and State-wide pension and healthcare programs precluded the City's ability to make decisions, even when employees were willing to make changes. Existing regulations did not allow the City to do anything to the taxpayers' and employees' benefit. The Memo was aligned with the League's initiative.

# MINUTES

The League had draft legislation in conference committee at the Legislature, and would know whether or not it would be scheduled for floor sessions before the recess. Otherwise, it would come back when the Legislature reconvened on August 6, 2012.

Mayor Yeh believed public discussion was important. Staff should consider methods to achieve the most productive and constructive discussions. He asked Staff to provide a categorization or grouping of questions that lent themselves to open session meetings.

Mr. Keene reported there was a logical grouping of the questions, and others could emerge during Staff review. One apparent grouping was based upon actions within the Council's current local authority and discretion versus actions dependent upon legislative or regulatory change at another level of government. Staff would return to the Council in mid or late September with the understanding that they would not necessarily have answered every question. There would be meetings subsequent to the September meeting.

Mayor Yeh stated this was an invitation for creative solutions from employee and employer perspectives. He asked for Staff's thoughts regarding creating an open climate to invite and achieve honest discussions.

Mr. Keene indicated one of the primary roles of the Human Resources Director was to help elevate and deepen the conversation and shared responsibility between the City and employees. That aligned with having an open public conversation regarding the realities faced by the City.

Kathy Shen, Director of Human Resources reported employees wanted to be heard. Employees had opinions about their value to the City and how the City compensated, rewarded and engaged them. She would compose questions to obtain input while minimizing emotions. There were generational differences in our employees in terms of what they wanted to get out of the work and the value proposition of working for the City.

Mayor Yeh looked forward to any model presented in September.

**MOTION:** Council Member Schmid moved, seconded by Council Member Holman to direct Staff to agendize by the end of September 2012 the discussion of the items contained in the Colleague's Memo on sustainable pensions, retiree healthcare, other benefits, and incentives for career employment.

# MINUTES

Council Member Holman introduced the phrase tipping point. It was often referred to in the physical environment as what caused a change in actions and reactions. It also related to responses to different interactions, conditions, and situations.

Council Member Shepherd asked how the City could support the League's proposed legislation, especially if action was needed while the Council was in recess.

Mr. Keene reported the Council's discussion and alignment of the Memo with the League's proposals gave Staff the general guidance under legislative policies to respond on behalf of the Council. If Staff received a request for information during the recess, they could advance the City's support for topics aligned with the Memo.

Council Member Shepherd indicated the proposed legislation would allow employees to move from city to city and would reduce the difficulty in negotiating contracts.

Council Member Burt stated the Council was not in a position to adopt the Memo in principle. He was not sure the discussion and Memo could be used as a basis to authorize Staff to support legislation.

Mr. Keene felt Staff could express support for local discretion to be extended to cities in determining benefit levels and for fewer restrictions imposed by regulations.

Molly Stump, City Attorney advised the League had emphasized the issue of flexibility and local control. The Governor may have gone a bit further in advocating a particular substantive policy where the League statement advocated allowing local jurisdictions to determine specific policy. Staff could anticipate the League's policies continuing along those lines. That was the type of issue read into this Colleagues Memo at this point.

Mr. Keene assumed Staff could provide examples of experiences with restrictions in order to support local discretion. That type of comment would not express support for a particular change, but would express the desire to have more freedom to resolve these difficulties through the Council.

**MOTION PASSED:** 8-0 Price absent

# MINUTES

## COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Shepherd reported the Department of Finance had limited time to consider budget negotiations, because of the change from a super majority vote to a simple two-thirds vote.

Vice Mayor Scharff was recently appointed as an alternate to the ABAG Executive Board.

ADJOURNMENT: The meeting was adjourned at 10:07 P.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.