



CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting
September 4, 2012

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:00 P.M.

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

Absent: Espinosa

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray, Val Fong)

Employee Organization: Utilities Management and Professional Association of Palo Alto (UMPAPA)

Authority: Government Code Section 54957.6(a)

The City Council reconvened from the Closed Session at 7:16 P.M. and Mayor Yeh advised no reportable action.

SPECIAL ORDERS OF THE DAY

2. Proclamation Expressing Appreciation to the Rotary Club of Palo Alto.

Council Member Schmid read the Proclamation into the record.

Liz Kniss presented a Proclamation from Santa Clara County. The Rotary Club was a good example of a public-private partnership. She noted the addition of sun screens at Greer Park.

Hal Mickelson expressed appreciation to the City Council for recognizing the Rotary Club. The Club donated approximately \$50,000 annually to charitable causes. He recognized City Staff for their assistance.

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3. Proclamation Declaring the Month of September to be Emergency Preparedness Month.

Council Member Burt read the Proclamation into the record.

Annette Glanckopf presented Divya Santee, one of thirteen teens selected for the Federal Emergency Management Association (FEMA) Teen Council.

Divya Santee expressed gratitude to the Council for the honor and recognition. In order to create a resilient community, each individual should participate in emergency preparedness. Her initiatives were awareness and preparedness. She hoped her efforts motivated youth to be aware and prepared.

4. Proclamation Recognizing Suicide Prevention Week, September 9-15, 2012.

Council Member Price read the Proclamation into the record.

Vic Ojakian thanked the City Council and the City Manager. Liz Kniss helped create the County Suicide Prevention Plan. He appreciated the Proclamation mentioning the stigma of suicide. Council Members assisted in obtaining funds from Stanford to be used for youth well-being and suicide prevention.

Liz Kniss reported Mr. Ojakian was the driving force throughout the County for suicide prevention.

Mayor Yeh noted Mr. Ojakian was a tireless advocate for suicide prevention and awareness throughout the country.

Omar Chatty asked the City Council to review the possibility of eliminating Caltrain. 186 people had died since 1995, 26 since January 1, 2011, and 10 in 2012. Many of the deaths were suicides. He wanted the City or VTA to check into completing the Bay Area Rapid Transit (BART). The sincere words of the Proclamation needed action.

CITY MANAGER COMMENTS

Pamela Antil, Assistant City Manager reported the City recently hosted staff from the City and University of Tengin who exhibited new electric bicycle technology developed at the University. Henry Yin, Commissioner of the California Commission for Economic Development, along with Green Tech China wanted to present the City with an electric bicycle. The bicycle would be used by Staff to highlight the City program to use alternative forms of transportation.

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Henry Yin, Commissioner of California Commission for Economic Development presented a state of the art electric bicycle from Tengin City, China. The bicycle could be ridden for more than 110 miles before needing its battery recharged. This could be a good partnership program for the City of Palo Alto to achieve its goal of sustainability. His team of volunteers would provide future technical assistance for green technology.

Ms. Antil announced the launching of a new program entitled School Pool to provide parents with online tools to pool trips to school. The pilot program was provided by the City and Ohlone Elementary, powered by the online matching service of carpooltoschool.com, and funded by a grant from the Santa Clara Valley Transportation Authority.

ORAL COMMUNICATIONS

Sydnee Journal invited the public to the Eighth Annual Applied Materials Silicon Valley Turkey Trot for health, hope, and a home on November 22, 2012. In the previous seven years, the event raised more than \$2.2 million to various charities. She expected 25,000 participants would raise more than \$700,000.

Michelle Lindeman indicated Brocade would present the Fourth Annual Mayor's Cup Challenge as part of the Turkey Trot. In the prior year, Palo Alto had 338 community participants along with Council Members. Points for the Mayor's Cup were based on registration. The Mayor's Cup Challenge recognized Silicon Valley cities and towns in four categories based on population. The winning city or town in each category would receive a Mayor's Cup, prominence in press releases, and bragging rights.

Annette Glanckopf invited Council Members to attend Quakeville 2012 to practice their roles in a disaster.

Lydia Kou spoke regarding emergency preparedness volunteers and their roles in times of disaster. Various agencies would provide services and information to the public. Quakeville 2012 was an exercise for volunteers to practice their roles in emergency response, and would help everyone to understand and prepare for an emergency. She invited the Council and public to attend Quakeville on September 22, 2012.

Stephanie Munoz urged the Council to consider single-payer health insurance, because of high unemployment. The United States did not have a national health plan.

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MINUTES APPROVAL

MOTION: Council Member Shepherd moved, seconded by Council Member Price to approve the minutes of April 23 and 30, 2012, and May 7, 2012.

MOTION PASSED: 8-0 Espinosa absent

CONSENT CALENDAR

Herb Borock spoke regarding Agenda Item Number 14. He asked the Council to remove the Item from the Agenda, because of violations of the Brown Act and segmenting of the California Environmental Quality Act (CEQA). The Agenda description for the Item did not indicate the California Avenue streetscape project. He suggested the Council remove the Item from the Agenda, provide a proper description, and notify interested parties.

Omar Chatty spoke regarding Agenda Item Number 14. He opposed the SB 83 \$10 fee, because of concerns about misuse of funds. Funds were being used to remove traffic lanes rather than to improve transportation. Funds were not meant for streetscapes and beautification projects.

MOTION: Council Member Klein moved, seconded by Council Member Price to remove Agenda Item Number 7, to become Agenda Item Number 17a.

MOTION: Vice Mayor Scharff moved, seconded by Council Member Price to approve Agenda Item Numbers 5-6, 8-17.

Council Member Burt asked the City Attorney for comment on issues raised by the public regarding Agenda Item Number 14.

Molly Stump, City Attorney had no concerns regarding Agenda Item Number 14. The California Avenue project was the subject of a legal case on appeal. The City could proceed with the project as no stay was in effect.

5. Resolution 9280 entitled "Resolution of the Council of the city of Palo Alto Expressing Appreciation to Arlene Demore Upon her Retirement."
6. Approval and Authorization for the City Manager to Execute a Contract with Three Phase Line Construction in a Total Not to Exceed Amount of \$607,997 for the Electric Underground Rebuild and Re-conductor Project on the City's Electric Distribution System Near Middlefield and San Antonio Road.

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- ~~7. Approval of City Response to the Adopted Regional Housing Needs Allocation (RHNA) for the 2014-2022 Cycle.~~
8. Resolution 9281 entitled "Resolution of the Council of the City of Palo Alto Approving and Authorizing the Execution of the State of California Department of Community Services and Development 2012-2014 Direct Payment Program Agreement No. 12Y-1418 Governing the City of Palo Alto Utilities Department's Administration of Home Energy Assistance Program Funds."
9. Approval of Contract with ADPI West for Ambulance Billing Services for Up to Five Years in a Total Amount not to Exceed \$900,000.
10. Approval of Amendment No. 19 to the Contract with the Peninsula Corridor Joint Powers Board for Rail Shuttle Bus Administration to Extend the Term for One Year and Add \$51,980 for a Total Not To Exceed Amount of \$2,877,244.
11. Approval of a Contract for Up to Five Years with York Risk Services Group, Inc. In a Total Amount Not to Exceed \$1,175,000 for Workers' Compensation Claims Administration Services.
12. Request for City Council to Cancel the Regular Meeting of September 17, 2012 and Call for a Special Meeting on Tuesday, September 18, 2012.
13. Approval of Purchase Order with Leader Industries in an Amount Not to Exceed \$393,267 for the Purchase of Two Ambulances (Scheduled Vehicle and Equipment Replacement Capital Improvement Program VR-13000).
14. Approval of Funding Agreement with the Santa Clara Valley Transportation Authority for 2010 Measure B Vehicle Registration Fee Local Road Improvement and Repair Program.
15. City of Palo Alto's Ballot for 2012-13 Peninsula Division Executive Committee Elections
16. Ordinance 5161 entitled "Ordinance of the Council of the City of Palo Alto Regarding Massage Regulations".

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17. Ordinance 5152 entitled "Ordinance of the Council of the City of Palo Alto Adopting a Plan for Improvements at Cogswell Plaza".

MOTION PASSED for Agenda Item Numbers 5-6, 8-17: 8-0 Espinosa absent

AGENDA CHANGES, ADDITIONS AND DELETIONS

- 17a. (Former Number 7) Approval of City Response to the Adopted Regional Housing Needs Allocation (RHNA) for the 2014-2022 Cycle.

Council Member Klein favored Staff's recommendations with the exception of not appealing the Regional Housing Needs Allocation (RHNA) allocation. An appeal would probably not be successful; however, it was important to exhaust all legal remedies.

MOTION: Council Member Klein moved, seconded by Council Member Price to: 1) approve Staff recommendation and direct the Mayor to execute the letter to the Association of Bay Area Governments (ABAG) regarding the City's response to the Adopted Regional Housing Needs allocation (RHNA) for the 2014-2022 Cycle; and 2) direct Staff to modify the letter to file an appeal of the RHNA allocation.

Council Member Price agreed an appeal was a long shot, but the City should take that step.

Council Member Schmid recalled a prior discussion including a legal opinion. He asked the City Attorney to provide her view of an appeal.

Molly Stump, City Attorney reported it was a policy question for the Council. The most conservative approach to preserve all potential next-steps would be to file an appeal. There would be little harm in filing an appeal.

Council Member Schmid asked if his understanding was correct that stating the cause of an appeal in the letter would preserve future avenues for appeal.

Curtis Williams, Director of Planning and Community Environment indicated the City would not lose its right to appeal by foregoing the statement of an appeal. One of the key issues was the Housing Element pending while an appeal was in the process. He felt it was a policy rather than legal issue.

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Ms. Stump suggested filing a technical appeal and indicating that the City continued discussions of a few minor issues which could be resolved through the process.

Council Member Schmid noted a dramatic discrepancy between the numbers implied in the mandate and the numbers provided by the California Department of Finance. It was important for the City to state its awareness of the discrepancy.

Vice Mayor Scharff felt the Regional Housing Mandate Committee wanted to appeal; however, direction from Staff indicated it would not be appropriate to appeal. He was surprised by the City Attorney's soft recommendation to appeal.

Mr. Williams recalled that Staff did not indicate a compelling legal reason to do so, but that the California Department of Housing and Community Development (HCD) issue was a potentially strong reason to avoid a negative light.

Vice Mayor Scharff recalled being told there was no basis for an appeal.

Mr. Williams agreed. The issue was that the City would be objecting to HCD's numbers for the region. From that standpoint, there was not a basis for appeal of the allocation to the region. The Association of Bay Area Governments (ABAG) was not charged with developing the starting point.

Vice Mayor Scharff asked if Staff was working with HCD on this.

Mr. Williams answered yes.

Vice Mayor Scharff inquired whether an appeal would damage the City's credibility.

Mr. Williams indicated it would not assist the City's work.

Council Member Burt asked if the City could reserve its right to appeal or if it had to appeal now.

Mr. Williams understood there would be a final determination by ABAG between October 18, 2012 and January 2013. The letter from ABAG indicated this was the period for comment and appeal. There would be one more opportunity for an appeal before the final numbers were distributed in early 2013.

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Council Member Burt inquired whether the City would weaken its position by waiting to file an appeal during that October-December time period.

Mr. Williams did not believe waiting would weaken the City's position.

Ms. Stump reported the process continued to evolve in terms of the actual dates provided by State agencies and the way the process was being defined. If the Council preferred not to take any action on a potential appeal, then Staff would confirm there was an opportunity to appeal at a later time.

AMENDMENT: Council Member Burt moved, seconded by Council Member XXX to: 1) not exercise the appeal at this time, 2) Staff to return with clarification that we would not be reducing our strength of the case if the City decides to appeal in the October through December time frame; and 3) if Staff determination was that we do not have September 19, 2012 as the time frame to appeal but instead we had October through December then Staff would return to Council with an Informational Item, whereas if September 19, 2012 was the deadline the item would return to Council at the September 10, 2012 meeting.

Council Member Klein did not accept the Amendment. Page 141 of the Staff Report stated the City had until September 19, 2012 to appeal the RHNA determination.

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Mr. Williams reported that was Staff's reading from the letter. Another review period was indicated after ABAG acted on September 19, 2012. That needed clarification.

Council Member Burt clarified the Amendment: based upon Council Member Klein's comment, that this Item return to the Council prior to September 19, 2012 with ample time to appeal if Staff determined that the Council had to appeal by September 19, 2012.

Ms. Stump inquired whether the Council would like to receive an informational report at the following meeting if Staff could provide a clear, written confirmation of the process and determine the City had additional time to appeal.

Council Member Burt answered yes. If Staff determined that the City had a longer timeframe to appeal, then the Item would return to the Council as an Informational Item. If Staff determined that the City had to appeal by

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September 19, 2012, then the Item would return to the Council at the next Council meeting.

SUBSTITUTE MOTION: Council Member Klein moved, seconded by Council Member Holman to continue this item to September 10, 2012.

Council Member Holman requested Staff provide information regarding the process for a soft appeal when the Item returned to the Council Agenda.

Ms. Stump agreed to provide information; however, soft appeal was not a technical term.

Council Member Holman understood.

Council Member Schmid reiterated that the discussion of the Housing Element for 2007-2014 noted the ABAG numbers had been dramatically overstated. During that discussion, the Committee received a legal opinion that it was too late to file an appeal for that time period. There was a period of time when the right of appeal expired; therefore, it was important to identify that time period.

SUBSTITUTE MOTION PASSED: 8-0 Espinosa absent

ACTION ITEMS

MOTION: Council Member Schmid moved, seconded by Council Member Holman to hear Agenda Item Numbers 20 and 22 before Agenda Item Number 21.

MOTION PASSED: 8-0 Espinosa absent

18. Consideration of a Vote of Support for the Revote High Speed Rail Initiative.

MOTION: Council Member Klein moved, seconded by Vice Mayor Scharff to table the Item.

Council Member Klein reported the initiative was dropped, but could be reinstated at a later time.

MOTION PASSED: 8-0 Espinosa absent

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19. Request for Authorization to Submit a Grant Proposal to the County of Santa Clara for the "Stanford and Palo Alto Trail Program: Connecting the Bay to Ridge" for \$10.4 Million of Recreation Funds Established by the County/Stanford Trails Agreement.

Council Member Klein would not be participating in this Item as his wife was a Stanford University faculty member.

Mayor Yeh would not be participating in this Item, advising his wife was no longer a Stanford University student, but under the rules he had a 12-month financial interest.

Curtis Williams, Director of Planning and Community Environment felt this was an opportunity to begin the City's newly adopted Bicycle and Pedestrian Transportation Plan and to fund two major priorities in the Plan. The Plan was developed in conjunction with Stanford University, which allowed the City to incorporate and upgrade the various links with Stanford and the Foothills. Linking with Stanford allowed the City to apply for a grant under the County's criteria of serving the surrounding the community and Stanford campus residents. Larry Horton and his team from Stanford were also present to answer questions.

Jaime Rodriguez, Chief Transportation Official reported this was a rare grant opportunity from the County to implement the adopted Bicycle and Pedestrian Transportation Plan. As part of the mitigations and conditions of the Stanford University General Use Plan (GUP), Stanford agreed to implement two segments of the County Trail Master Plan Program, specifically, the S1 and C1 trails. The S1 trail would be completed in 2013, and the first two segments of the C1 trail would be completed in the fall of 2012. San Mateo County failed to implement improvements to a third segment of the C1 trail; therefore, funds transferred to Santa Clara County. Santa Clara County was releasing approximately \$10.4 million in funds through this trail program. The City's grant proposal was due September 6, 2012. The grant's requirement that any project must benefit Stanford residents and community members who use campus recreation facilities induced the City to initiate outreach to Stanford to develop a trail program. The north path connected to the Stanford Perimeter Trail and the Palo Alto project on Park Boulevard. The second trail followed Matadero Creek and connected to that project. The third path connected along Meadow and Arastradero. All recommended linkages connected to the Bay to Ridge Trail. Staff and Stanford proposed five linkages. The first linkage, a Stanford University project, was the Stanford Perimeter Trail constructed in three segments. The first segment was an 8-foot wide multi-use trail with 2-foot pathways on either side and jogging paths along the west side of Junipero

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Serra between Page Mill Road and Stanford Avenue. The second segment of the Stanford Perimeter Trail was located on Stanford Avenue between Junipero Serra and El Camino Real, and included a Class 1 trail along the north side of the street, an 8-foot wide multi-use pathway, a 2-foot wide jogging trail on one side, and preservation of existing bike lanes on Stanford Avenue where feasible. Stanford had committed to working with the City's Architectural Review Board (ARB) and the Planning and Transportation Commission (PTC) on the segments within the City's jurisdiction. The third segment of the Stanford Perimeter Trail was located on El Camino Real from Stanford Avenue up to Quarry Road. Proposed improvements were a 4-foot landscape segment separating parking from a 12-foot wide multi-use sidewalk along the west side of El Camino Real. The third segment also provided a direct connection to Palo Alto High School, Palo Alto Medical Foundation, the Stanford Shopping Center, and Caltrain. Stanford estimated a cost of approximately \$4.5 million. Design would continue over the next year and construction would begin the following year. The second linkage of the trail program was within the City of Palo Alto jurisdiction and was an extension of the Park Boulevard Bicycle Boulevard. The proposed project extended improvements of green bike lane treatments and enhanced signage from Oregon Expressway to Charleston Road. The Park Boulevard project would include an extension of a bike boulevard on Stanford Avenue and across El Camino Real to link with Park Boulevard, and continue improvements south to Charleston Road. There was a direct connection to the Bay to Ridge Trail at the underpass at California Avenue, a connection at Matadero Creek, and a connection with Meadow Drive. Staff proposed requesting \$200,000 for this specific project; however, the exact cost estimate was being refined. Staff anticipated design extending into 2013 and approximately one year for construction. The third linkage of the Bay to Ridge Trail Program was a new Class 1 facility consisting of 8-foot wide multi-use paths along Matadero Creek and across existing levies operated and maintained by the Santa Clara Valley Water District, which was writing a letter of support for the project. The project provided access to El Carmelo and Ohlone schools and Hoover and Seale Parks. Future linkages at Alma Street and Highway 101 would need further consideration outside of this project. Staff estimated this trail would cost approximately \$1.5 million and anticipated a two-year build out because of restrictions in the Water District's right of way. The fourth linkage was implementation of the Adobe Bridge-Highway 101 project currently under a feasibility study and environmental review by the City. The City would need to accelerate funding, and Staff would request \$1 million from the Stanford University Medical Center Program to keep the project moving. Staff requested \$4 million to continue design and construction of the Bridge. If funding was received, Staff could accelerate the design over two years with two years of construction. The fifth linkage was enhancements to the existing

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Arastradero Road Class 1 trail between Foothill Expressway and Los Altos Hills, specifically the Purissima intersection. This linkage would repave and widen the trail at certain segments still to be determined. Benefits were a connection to the Bay to Ridge Trail and safe commuting to Gunn High School and Terman. Staff requested \$200,000 for the project, but it would cost more to design and repave the trail. Los Altos Hills had previously expressed interest in the project, and Staff did not anticipate issues in working with Los Altos Hills. The grant proposal requested all funding available through the County's recreation program.

Mr. Williams noted design, environmental, and community outreach processes still had to be performed, and architectural renderings were not necessarily representative of the final product. In response to questions of why the proposal did not include the Bay Trail, he explained the application needed to come from a sponsoring agency, and the City was not the sponsoring agency for the Bay Trail. He stated that the County Supervisors had full discretion in determining whether to fund all or a part of any project. The City had no assurance that funds would be awarded to the Bay Trail if the City did not request all grant funds. The Bay Trail would be eligible for a number of recreational grants and Santa Clara Valley Transportation Authority (VTA) grants and possible private funding. The proposed designs were not final; more detailed work had to be performed. He hoped that each project had the flexibility to meet constraints raised during the design, environmental and public review process. There was not the possibility of exchanging one project for another.

Council Member Burt inquired about the gap in the Bay Trail between the Bay and East Bayshore and why the Bay Trail initiative addressed the Menlo Park portion but not the Palo Alto portion.

Mr. Rodriguez explained the Bicycle and Pedestrian Transportation Plan identified the gap within the Bay Trail and funding for a feasibility study. The implementing agency of the Bay Trail was responsible for closing the gap. Staff did not propose a program to close the gap, because it was important to show a strong connection of all linkages to Stanford University. Staff could not find a way to link the Bay Trail to Stanford University.

Council Member Burt asked why Staff had not addressed the gap between the proposed El Camino Real-Stanford Perimeter Trail and the Park Boulevard Bicycle Boulevard near Palo Alto High School.

Mr. Rodriguez stated the Park Boulevard Bicycle Boulevard included three specific segments. The direct connection to El Camino Real existed through an existing bicycle lane on Park Boulevard. There was a gap in existing

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facilities on Churchill from Park to El Camino Real. That was not an element of the Park Boulevard Bicycle Boulevard; therefore, Staff chose not to pursue funds for the project, because of the cost of improvements to bridges.

Council Member Burt said if the Stanford Perimeter Trail was added, then the gap became more important. The current route was not efficient for a cyclist. He inquired about Water District and other sources of funding for the Matadero Creek segment.

Mr. Rodriquez explained the Water District typically released a call for projects in November or December for trail projects along levies. One of the major requirements for submitting proposals was to have a feasibility study and an agreement with the Water District. Staff's work plan included completing a feasibility study in time for the call for projects in 2013.

Council Member Burt asked if additional funding was available for the project once engineering work was performed.

Mr. Rodriquez answered yes.

Council Member Burt understood that the loss of parking on the north side of Stanford Avenue could be recaptured by implementing diagonal parking on the south side of Stanford Avenue and by switching traffic to two lanes on Coyote Hill Road. He inquired about Staff's plan to have comparable access to the area in the future and whether the City had a voice in any plans.

Mr. Williams reported Stanford was committed to angle parking. Staff was working with Stanford on the Coyote Hill Road issue. Because the street was within the City's jurisdiction, Staff could stripe it for parking and convert it to two lanes. Improvements along Stanford Avenue were subject to architectural and site review at the County level. The County would provide notice of a public hearing on the issue. The City could issue a notice as well to provide input.

Council Member Holman recalled the inability to substitute projects and asked about the flexibility of shifting funds from one project to another.

Mr. Williams stated that had not been specified, and the County could agree to shift funds or return to an open competition for those funds. The City could not depend on being able to shift funds from one project to another.

Council Member Holman clarified that her intent was shifting funds from one project to another project identified in the proposal.

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Mr. Williams reiterated that the City could not depend on shifting funds, but it could have a more compelling case in requesting approval to shift funds.

Council Member Holman asked if Staff could obtain clarification on that point prior to submitting a proposal.

Mr. Williams was unsure.

Mr. Rodriguez suggested sending a request for clarification to the County. Rather than having an infeasible project, the more likely scenario was having a funding gap in constructing a project.

Council Member Holman asked why ARB and PTC input was mentioned for only one segment, and why ARB was mentioned rather than the Parks and Recreation Commission (PARC).

Mr. Rodriguez explained Staff identified the area as an area of potential community concern, because of the resident connection to the Stanford campus. It could be any appropriate commission. Staff felt it was important to note that, because portions of Stanford Avenue were within the City's right of way and others within the County's. Any commission would want to understand how the pieces related to the entire corridor.

Council Member Holman suggested the PARC would be more appropriate than ARB.

Council Member Price expressed concern regarding potential funding for elements that have been discussed but are not part of the proposal. Funding for any elements of the proposal set-up the City for potential future funding. It was important to maintain opportunities for additional funding for elements of the concept or the broader implementation of the Bicycle and Pedestrian Transportation Plan.

Mr. Rodriguez stated the application provided the City flexibility in funding projects. If the City was awarded funds, then City monies set aside for projects could be moved to other projects.

Council Member Price inquired when Staff would return to the Council with identified gaps in the Bicycle and Pedestrian Transportation Plan and funding ideas.

Mr. Rodriguez explained Staff committed to returning to the Council twice a year when the Council adopted the Plan. Staff would return in the fall with an update on the grant proposal and additional resources.

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Council Member Schmid noted the lack of time to obtain public comments regarding the grant proposal. He favored Staff's drawing on the Bicycle and Pedestrian Transportation Plan. Access to the Stanford Dish depended on parking; converting the north side of the street into a bike and pedestrian pathway limited accessibility. He asked if the bike path and conversion of Deer Creek Road to two lanes restricted parking.

Mr. Rodriguez reported Deer Creek Road was restriped from four lanes to three to provide bicycle lanes. The same could be done for Coyote Hill Road, but would have to be done in partnership with the County since both had rights of way.

Council Member Schmid asked if the City and County had to make the changes rather than the City and Stanford.

Mr. Rodriguez replied yes.

Council Member Schmid recalled an issue with the Stanford Residents Association, who did not want to spend money off campus. He inquired whether the partnership would include support from the Stanford Residents Association.

Mr. Williams responded yes. The Stanford Residents Association prepared a letter to the County supporting the joint proposal.

Council Member Schmid noted the letter was not in the Council Packet and asked if it would be available for Council review.

Mr. Williams did not know whether the letter had been issued.

Mr. Rodriguez stated Staff was finalizing the application, and the letter would be an element of the application. Staff would forward copies of the letter to the Council and post the application online for public review. The County would also post all applications online.

Council Member Schmid noted people sometimes park at the Nixon school site, and asked if Staff could negotiate an agreement with the Palo Alto Unified School District (PAUSD) to have parking available at the school.

Mr. Rodriguez reported Staff was attempting to identify partnerships for parking. The Stanford Perimeter Trail added access to schools. He felt PAUSD would view it as an opportunity and would agree to a partnership, because it benefited the community.

Council Member Schmid noted the California Department of Transportation (Caltrans) was performing substantial work underneath the freeway on the

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Matadero Creek pathway and he inquired whether Staff had worked with Caltrans to ensure it would be pedestrian friendly.

Mr. Rodriguez explained the work to widen Highway 101 included improvements to the undercrossing. As part of the trail project, Staff proposed building the shorter segment of Matadero Creek trail; however, the feasibility study would include the trail through the undercrossing to Alma Street.

Council Member Schmid asked if Staff had communicated with Caltrans to ensure its awareness of the future pathway.

Mr. Rodriguez indicated Staff had communicated with Caltrans as part of the development of the Adobe Creek-Highway 101 bridge.

Council Member Price asked if these projects would enhance the City's ability to seek additional funding for the Safe Routes to School program.

Mr. Rodriguez answered yes. The proposed projects provided access to Stanford residents and community facilities.

Allyn Taylor, a Stanford campus resident, called attention to the contract regarding mitigation of the adverse recreational effect imposed on the campus, homeowners, and facility users. The point of the agreement was in large part that any projects should be contiguous to the campus. Campus residents had discussed possible projects and wanted to work with surrounding communities. She feared projects would be focused away from campus homeowners. Campus homeowners supported the program as outlined. She recommended the Council approve the proposal to the County.

Omar Chatty stated the Bay Area Rapid Transit (BART) could tie into the bike trails. Completing BART routes would lock out High Speed Rail. Finally, money was being proposed for the right purpose and right need. The projects would tie into a bike path along the BART right of way. This proposal was nice, and he hoped to tie it into the regional opportunity.

Herb Borock indicated the scheduling of the grant proposal affected public input and Council discussion. For this type of grant, the Council should decide on the content of the application. The Council should know the portion of each project funded by the proposal. Having a separate hiking trail directly into Foothills Park from the Stanford campus would not be expensive and would be consistent with County programs in the County's General Plan. Timing of the application process was designed to limit the opportunity for review of the application. Funds for the Matadero Creek trail

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would need approval from the Santa Clara Valley Water District. Transferring funds between projects should be part of the application.

Andrew Boone thanked Staff for drafting the grant proposal in a short time period. Staff had chosen three valuable projects for the proposal. He expressed concern about the cost of the Stanford Perimeter Trail. The length of the proposed trail was 3 1/4 miles, but part of the route had existing multi-use trails. Approximately 1 1/2 miles of the trail needed to be completed and was estimated to cost \$4.5 million. The Palo Alto Bicycle and Pedestrian Transportation Plan estimated paths to cost approximately \$1 million per mile of new path. There was no conceivable reason why the cost should be so much more. He expected the cost of filling in the gaps of the trail to be approximately \$1.5 million. He would like to see partial funding of more projects rather than lumping everything into one expensive project.

Adina Levin, co-chair of the Silicon Valley Bicycle Coalition, thanked Staff for their work. Inclusion of the Adobe Creek Bridge was a highlight of the proposal. She was concerned about lack of support for the connection of the Ravenswood section of the Bay Trail. Even though it was not located within Palo Alto, it added value to the Palo Alto portion of the Bay Trail. The Dish Trail and Bay Trail were world-class recreational opportunities, and she urged the Council to support those elements.

Council Member Shepherd asked Staff to explain the Perimeter Trail and the \$4.5 million expenditure for improvements.

Mr. Rodriguez reported the estimate of \$4.5 million for the three segments of the Stanford Perimeter Trail were based on cost estimate from recent construction of the C1 and S1 trail segments. If projects cost less money, then the County would determine how to spend any remaining funds.

Council Member Shepherd assumed the County Board of Supervisors could fund portions of the grant proposal, and inquired about the County's flexibility.

Mr. Rodriguez explained the County had complete flexibility in funding applications in whole or in part. Staff was proposing projects that benefited Palo Alto communities directly.

MOTION: Council Member Shepherd moved, seconded by Council Member Price to authorize the submittal of a joint grant proposal with Stanford University for "The Stanford and Palo Alto Trail Program: Connecting the Bay to Ridge" in response to a call-for-projects by the County of Santa Clara for

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use of recreation funds established by the County/Stanford Trails Agreement.

Council Member Shepherd felt the application was strong, and the grant was an opportunity for Palo Alto to solidify funding for bicycle paths. She was excited by the prospect of access for children to schools. It was also better access to the Dish area.

Council Member Price endorsed the joint proposal, which had tremendous merit. The proposal's value was in the connectivity, and the details of the five elements made the proposal complete. She favored the elements of north-south and east-west connectivity. She was delighted by the prospect of seeking additional funding.

Council Member Schmid supported Council Member Price's comments. Staff had drafted a proposal of great value. The grant would provide funds for feasibility studies. The Water District had been looking for communities to build pathways and were willing to fund 75 percent of construction. This grant proposal provided the opportunity to invest in feasibility studies.

Council Member Holman reiterated comments about the lack of time for public input on the grant application. She asked whether Staff was confident that Palo Alto would control funds for projects within Palo Alto's jurisdiction.

Mr. Williams explained four segments of the project were Palo Alto specific and Palo Alto would control those funds. Stanford would control funds for the Stanford Perimeter Trail. A City review process would be associated with portions of that segment. Inter-agency approval would not be required.

Mr. Rodriguez indicated Staff had communicated with the County on the specific items. Mr. Williams' comments were correct.

Council Member Holman inquired if the review processes would be identified in the grant application.

Mr. Rodriguez answered yes. As part of each project description, Staff identified all agencies which would require potential permits or outreach. Staff could change the description from the ARB to the PARC.

Council Member Holman asked if Staff was agreeable to making that change.

Mr. Williams stated there could be requirements for ARB review. Most projects, if they were within the City, would require ARB review. He suggested including ARB, PTC and PARC.

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Council Member Holman asked Staff to comment on their approach in ascertaining from the County the flexibility and the process for transferring funds between projects.

Mr. Rodriquez reported Staff would contact Santa Clara County to inquire about the process for transferring funds if necessary. Staff believed they had identified feasible projects and would need to follow the required process.

Council Member Holman noted some projects had been vetted more than others.

Mr. Williams indicated if Staff determined there was some language regarding flexibility they could add to the proposal, then they would.

Council Member Holman said adding language to the proposal would be ideal; however, discovering the process could be helpful.

Council Member Burt supported the Motion. There were many opinions as to which projects were important; however, it was important to move forward. Obtaining funding and building out the segments made it possible to complete all segments. He suggested Staff include as much flexibility as possible in the language so that the City was not restricted to only the stated projects. He wanted to see if Staff could elicit an agreement from Stanford for Palo Alto to have a stronger role in determining projects on Stanford Avenue around the Dish area.

Vice Mayor Scharff was pleased the City was partnering with Stanford. He hoped the County would accept the proposal. The important element was making the application as strong as possible in order to secure funding. He was pleased Staff took the initiative to draft the proposal and to partner with Stanford.

Mr. Williams thanked Stanford for its collaboration.

MOTION PASSED: 6-0 Klein, Yeh not participating, Espinosa absent

Council took a break from 9:54 pm to 10:02 P.M.

20. Approval of Response to Grand Jury Report on Pension and Other Post-Employment Benefits.

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Lalo Perez, Administrative Services Director/Chief Financial Officer reported this was the third Civil Grand Jury report from the County. The Grand Jury's main focus was pension and healthcare liability, with a concern regarding the impact to city services throughout the County and the financial burden for taxpayers. Palo Alto was one of the leaders in restructuring employee benefits by implementing a two-tier pension and extending the retirement age for new employees. Current employees would cost share for pension and healthcare including into retirement for healthcare. The vesting period for retired medical eligibility had been changed to a longer period before being eligible for benefits. In order to curtail some pension and healthcare liability costs, services had been contracted in various sectors of City services. The Council recognized that previous benefit plans were not sustainable; therefore, changes focused on equity among employee groups and were phased in based on contract due dates. Staff anticipated additional changes would be needed based on projections and forecasts and the California Public Employees' Retirement System (CalPERS) returns. Legislative changes were also being proposed, discussed, and approved. Additional discussions of healthcare and pension were scheduled for September 18, 2012. As Staff reviewed cost structures, employees should recognize that the Council valued them and the services they provided. Staff provided proposed answers prepared by Staff from the City Attorney's Office, Human Resources, and Administrative Services Departments. Responses to the Civil Grand Jury were due by September 15, 2012.

David Ramberg, Assistant Director Administrative Services indicated the Council began providing data to the Grand Jury in January 2012 in response to an extensive questionnaire distributed to cities in Santa Clara County. Staff met with the Grand Jury in February 2012 to clarify questions and to provide additional data. In June 2012, the Grand Jury released its report which included ten recommendations. The Staff Report reviewed each recommendation. One recommendation was applicable to the City of San Jose only. The City had taken action on the first cluster containing five recommendations. Recommendation 1 was to extend the retirement age. The City extended the retirement age for miscellaneous and Public Safety groups to 60 and 55 years of age respectively. Recommendation 2A was to have second tier plans for miscellaneous groups. The City had done that. Recommendation 2B was to establish second tier plans for Public Safety, which the City had done. However, the City had not closed the gap with the Police Management Association, but Staff expected to do that shortly. Recommendation 3 called for a policy for funding benefit enhancements. On April 9, 2012, the City Council approved the Labor Guiding Principles which contained the policy. Recommendation 5 was to establish a funding policy for the required contribution for retiree medical. The City Council approved a policy in 2007. The second cluster contained four recommendations that

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the City was working on. The first recommendation was for unfunded liability to be addressed based on age. The City increased the employee contribution and raised the retirement age. The City was limited in terms of imposing caps on annual retirement value, because of CalPERS limitations. Recommendation 4A was for employees to pay the maximum contribution rate. The City was close to achieving that goal in that only 55 employees currently were not paying the maximum contribution rate. Recommendation 4B required the establishment of the past service cost as the approach to establishing the unfunded liability. City employees were paying the pension share. In the next step, the City would need to negotiate additional measures with labor groups. The City would welcome any proposed legislation to prevent any retroactive improvements for any pension plans. Recommendation 7 called for a transition to defined contribution plans from defined benefit plans. The City's actions were limited by CalPERS program and unable to shift to a defined contribution plan. One idea was for the City to extricate itself from the CalPERS program, which was prohibitively costly. One section of the Staff Report provided clarification to the Grand Jury report. The main clarification concerned the relatively high cost of pension and retiree medical liability per resident. Palo Alto had a unique service profile in terms of recreational services, regional services provided by the Water Quality Control Plant, and fire services to Stanford. Those services in addition to Utilities gave the City a unique service profile. When comparing Palo Alto to other jurisdictions, it was difficult to compare Palo Alto's generally higher level of service. Palo Alto offered distinctive employee benefits, particularly concerning retiree medical, which increased medical liability. Palo Alto was one of few cities in Santa Clara County that provided retiree medical benefits to spouses and dependents. Palo Alto shifted away from sick leave payout in 1987, and only nine employees remained who were covered by that option. The City did not allow unused sick leave cash-out to go into final pension salary compensation. As Staff moved forward with labor negotiations, they would continue to work on cost containment of pension and benefits.

Herb Borock noted the letter from the Grand Jury was addressed to the Mayor and recalled past responses had been a letter from the Mayor. He suggested the Council place the draft letter on the Consent Calendar for the next Council meeting based on action taken at the current meeting. The table at the bottom of page 7 indicated the same retirement plan for both miscellaneous and Public Safety employees. He believed the original plan for miscellaneous employees was 2 percent at age 60, and 2 percent at age 50 for Public Safety employees.

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Council Member Burt asked for an explanation of the third column entitled Unfunded Liability/Active Employee or Retiree Combined in the tables following the Staff Report.

Mr. Ramberg explained Staff had spread the cost across a greater number of employees.

Council Member Burt inquired whether the table would be submitted to the Grand Jury.

Mr. Perez indicated the table would be attached to the response.

Council Member Burt noted Grand Jury recommendations which the City was not legally permitted to make based upon CalPERS regulations. He asked whether the Grand Jury recommended withdrawing from CalPERS.

Mr. Perez answered no. The suggestion was made in general discussions during the interview with City Staff. If a city wished to withdraw from CalPERS, CalPERS reset the rate of return assumption to 3 1/2 percent from 7 percent, which would be a large outstanding liability.

Council Member Burt felt the recommendations and responses were good. He was surprised by the Grand Jury's lack of awareness of CalPERS regulations. He asked Colleagues to consider adding the Colleagues Memorandum as an addendum to the report. He suggested explaining the acronym OPEB ARC in Recommendation 5. He had the same question as Mr. Borock regarding the original non-Public Safety retirement formula.

Mr. Perez indicated Staff would restructure that.

Council Member Burt inquired if the high unfunded liability per capita was also compounded by the City's Utilities Department Employees.

Mr. Ramberg answered yes. The Utilities Department Employees were approximately 40 percent of Full Time Equivalent (FTE).

Council Member Burt stated the Utilities almost doubled the unfunded liability per capita.

Mr. Perez explained it was difficult to compare agencies, because agencies used different assumptions.

Council Member Burt noted the City fared well when compared to other cities with regard to the liability per retiree or active employee. The Council had

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begun discussing the consequences of having an employee base different from other cities, which explained but did not eliminate the problem.

Council Member Holman indicated an agreed language change on page 4 regarding a prohibitive exit cost.

Mr. Perez agreed. Withdrawal from CalPERS was allowed; however, it was costly.

Council Member Holman noted a format change for the chart at the bottom of page 7; the years on the left should be in descending order to be consistent. She asked if the response was usually a letter from the Mayor rather than a report from Staff.

Mr. Perez responded yes. The letter was usually prepared after Staff received Council feedback.

MOTION: Council Member Holman moved, seconded by Vice Mayor Scharff to: 1) direct Staff to convert the staff report into a letter from the Mayor, 2) attach recent colleagues memo to the letter, 3) incorporate word change on page four from prohibited to prohibitive, and 4) clarifications to tables on page seven as previously discussed.

Council Member Holman agreed with Council Member Burt's comment that the Grand Jury's analysis was good, and Staff's responses were thorough and accurate. The responses highlighted constraints the City faced due to participation in CalPERS.

Vice Mayor Scharff felt Staff's explanation of the City's high unfunded liability per capita was good. He too was surprised that the Grand Jury was unaware of the constraints of CalPERS regulations. He did not understand the column entitled Unfunded Liability/Active Employee or Retiree Combined in the table on page 7, even after Staff explained it, and suggested it would not be helpful to the Grand Jury.

Mr. Ramberg stated Staff would add more description to the response.

Vice Mayor Scharff inquired about the pertinence of the table.

Mr. Perez explained the table was used to suggest a comparison by retiree and active employees rather than per capita. Given the added services provided by Palo Alto, it was too complex to compare cities based on per capita.

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Vice Mayor Scharff asked if the entire unfunded liability was divided by active employees, then divided by retirees.

Mr. Perez answered yes. He suggested combining active employees and retirees rather than separating them.

Council Member Schmid referenced the response on Number 3 regarding Principle Number 8 and inquired if that meant future automatic increases should be paid by retirees or employees rather than being part of the annual required contribution (ARC) paid by the City each year.

Mr. Perez reported interpretation of the response should be based on the interview with the Grand Jury. That discussion concerned the new benefit and how those changes, when completed, were not fully funded or the employee was not bearing the full cost. The Grand Jury wanted to know why employees did not pay more than the 2 percent.

Council Member Schmid felt the wording suggested employees should be sharing healthcare cost increases and automatic cost of living increases.

Mr. Perez indicated Staff did not intend to discuss cost of living increases, because the recommendation concerned benefits. He stated Staff would revise the wording.

Council Member Schmid referenced the response to Recommendation 4B. He understood employees paid their costs and future costs; however, the City paid past obligations. He asked if Staff was implying that the City should negotiate a different breakdown of those past costs.

Mr. Perez reported other agencies negotiated with labor groups to have employees pay a share of employer expenses. The recently approved pension reform had a provision to have employees share part of normal costs of pension. Those were two ways for the City to achieve coverage of past benefits. Staff would continue to explore that possibility at future Council meetings.

Council Member Schmid recalled the medical costs and retiree medical liability information presented in the chart of average salaries and benefits for employees. For some groups, the retiree portion was as large as the normal costs. He inquired whether the City paid 100 percent of the retiree medical liability.

Mr. Perez explained employees who retired after April 2011 paid 10 percent while the City paid 90 percent. That number of employees would grow as

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more employees retired. In the future employees will be paying towards their retirement costs.

Council Member Schmid asked if that was what Staff meant by "the City may explore with employee groups additional measures."

Mr. Perez stated that was the general intention. The City had been clear with employee labor groups that 90/10 may not be the right number.

Council Member Schmid inquired whether the numbers in the current Budget reflected the current imbalance.

Mr. Perez answered yes.

Council Member Schmid noted the City was moving toward more at-will employment, which provided the City with the flexibility to dismiss employees. He expressed concern for the employee leaving employment before his pension vested and for the employer hiring employees with no pension. If the City was moving toward a wider pool of at-will employees, it should have a program like Social Security that provided options to both sides.

Mr. Perez suggested that could be a part of discussions scheduled to begin on September 18, 2012. If an employee did not work the five years required to vest, then the employee share set aside with CalPERS was returned at separation. If an employee was promoted from within the organization, then he may have the five years required to vest, but it was not necessarily as a mid-manager.

Council Member Schmid inquired whether the employee received only his contribution or his contribution plus 7.5 percent interest.

Mr. Perez reported the employee received his contribution plus whatever interest was earned or lost.

Council Member Schmid clarified that nothing was guaranteed, but the employee did get some funds back.

Mr. Perez replied yes.

Council Member Schmid suggested the responses should state more than CalPERS regulations did not allow the City to follow the recommendation; something such as it was important to have a flexible management style in the new labor market.

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Council Member Klein inquired whether the new pension legislation would affect the current discussion or could be included in the Mayor's letter.

Mr. Perez believed the pension cap for new employees had an inflator, a factor for equity, and some relief for contributions by current employees. The majority of the savings were for future savings rather than immediate savings; however, there were some immediate savings based on the contributions to normal costs. The City's normal costs for miscellaneous employees for June 30, 2010 was 10-10 1/2 percent out of the 22 percent rate. The proposal discussed having employees pay up to 8 percent of normal costs, which he interpreted as an addition to the employee contribution. If 8 percent was the actual number and was imposed at some point, Public Safety employees could pay up to 20 percent. Some components in the legislation were part of the recommendations made by the Grand Jury.

Council Member Klein urged Staff to incorporate references to the new legislation. Citizens as well as the Grand Jury would see the letter; therefore, it should be as current as possible. There were several places where Staff could insert references to the new legislation. The Grand Jury report was deficient in not focusing on vesting. There needed to be a change in the concept of vested rights in California. He suggested Staff prepare a new chart for General Fund liability per resident. Staff had properly noted that a large portion of the City's liability were Utility employees. The liability to retired Utility workers was protected by an ongoing, successful business which had shown profits for 100 years. The City would be well served by creating such a chart.

Mr. Perez reported Staff created such a chart, but he decided not to include it in the response. He did not want to be accused of not performing a correct representation of the other agencies' general funds. Because of differences in how agencies treated certain activities, he was uncomfortable with including that chart.

Council Member Klein felt Mr. Perez's position was contradicted by statements in the report. Because a large portion of the City's finances were tied up in Utilities, it was misleading not to include it.

Mr. Perez indicated Staff could include the chart along with an explanatory footnote.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to include a chart showing the General Fund liability per resident.

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Council Member Klein expressed concern about the language beginning on the bottom of page 5 regarding Utilities. The additional services offered by the City needed to be adjusted or explained to show that the liability per resident was a different number for Palo Alto than for other agencies. He wanted to make a distinction between the City being a good steward and offering extra services. The Council had not focused enough attention on medical insurance offered to employees and their families. He did not recall having information regarding the City's annual cost for providing that benefit, and was interested in having that discussion at the September 18, 2012 Council meeting.

Council Member Price agreed with Council Member Klein regarding clarifications. The initial focus of the letter was to respond to the details of the report while providing clarifications and details to convey why Palo Alto was different from or similar to other cities. It was difficult to provide that much information in one letter. She asked if the Staff Report would be embedded in the response letter.

Mr. Perez answered yes, along with additions stated in the Motion.

Council Member Price noted the City's use of long range forecasts and other information were not mentioned in the Staff Report. She inquired whether it be appropriate in the letter to touch on those weaknesses mentioned by Council Member Klein.

Mr. Perez reported Staff did not have all the analysis when they prepared the Report. In the responses, Staff stated that they needed some legislative help because of restrictions. Staff would revisit that now that they had the information, and determine where revisions could be made in the specific responses. He did not believe the Grand Jury spoke to the appropriate level of personnel at CalPERS and, thus, did not understand the whole process. As Staff reviewed the legislative analysis, they would have more clarity on some of the Grand Jury recommendations.

Council Member Price asked if the current responses were comparable in level of detail and complexity to prior responses.

Mr. Perez indicated the current responses provided more data through charts and tables, but were consistent with prior responses.

Council Member Price inquired whether Staff would provide context in the letter for the Colleagues Memo.

Mr. Perez agreed to do that.

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Council Member Price asked whether the Council could submit questions about the presentation scheduled for September 18, 2012.

Kathryn Shen, Human Resources Director suggested Council Members submit questions and observations to allow Staff to compile pertinent information for the presentation.

Council Member Price suggested the Mayor and Vice Mayor review presentations of other cities.

Council Member Shepherd appreciated the changes suggested by Council Member Klein, and felt the relationship between the ARC amount owed and the General Fund was a means to bring the per capita amount into perspective. She wanted the Grand Jury to make a request for that type of analysis, so they could attach the numbers to whether or not the cities were financially viable.

Mr. Perez understood the requirements and level of financial reporting would change to what entities would report and how they were required to report the information. Financial reports typically looked backward when long range forecasts were needed to determine financial viability. The City had flexibility in communicating its financial story in its management letter. The City was making its full contributions and the asking employees to share costs. That was the important message and was demonstrated in the Colleagues Memo. He inferred from the Grand Jury interview that the Grand Jury wanted to know how the City would handle the large contributions, and the City was taking steps to reduce its contributions.

Council Member Shepherd clarified that the Grand Jury wanted to know how the City would handle contributions rather than if it had a viable plan. It could be useful to include the relationship between the ARC contribution and the General Fund.

Mayor Yeh clarified that the topic would return to the Council's Agenda based on the Motion.

Vice Mayor Scharff did not believe the Grand Jury addressed the issue of vesting. He suggested including in the response that vesting was an issue that needed reexamining. He asked if an initiative could change the State Constitution to change vesting rights.

Molly Stump, City Attorney stated the assumption behind Vice Mayor Scharff's statement was black letter law; however, case law indicated it was not as simple as a statewide Constitutional Amendment.

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INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct Staff to respond to the Grand Jury that unless the issue of vested rights is reexamined in California the question posed by the Grand Jury, "Is the cost of providing pension and other post-employment benefits interfering with the delivery of essential City services and is the ultimate cost to the taxpayers a bearable burden?" will be answered in affirmative for the foreseeable future.

MOTION SEPARATED FOR THE PURPOSE OF VOTING: Mayor Yeh requested the Motion be bifurcated to allow a separate vote for the following: To direct Staff to respond to Grand Jury that unless the issue of vested rights is reexamined in California the question posed by the Grand Jury, "Is the cost of providing pension and other post-employment benefits interfering with the delivery of essential City services and is the ultimate cost to the taxpayers a bearable burden?" will be answered in affirmative for the foreseeable future.

Council Member Price felt there were too many elements to consider without additional information.

Council Member Burt understood the Incorporation to state a reality rather than advocating a position.

Council Member Schmid asked Vice Mayor Scharff to repeat the specific question posed by the Grand Jury.

Vice Mayor Scharff replied "Is the cost of providing pension and other post-employment benefits interfering with the delivery of essential city services and is the ultimate cost to the taxpayer a bearable burden."

Council Member Schmid suggested including the entire question in the Amendment.

Vice Mayor Scharff agreed to include the entire language.

Council Member Burt suggested changing the language to "unless vested rights are reexamined."

Council Member Klein favored the Incorporation. The operative word was reexamined. The Council was not taking a position on a particular solution. Drastically increasing employee contribution to benefits was not in anyone's interest. The alternative was to change vested rights to reduce long-term obligations of cities and the State.

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Mayor Yeh stated vesting, CalPERS governance, and other issues were major concerns. The confluence of these issues was the problem. He preferred to take a formal position and then send a letter to the Grand Jury addressing issues.

SEPARATED MOTION PASSED: 6-2 Espinosa absent, Yeh, Price no

Council Member Burt recalled Council Member Price's concerns regarding the September 18, 2012 Staff Report in response to the Colleagues Memo. He was concerned that the Council did not have the Staff Report.

Ms. Shen stated Staff would make a presentation in response to the Colleagues Memo. Council Member Price inquired whether additional input could be submitted. In an effort to collect all ideas, that was acceptable.

Council Member Burt expected the Staff Report to respond to Council direction.

Council Member Price inquired when she could ask her question relation to the September 18, 2012 Council meeting.

Mayor Yeh suggested comments regarding future Agenda Items should be reserved for Council Comments at the end of the meeting.

Mr. Perez asked for a clarification of the topic returning on the Consent Calendar.

Mayor Yeh stated the Motion would return to the Council on the Consent Calendar.

Mr. Perez indicated it would be a late Packet item due to the lack of time to prepare.

REMAINING MOTION AS AMENDED PASSED: 8-0 Espinosa absent

22. Adoption of Two Resolutions: (1) 9282 Adopting a New Compensation Plan for Management and Professional and (2) 9283 Amending Chapter 9 of the Merit System Rules and Regulations to Revise Rules Related to Probationary Periods.

Kathryn Shen, Human Resources Director reviewed changes to the compensation plan for management and professional employees. The City had 202 Full Time Equivalents (FTE) that were non-represented. These employees occupied positions from department director to managers and

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supervisor to individual contributors, professionals and confidential administrators. This group had not had a salary increase since 2008, forfeited Variable Management Compensation (VMC) in 2009, implemented the second pension tier in 2010.

Sandra Blanch, Assistant Director Human Resources reported structural changes were in line with changes for other employee groups. Under the pension, the management employees would pay a 7 percent or 8 percent employee share of the first contribution. Under the medical benefit, employees would pay 10 percent of their monthly health premium as actives and future retirees. For medical benefits for part-time employees, employees would pay toward medical benefits. The medical waiver benefit was reduced to a single rate.

Ms. Shen explained newly hired and newly promoted department directors, assistant directors, division managers, and key individual positions would be designated as at-will employees. They would be provided a severance clause beginning at 30 days of severance pay at the beginning of employment and adding one week for each year of service to a maximum of 90 days (after eight years of employment). The probation time period increased from six months to twelve months for new hires and promotions if they were not at-will employees. The total savings would be \$536,000; the General Fund portion was \$245,000, including a 3 percent cost of living adjustment (COLA). The last COLA increase was in July 2008. The impact to a typical employee's paycheck was -4 percent on average. Staff requested the Council adopt two Resolutions: the new compensation plan, and amendments to Chapter 9 of the Merit System Rules and Regulations.

Stephanie Munoz stated the problem was not vested rights; it was contract rights. The City was paying the penalty for the Brown Act exempting employee negotiations. The City could not make changes to health benefits. Health insurance was a part of unemployment insurance. The medical insurance system was not workable.

MOTION: Council Member Klein moved, seconded by Council Member Shepherd to: 1) adopt the resolution adopting a new compensation plan for Management and Professional and Council Appointed Officers effective the pay periods beginning July 1, 2012 and continuing in effect until revised, and 2) amending the Merit System Rules and Regulations to change the probationary period from six to twelve months.

Council Member Klein did not consider the 3 percent increase as a COLA, because the employee group did not receive a pay increase. If the City did not have the 3 percent salary reconciliation, then the net reduction in pay

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would be greater for this employee group than for other employee groups. By increasing the salary base, employees were increasing ultimate retirement benefits. He inquired if his statements were correct.

Ms. Shen replied yes. Without the 3 percent addition to base pay, the decrease would be much more.

Council Member Klein explained this was a means to have all employee groups paying all of the employee share of the pension obligation to the California Public Employees' Retirement System (CalPERS).

Ms. Shen agreed that the City was moving all employee groups to pay their share of the CalPERS contribution.

Council Member Klein asked whether all employees, with the exception of a small group, were now on that basis.

Ms. Shen answered yes.

Council Member Klein was pleased to offer the Motion as it was a step forward. He clarified that no employee's pay increased.

Council Member Shepherd noted the major change would affect the ARC contribution in that employees would pay a portion of medical into retirement. This would affect the City's balance sheet and the Grand Jury report.

Council Member Schmid referenced page 355 regarding the City's 90 percent payment of second highest CalPERS plan and page 368 regarding elimination of the PERS Choice Reimbursement Plan. He asked if the PERS Choice was the most expensive plan.

Ms. Blanch stated PERS Care was eliminated several years ago.

Council Member Schmid stated the PERS Choice would be eliminated on January 1, 2013.

Ms. Blanch explained it was a reimbursement program to provide an incentive to employees to move out of the most expensive PERS Care Plan. The City was eliminating the incentive program.

Council Member Schmid inquired whether it referred to one of the five PERS medical plans.

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Ms. Blanch answered no.

Council Member Schmid referenced page 355 regarding payment of 10 percent of the medical plan premium. He asked if the City had been paying 100 percent.

Ms. Blanch indicated management employees were paying amounts similar to Service Employees International Union (SEIU) employees. The presentation indicated 7 percent, and it was increasing to 10 percent.

Council Member Schmid clarified that the prior amount was 7 percent.

Ms. Blanch replied yes.

Council Member Schmid stated it was not 0 percent.

Ms. Blanch answered yes. That went into effect in April 2011.

Council Member Schmid stated that explained why the forecast savings did not total 10 percent of the payment. There was an effective paragraph about broadening the at-will employment, and it being part of an aggressive management policy. It was important for the City to offer some kind of mobile pension that employees could bring or take with them. Under vacation accrual, a long-time employee could accrue 15 weeks of vacation. He inquired whether an employee could accrue vacation time when he was earning \$50,000 and be paid for vacation time 20 years later when he was earning \$100,000.

Ms. Blanch reported the City had a cap on vacation leave.

Council Member Schmid said vacation leave was three weeks per year and could be accumulated to a maximum of 15 weeks.

Lalo Perez, Administrative Services Director/Chief Financial Officer explained there was a cap of 15 weeks or 600 hours for this particular employee groups. If an employee accumulated and banked vacation leave without exceeding the 600-hour cap, it could be paid at a higher rate at the time of employment separation. Accrued leave was paid at the exit pay rate.

Council Member Schmid understood there was a fund for accumulated vacation which earned interest. As salaries increased, the amount in the fund increased.

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Mr. Perez explained the method for funding the vacation payout. For those nine employees covered by sick leave payout, the City also funded that.

Council Member Schmid stated there was another benefit that allowed employees to use sick leave for personal business per year.

Mr. Perez indicated employees could use 20 hours per year.

Council Member Schmid inquired if that benefit could be accrued.

Mr. Perez reported the City did not pay out sick leave; therefore, it could not be accrued with the exception of those nine employees.

Council Member Schmid asked if that benefit was listed as compensation.

Mr. Perez said it was not. The typical annual hours were 2,080; approximately 85 percent were productive and 15 percent non-productive.

Council Member Schmid indicated that benefit had no cost to the City.

Mr. Perez explained it could have a cost if another employee was needed to fill the position. The majority of the time it was a productive issue. Current employee contracts called for an artificial increase in the final year of compensation related to pension calculation. That had been eliminated for all labor groups.

Council Member Price would support the Motion, but was uncomfortable with the at-will employment element. She was concerned because the management professional group was unrepresented.

Mayor Yeh felt this was an important step forward for the City. The technical clarification from Mr. Perez was helpful in highlighting the achievement.

MOTION PASSED: 8-0 Espinosa absent

21. Approval of City Positions for the 2012 League of California Cities Resolutions.

Sheila Tucker, Assistant to the City Manager reported each year the League of California Cities (League) accepted Resolutions from member cities and elected officials to be considered for adoption at the annual conference. The Resolutions constituted an additional method to develop League policy and allowed cities to initiate policy discussions at a statewide level. The City's voting delegate made decisions and determinations on Resolutions. The

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Staff Report provided summaries of the Resolutions and recommended City positions, and League analysis of the Resolutions. Staff recommended supporting Resolutions 1, 2, and 5 and taking no positions or could oppose Resolutions 3 and 4.

MOTION: Vice Mayor Scharff moved, seconded by Mayor Yeh to accept Staff recommendation to support Resolution Nos. 1, 2, and 5 and to oppose Resolution Nos. 3 and 4.

Vice Mayor Scharff believed Staff was correct in their analysis, with the exception of recommending no position on Resolution 4. The City was a leader on sustainability, and the City should support AB 32.

Mayor Yeh agreed with Vice Mayor Scharff's comments. This was in direct opposition to the City of Needles. Under AB 32, the City's Electric Utility was an active participant in the auction of emission certificates. Relying on the Federal Government to create a comprehensive program was not consistent with California's role in leading environmental causes.

Council Member Burt supported opposing Resolution Number 4. Resolution Number 3 was different however. Advocates of AB 32 opposed the Desert Protection Act, because it restricted availability of prime land for solar sites.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to take no position on Resolution No. 3 and to oppose Resolution No. 4.

MOTION PASSED AS AMENDED: 8-0 Espinosa absent

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Price reported that on August 2, the Santa Clara Valley Transportation Authority Board of Directors approved the allocation of \$2.5 million for several projects including the California Avenue Transit Hub project. On August 25 she attended the 50th birthday celebration of the Stanford Linear Accelerator Center. She asked if the upcoming September 18th meeting regarding employee benefits was also going to serve as a presentation to the community regarding the broader issue of benefits and compensation.

Molly Stump, City Attorney, stated that the meeting would be an initial review by Staff of the broad issues and would be requesting guidance from the Council on how to proceed.

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Mayor Yeh stated that the meeting would be adjourned in honor of Dr. Mo who recently passed away.

ADJOURNMENT: The meeting was adjourned in Memory of Dr. Mo at 12:07 A.M.