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The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:00 P.M.

Present: Berman, Burt, Holman, Klein, Kniss, Price, Scharff, Schmid, Shepherd

Absent:

Mayor Scharff reported meetings extending beyond 11:00 P.M. deprived the public of the ability to participate and were difficult for Staff, Council Members, and the public. Council protocols required efforts be made to end meetings before 11:00 P.M. Absent extraordinary circumstances, Council meetings would end before 11:00 P.M. Beginning with the meeting on January 22, 2013, all Council Agendas would indicate the amount of time allocated to each Item. Vice Mayor Shepherd would provide updates on progress throughout the meeting. Each Council Member was encouraged to support efficient use of public meetings. He requested Council Members submit questions regarding Agenda Items in writing to Staff by 9:00 A.M. on the day of the meeting. Staff would respond by 3:00 P.M. the same day. Questions could be submitted after 9:00 A.M.; however, Staff would appreciate receiving them by 9:00 A.M. He requested Council Members stay on topic, and limit questions and comments to 5 minutes on a self-policing basis. He would use his discretion to limit questions to one round rather than multiple rounds. By 10:00 P.M., he would announce any Item that would be rescheduled or continued. He would appreciate Council Members notifying Staff by 9:00 A.M. Monday morning if they were removing an Item from the Agenda. Staff would shorten presentations and provide recommended Motions in the Staff Report when possible. Vice Mayor Shepherd would track the amount of time each Council Member used for remarks for the Mayor's use only. If necessary, he would ask Council Members to conclude their remarks.

James Keene, City Manager indicated Staff's goal was to respond to Council Member questions by noon rather than 3:00 P.M. If Staff received Council Member questions Sunday night, they could respond earlier in the morning.

Council Member Kniss announced that she would be leaving the Council meeting at 10:00 P.M.

Council Member Klein supported Mayor Scharff's comments. He and Council Member Price were preparing a Colleagues Memo for the following week's Agenda on the topic. Questions posed in open session were useful for the public's understanding of issues.

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SPECIAL ORDERS OF THE DAY

1. Presentation From Lisa Hendrickson Regarding Avenidas.

Lisa Hendrickson reported Avenidas was concerned with assisting mid-Peninsula older adult's age in place and maintain independence. Avenidas began in 1978 with a public-private partnership. In 1978, the City provided 30 percent of Avenidas' budget, and currently provided approximately 10 percent. Avenidas coordinated services with many different organizations. The Avenidas Rose Kliner Adult Day Center in Mountain View offered adult day healthcare and adult daycare. Avenidas was a comprehensive resource for older adults who wished to maintain their independence. Membership was not required, except for Avenidas Village, a newer program. A range of services was also available for less independent adults and their caregivers. Avenidas held informational conferences for the public on Saturdays. Workshops were available to provide information, guidance, and community resources. The Mountain View center provided the first adult day healthcare in Santa Clara County. Avenidas was the birthplace of the Health Insurance Counseling and Advocacy Program (HICAP), a volunteer-based counseling service to assist with Medicare issues. Avenidas began a non-profit organization, Helps, for reverse mortgages. The Avenidas Fitness Camp was being replicated across the United States. The public-private partnership with the City of Palo Alto was innovative, and inspired other cities to consider similar partnerships. Avenidas served more than 6,000 people annually, approximately half were Palo Alto residents; had more than 31 Full Time Equivalent employees; had more than 500 volunteers; and had a \$4.1 million operating budget with nominal government funding. The over-65 population comprised 17 percent of the total population in Palo Alto. Approximately one-third of the population in Palo Alto was age 55 or older. Avenidas' facilities needed updating and expanding.

She also wanted to secure a facility in a different part of town, preferably south Palo Alto. The idea was a wellness center designed for and focused on older adults. Avenidas had three partners for such a facility, but was looking for another partner with the land component. She invited the Council and public to visit an Avenidas facility.

2. Selection of Candidates to be Interviewed for the Public Art Commission for One Term Ending on April 30, 2015.

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Price to interview all candidates for the Public Art Commission for one unexpired term ending on April 30, 2015.

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Council Member Klein concluded that the policy of interviewing all applicants was not an efficient use of time. The Council should not interview those candidates they had interviewed previously and those candidates not qualified for the position. He would not support the Motion. He would not interview two candidates for the Public Art Commission, because the Council had interviewed them previously.

Council Member Schmid noted Agenda Item Numbers 2, 3, and 4 had term ending dates of April, December, and July respectively. Policy and Services Committee discussed making ending dates consistent, so that terms would end on a single date. He questioned whether this would provide the flexibility to impose a new end of term date.

Molly Stump, City Attorney inquired whether the positions were noticed for a particular timeframe.

Donna Grider, City Clerk reported the Municipal Code provided the terms for Boards and Commissions. Language in the Code would have to be amended to have a single term date, if the Council wished.

Council Member Schmid asked if the Council was committing to the stated terms if they accepted the candidates with the term dates noted.

Ms. Stump explained the interview process could proceed without determining that. Staff would have to review the way the positions were noticed and Code requirements before providing a mechanism to adjust the terms, if the Council wished to do so.

Herb Borock recalled prior Councils voted by paper ballot for candidates to interview. Those candidates with 4 votes were interviewed. He suggested this method was better than assigning a committee to choose which candidates to interview or having Motions to interview or appoint candidates.

MOTION PASSED: 8-1 Klein no

3. Selection of Candidates to be Interviewed for the Parks and Recreation Commission for Two Terms Ending on December 31, 2015.

MOTION: Council Member Kniss moved, seconded by Council Member Schmid to interview all candidates for the Parks and Recreation Commission for two terms ending on December 31, 2015.

MOTION PASSED: 9-0

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4. Selection of Candidates to be Interviewed for the Planning and Transportation Commission for One Unexpired Term Ending on July 31, 2014.

Donna Grider, City Clerk noted Jeff Brown withdrew his application.

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Kniss to interview all candidates, except for Jeff Brown who withdrew his application, for the Planning and Transportation Commission for one unexpired term ending on July 31, 2014.

Council Member Klein would not support the Motion as stated earlier.

MOTION PASSED: 8-1 Klein no

CITY MANAGER COMMENTS

James Keene, City Manager reported a community meeting was held January 8, 2013 regarding the Newell Road Bridge Project. More information was available on the City's website. The Martin Luther King Jr. Holiday was January 21, 2013, and the City would co-sponsor the third annual Day of Service from 11:00 A.M. to 3:00 P.M. at Lytton Plaza. A large coast live oak fell in Rinconada Park, and Public Works crews removed the tree. Because root rot caused the tree to fall, inspections were scheduled for other large oaks in the park. The City and Acterra thanked and honored Super Stream Keeper James McCarthy for his advocacy of protection of Lower Adobe Creek in Palo Alto. Palo Alto Firefighters raised \$12,000 for Breast Cancer Connections.

MINUTES APPROVAL

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Holman to approve the Minutes of November 13, 2012 and December 3, 2012 as amended.

MOTION PASSED: 7-0 Berman, Kniss Abstained

MINUTES

ORAL COMMUNICATIONS

Wynn Grcich stated chloramine caused collateral health damage. Palo Alto had one of the highest water rates among cities in the Bay Area. Fluoride caused miscarriages, endometriosis, and other health issues. Chlorine caused infertility and cancer.

Tony Kramer restated the Noise Code. If a noise source was directly adjacent to a residential property line, the noise would travel 70 feet onto the residential property before it decreased to the residential noise limit. The noise level would be 77 dBA only 2 feet from the noise source. He demonstrated 15 dB above ambient at 25 feet.

CONSENT CALENDAR

Council Member Holman advised she would not participate in Agenda Item Number 8, because she lived within a 500 foot radius of the proposed Utility District. Concerning Agenda Item Number 14, she inquired why vehicles other than street sweepers were not included in the Budget.

James Keene, City Manager stated he did not have an answer.

MOTION: Council Member Klein moved, seconded by Vice Mayor Shepherd to approve Agenda Item Numbers 5-15.

5. Review and Acceptance of Annual Status Report on Developers' Fees for Fiscal Year 2012 and Adoption of Resolution 9313 Making Findings Regarding Continuing Need for Unexpended Parkland Development Fees in the Amount of \$38,729; Community Center Development Fees in the Amount of \$562,329; Library Development Fees in the Amount of \$213,729.
6. Budget Amendment Ordinance 5178 in the Amount of \$167,734 and Approval of Enterprise Refuse Fund Contract with GSE Construction Company, Inc. in the Total Amount of \$704,220 for the New Landfill Gas Flare Project at Regional Water Quality Control Plant - Capital Improvement Program Project RF-10002.
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MINUTES

15. Policy and Services Committee Recommendation to Approve a Policy for the Office of Economic Development.

MOTION PASSED to approve Agenda Item Numbers 5-7 and 9-15: 9-0

MOTION PASSED to approve Agenda Item Number 8: 8-0 Holman not participating

ACTION ITEMS

16. Public Hearing: on Objections to Weed Abatement and Adoption of Resolution 9317 entitled "Resolution of the Council of the City of Palo Alto Ordering Weed Nuisance Abated".

Mayor Scharff stated this was the time and place set for a public hearing on the Resolution confirming the County Weed Abatement Report for Palo Alto, and ordering costs of abatement to be a special assessment on the respective properties described therein.

Public Hearing opened at 7:43 P.M.

Robert Moss felt weeds were useful to cover bare areas and prevent erosion. Areas should be reviewed to consider where weeds could be beneficial.

Mayor Scharff asked if the City received any objections.

Donna Grider, City Clerk answered no.

Public Hearing closed at 7:45 P.M.

Mayor Scharff reported no persons filed a written objection against the weed abatement proceedings, and any Resolution passed by the Council would reflect the finding.

MOTION: Council Member Kniss moved, seconded by Council Member Price to adopt the Resolution ordering the abatement of weed nuisances in the City of Palo Alto.

MOTION PASSED: 9-0

MINUTES

17. Public Hearing: TEFRA Hearing and Approval of Conduit Refunding Obligations for the Oshman Family Jewish Community Center Through the California Development Authority Relating to Facilities Located at 3921 Fabian Way, Palo Alto, California 94303 Resolution 9314 approving the issuance of tax-exempt refunding obligations by the California Enterprise Development Authority (CEDA).

Joe Saccio, Assistant Director of Administrative Services reported the Oshman Family Jewish Community Center (JCC) and its conduit agency, California Enterprise Development Authority (CEDA), requested a Tax Equity Fiscal Responsibility Act (TEFRA) hearing to allow the JCC to refinance tax-exempt debt. Six years previously, the Council held a TEFRA hearing to issue the original debt. TEFRA required a public hearing preceded by public notice and approval of the conduit financing by the elected representatives of the host government. Staff requested the Council approve a Resolution for the JCC to issue tax-exempt financing and a Resolution for the City to join the conduit agency. The City would not have any financial, legal, or moral obligation as a consequence of approving the Resolutions. It had no future responsibility for the JCC's debt.

Public Hearing opened and closed at 7:48 P.M. without public comment.

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Kniss to adopt a Resolution approving the issuance of tax-exempt refunding obligations by the California Enterprise Development Authority (CEDA) for the benefit of Oshman Family Jewish Community Center (the Borrower) and authorize the Mayor, City Manager (or such other designated signatory) to execute the Joint Exercise of Powers of Agreement with the CEDA.

Vice Mayor Shepherd felt the JCC was acting wisely in utilizing these types of public refinances to reduce operating expenses.

Council Member Holman requested Staff respond to Council Member Schmid's questions submitted via email.

Mr. Saccio noted Council Member Schmid's question concerned the general community's use of the JCC. City events held at the JCC included the annual Senior New Year's event, the Palo Alto Film Festival, and the State of the City event. Staff was collaborating with the JCC on teen services and teen events. More recently, Community Services explored ways for Avenidas to provide complementary services at the JCC. There was an existing partnership and use of the JCC.

MINUTES

Council Member Holman inquired whether the soccer fields were open to public use, and whether joint use was consistent with the public benefits aspect of the agreement.

Mayor Scharff suggested Council Member Holman's questions were moving off topic.

Council Member Holman believed her questions were on topic, because approving the Resolutions could remove leverage for obtaining public benefits.

Council Member Klein indicated the discussion was out of order. The Council held TEFRA hearings for a variety of organizations, and the hearings did not provide leverage over the organizations. The City was simply meeting narrow restrictions of the Internal Revenue Code.

Mayor Scharff agreed. The purpose of the TEFRA hearing was to obtain public comment.

Council Member Holman felt the City had few opportunities for influence.

Mayor Scharff ruled Council Member Holman out of order.

MOTION PASSED: 8-1 Holman no

18. Energy-Compost Facility and Export Option Request for Proposal (RFP) Approval and Recommendation for the Landfill Capping Considerations.

Phil Bobel, Assistant Director of Environmental Services noted the Energy-Compost Facility (ECF) would be located on the southwestern side of the Sewage Treatment Plant. The 10-acre area was undedicated as parkland by Measure E in November 2011. The Council had to consider landfill capping and a Request for Proposal (RFP).

Ron Arp, Manager Solid Waste reported the Council directed Staff in 2010 to initiate a feasibility study for an ECF. The City procured the services of ARI to conduct the study, and a report was presented to the Council in September 2011. The report recommended that if the site at Byxbee Park became available through passage of Measure E, then the City should take further action to consider anaerobic digestion (AD) or other technologies to manage organic waste. Approximately 8 of the 10 acres were located on the landfill footprint.

MINUTES

In February 2012, the Council directed Staff to develop an action plan and timeline for consideration of an ECF, and to work with regulatory agencies to obtain approval for postponing the final capping of the landfill for one year. The action plan and timeline were approved in July 2012, and approval for the postponement was received in August 2012. Also in July 2012, the Council approved an amendment with ARI to develop RFPs to allow the City to obtain proposals and pricing from vendors interested in managing organic wastes at the Measure E site, and to solicit proposals for export options. With Council approval, the recommended RFP would be issued in February 2013 with proposals due in July 2013. Staff would provide a recommendation to the Council in February 2014. The project was complex and had to be evaluated in conjunction with the City's Biosolids Facility Plan (Plan), and public review was needed. The City was obligated to cap the remainder of the landfill by the end of 2013, unless the City received another postponement. Staff proposed three options: 1) request a second postponement; 2) cap the remaining 51 acres of the landfill, and revisit the issue after an ECF was approved; and 3) cap most of the landfill (approximately 34 acres) in 2013, and request a second postponement for 17 acres to accommodate an ECF. Staff recommended the third option. Currently 72 of 126 acres were open as parkland. The advantages of Option 1 were preserving all of an ECF site re-grading alternative, no cap removal or re-installation costs, and flexibility. The disadvantage was that no additional parkland could be opened until capping was completed. Based on conversations with regulatory staff, they were not likely to approve another full postponement. Agency staff was skeptical about whether a 10-acre site should be constructed, because of the amount of garbage to be excavated. Engineering the retaining wall would be a complex task. Advantages of Option 2 were ease of regulatory approval and the maximum parkland acreage could be opened to the public. The disadvantages of Option 2 were the cost of removing the cap and recapping to implement an ECF, uncertainty of regulatory approval; public criticism for wasting money to cap, remove and recap the site. Option 3 did not eliminate the development of an ECF larger than 5 acres; however, approval would be needed to remove some of the cap to build a larger facility. The disadvantages of Option 3 were added mobilization costs for two construction events, estimated at \$100,000.

Mr. Bobel indicated no parkland could be opened to the public under Option 1, 43 acres could be opened under Option 2, and 34 acres could be opened under Option 3. The regulatory agency found Option 1 to be the least desirable, Option 2 was the most desirable, and Option 3 had a better chance of securing approval than Option 1. Option 1 would not have additional costs for removing and reinstalling a cap.

MINUTES

Additional costs under Option 2 were determined by the size of an ECF: no additional costs for a site less than 3.8 acres and approximately \$3 million for a site of 10 acres. Option 3 would not require additional costs for a 3.8-acre site, no additional costs for a 5-acre site, and reduced costs for a 10-acre site. Staff requested the Council direct them to seek regulatory approval for a partial cap; to procure and present a construction contract; and if regulatory approval was denied, then the City could cap the entire 51 acres. The Plan was approved as part of the Consent Calendar; therefore, Staff would prepare a Plan in conjunction with the RFP. If the RFP did not result in an ECF, then the Plan would allow management of solids from the Sewage Treatment Plant and retirement of the incinerators. A biosolids facility could be located on the Sewage Treatment Plant site, while the Measure E site was not on the Sewage Treatment Plant site.

Mr. Arp stated the objectives of the RFP were to establish reliable, cost-effective, long-term solutions for organic management; enhance the beneficial use of organics such as energy or compost; reduce environmental impacts including greenhouse gases; reduce landfill disposal and increase diversion; and phase out the incinerator at the Water Quality Control Plant. Staff sought proposers to finance, design, build, and operate a facility under a long-term contract, probably 20 years. The three feed stocks were food scraps, yard trimmings, and biosolids. Proposers were required to propose on all three stocks and have options for other alternatives. Staff narrowed the process choices to AD or gasification. The sites were the Measure E location, the Regional Water Quality Control Plant, or an offsite export facility. The proposal evaluation criteria did not require the lowest price proposal be selected, and did not commit the City to any action. Staff recommended the Council direct Staff to release the RFP for an ECF, to seek regulatory approval for Option 3, to procure a construction contract with added alternates for 2013; and to cap all 51 acres if the City did not receive regulatory approval to cap 17 acres.

Mr. Bobel reported bids would be released in March 2013 in order to complete capping work before fall 2013. Staff would need to complete preparations for a regulatory submission in the next two months in order to complete construction work in 2013.

Council Member Kniss requested Staff provide the names of the regulatory agencies overseeing the Project.

MINUTES

Mr. Bobel clarified his earlier statement that bids would be released in March 2013, with execution of a contract in April 2013. The three regulatory agencies were the Santa Clara County Environmental Health Group, the California Department of Resources, Recycling and Recovery (CalRecycle), and the Regional Water Quality Control Board.

Council Member Kniss commented that the Regional Water Quality Control Board was sometimes difficult to deal with.

Council Member Price inquired why Staff believed regulatory agencies may or may not allow removal of the cap under Option 2.

Mr. Bobel stated the possibility of not receiving approval was the reason Staff did not recommend Option 2. Discussions with regulatory staff was the basis for Staff's beliefs. Regulatory agencies were concerned about environmental impacts. Once the cap was in place, the City was dependent on a regulatory agency to allow the cap to be removed.

Council Member Price asked if there was an appeal process for a denial, and how an appeal would affect the timeline.

Mr. Bobel reported there was not a formal appeal process for a denial.

Council Member Price inquired whether Staff considered an appeal in the timeline as presented.

Mr. Bobel indicated regulatory staff could provide a firm answer once Staff had a Council-directed action to submit to them.

Council Member Schmid understood the Council's task was to determine whether an ECF was economically feasible. The zero waste goal, as defined in the 2005 report, was to conserve, recover or use all waste resources. The 2009 Compost Task Force outlined four technology options: yard and food, increased recycling, AD, and advanced gasification. The Compost Task Force noted advanced gasification was seven to ten years away; however, the City needed to monitor and study it. In 2019, the SMaRT Station and Kirby Canyon contracts would expire, and the City would have to determine how to handle 25 percent of waste. Advanced utilization technologies consuming 98 percent of the waste stream were 30-40 percent less expensive than current costs. Staff considered technologies only currently in use in the Bay Area. He asked how the Council could make a decision without complete information.

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Mr. Bobel stated issuing the RFP would provide cost information from the private sector about the exact technologies Council Member Schmid wanted to see. Staff narrowed the field to AD and gasification, which other cities were considering.

Vice Mayor Shepherd inquired whether the vendor would operate the facility for the length of the contract.

Mr. Bobel reported the facility would be owned and operated by the private sector.

Council Member Klein referenced page 572 regarding an optimal 5-acre ECF, and indicated the RFP was asking the proposers to determine the optimal size of the facility. He inquired how Staff determined a 5-acre facility was optimal.

Mr. Bobel reported Staff was unsure whether a 5-acre facility would be optimal.

Council Member Klein noted Staff suggested the responses to the RFP and Staff recommendation would be presented to the Council in February 2014. He requested Staff's opinion as to the amount of time the Council would need to reach a decision.

Mr. Bobel reported Staff allowed five to six months for evaluation of proposals, and he anticipated the Council holding a Study Session or Staff presenting informational reports to the Council during that time period. Staff hoped the Council could make a decision in February 2014.

Council Member Klein assumed the Council would need a few months to reach a decision. He asked if capping could be completed in 2014 or would Staff need to request a second postponement.

Mr. Bobel stated Staff could add a few months to the request for postponement now to avoid an additional postponement request.

Council Member Klein inquired if there was an end to the capping season, such that the Council would have a deadline to reach a decision.

Mr. Bobel explained the construction season for capping was the dry season.

Council Member Klein did not know how much time would be required to cap the landfill.

MINUTES

Mr. Arp reported having a construction contract in place by April would allow two to three months of lead time to order materials. Construction of a cap could require three months for completion.

James Keene, City Manager felt the timeframe was tight.

Council Member Klein suggested Staff request the regulatory agency approve postponing the capping for more than 12 months. He inquired about the role the Legislature could play with regard to appealing a regulatory agency denial.

Molly Stump, City Attorney indicated Staff had not looked that far into the future. Staff could review a legislative approach if needed. The initial conversation regarding an appeal concerned violation of an existing order, not whether a different order should be in place.

Council Member Klein inquired whether the community's vote for capping the landfill created a different situation from the ordinary capping of a landfill.

Ms. Stump stated the City was still in the role of being a subordinate unit of the State and subject to State-wide laws of general concern. Popular vote was helpful, but would not be dispositive.

Mr. Keene noted regulatory enforcement related to capping issues was often driven by a jurisdiction simply delaying capping, which presented a public health hazard. Palo Alto did not have that situation. He felt the regulatory agency would be more likely to support a delay in capping in order to utilize alternative technology.

Council Member Klein hoped this issue would be included in Staff's briefing of Legislators.

Council Member Burt inquired whether Staff was apprehensive about regulatory approval of reconstructing the cap for a 10-acre site.

Mr. Bobel answered yes. Any removal and reinstallation of a cap was a concern for regulatory agencies. Larger areas provoked greater concerns.

Council Member Burt asked how many acres of the 51 acres could be capped without requiring a removal should 10 acres be needed.

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Mr. Bobel reported there was not a good option for capping a significant portion of the landfill while allowing the 10-acre site to be uncapped and used. Garbage from the 10-acre area had to be placed somewhere. When considering the details, Staff did not determine a good option for capping part of the landfill.

Council Member Burt inquired whether some portion of the landfill could remain uncapped such that 10 acres could be utilized for an ECF while demonstrating the City's good faith effort to comply with regulations and the community's mandate.

Mr. Bobel explained Staff could not find an area such as that.

Council Member Burt asked if capping a portion of the landfill would have any bearing with the regulatory agency.

Mr. Bobel did not believe so, because the area would be small and in strange locations.

Council Member Burt questioned the need for the RFP to state the City would be responsible for the construction of a dewatering facility.

Mr. Bobel reported the dewatering facility was for biosolids only.

Council Member Burt asked if landfill gas from biosolids or from any of the three energy streams would be free to the Regional Water Quality Control Plant.

Mr. Bobel indicated page 603 referred to the current landfill gas. It was not referring to the gas produced by the new facility.

Council Member Burt inquired whether a noise level of 75-80 dB was permissible.

Mr. Bobel was unable to address the noise level at the current time.

Council Member Burt suggested one evaluation criteria should be the noise level.

Mr. Bobel agreed. Noise level was already included in criteria.

Council Member Holman asked when the City Council and the public would know the financial impacts of costs borne by the City as stated in the RFP, and how were those costs determined.

MINUTES

Mr. Bobel stated all costs incurred by contractors would be included in the tipping fee for material accepted. All costs for the contractor would be costs to the City.

Council Member Holman agreed everything the contractor did would be included in the cost to the City, but she was unsure if the costs noted on pages 619-620 would be included in the cost to construct the facility.

Mr. Bobel believed Council Member Holman was referring to the dewatering facility. The Sewage Treatment Plant would need a dewatering facility whether or not an ECF was constructed; therefore, the costs would be borne by the City. Staff wished to make that clear in the RFP.

Mr. Keene indicated the RFP should provide clear criteria to obtain equivalent proposals. Selecting a vendor did not preclude the City from making adjustments.

Council Member Holman was unsure where a number of the costs would show up in relation to the economic feasibility of a proposal.

Mr. Arp stated providing the upfront costs, rather than having proposers estimate them, would allow the City to obtain equivalent proposals. Those costs would be part of the evaluation of the overall project.

Mr. Keene believed the RFP was not the primary basis of the Council's decision regarding the efficacy of this approach. Nothing would preclude the Council from having data relating to RFP responses and additional costs to be borne by the City and how all of those topics related to the economic feasibility of the proposal.

Council Member Holman reiterated that costs to be borne by the City and costs incorporated into the RFP would be provided to the Council and the public for evaluation as part of the economic feasibility of the project.

Mr. Keene agreed with her statement.

Mr. Bobel explained there were three types of costs: costs the vendor would estimate, project costs which Staff would provide, and costs not part of the project.

Council Member Holman asked when the Environmental Impact Report (EIR) process would begin.

MINUTES

Mr. Arp indicated the EIR would begin in July 2014, and it would require more than a year.

Mr. Bobel answered July 2014.

Council Member Holman inquired whether costs, proposal responses, and impacts to ratepayers would be made available.

Mr. Bobel answered yes.

Council Member Berman asked how many times the City could request a postponement of capping from the regulatory agency.

Mr. Bobel stated Staff would discuss the entire situation with the regulatory agencies. If a regulatory agency proposed a scenario Staff had not considered, then Staff would have a larger discussion of that scenario.

Council Member Berman was interested in a precedent for approaching a superior body or the Legislature should the regulatory agencies deny the City's request. He inquired whether the City would need approval from regulatory agencies for an ECF project.

Mr. Bobel replied yes.

Robert Moss reported the dump had not been unsealed for 80 years and was not 80 years old. People voted to undedicate 10 acres of parkland and to consider the feasibility and cost of a conversion system. Methane, a serious greenhouse gas, did escape the containment system. He suggested the Council support Option 2 to cap all 51 acres, and build a facility over the capped area.

Peter Drekmeier stated the Council needed to ensure 10 acres were available for the facility. Staff's recommendation would limit the project to 5 acres. A facility larger than 5 acres would add millions of dollars to the cost and require a 20-foot retaining wall. The timeframe and plan for a facility should be convincing to the regulatory agencies. If a postponement was denied, then the Council should move to State agencies that wanted this type of project. He encouraged the Council to direct Staff to pursue an extension of the permit for 51 acres and investigate a possible appeal if postponement was denied.

Gary Pett, Clean Coalition Project Manager opposed the Staff recommendation, because it would add unnecessary costs to an ECF. Clean Coalition encouraged a one-year postponement of capping.

MINUTES

Muriel Gravina favored postponement of capping, because the plan should be completed first. The ultimate goal was not to transport refuse. She also favored AD or whatever technology would work.

Emily Renzel urged the Council to direct Staff to cap the entire landfill in 2013. Capping was intended to contain methane gas and to prevent leachate formation. Capping should not be delayed any longer. She urged the Council to investigate the basis for a fair market value rent of \$10,800 an acre per year. The Refuse Fund had not paid rent for Byxbee Park since Fiscal Year 2011.

Enid Pearson stated every attempt had been made not to close the landfill. She opposed the construction of an AD facility. The Council should not allow parks to be eroded by development. She urged the Council to cap the entire landfill.

Walt Hays felt the Staff recommendation limited an ECF to 5 acres. It was unlikely the City could obtain a permit to uncap a portion of the landfill. He talked with Assemblyman Rich Gordon, who indicated he would personally work on behalf of Palo Alto to obtain permission from the regulators.

Cedric de La Beaujardiere urged the Council to delay capping, because the amount of land needed for an ECF was currently unknown. If the Council chose to cap a portion of the landfill, he suggested capping 22 acres rather than 34 acres.

Herb Borock believed the entire landfill should be capped. The RFP solicited proposals for a regional facility, in which case the contractor should pay fair market value. Staff indicated the project would be located on the site; however, the RFP provided an option for export. The RFP was unclear concerning costs which the contractor would pay.

Jeb Eddy was interested in clean air and energy efficiency. He urged the Council not to cap the landfill in 2013 to keep options open.

Edith Eddy hoped the Council would consider any actions to decrease carbon dioxide emissions.

MINUTES

MOTION: Council Member Price moved, seconded by Council Member Kniss to: 1) approve the issuance of a Request for Proposal for development of an Energy-Compost Facility; 2) direct Staff to seek regulatory approval for postponing the remaining 51 acres of uncapped landfill when there will be a final decision of the remaining 10 acres, if any needed for the facility; and 3) direct Staff to research possibilities for an appeal and/or a legislative solution if the request for an extension of capping the landfill is denied by the regulatory agencies.

Council Member Price felt this approach was prudent, provided flexibility for planning scenarios, and provided time for rigorous research. Because costs for capping and recapping were significant, she could not support those options at this time. It was appropriate to defer action for one year in order to obtain additional information. Staff had not focused on a possible appeal. Legislators could assist the City with making a strong and effective case before regulatory agencies for approval of capping postponement.

Council Member Kniss suggested the Motion include a direction to Staff to stay within regulatory compliance, because fines were costly.

Mr. Bobel indicated fines could be as much as \$10,000.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add 4) direct Staff to remain within regulatory compliance.

Council Member Kniss felt the community wanted the Council to keep all options open. This was a chance for the State to support its goal of decreasing greenhouse gas emissions.

Council Member Klein suggested postponing the capping for a period of up to 15 months.

Mr. Keene felt the earlier discussion indicated construction would begin in mid-2014.

Council Member Klein did not want Staff to have to request an additional postponement if construction could not be completed in a year.

Council Member Kniss was agreeable if the time period had to be defined.

Council Member Price asked Council Member Klein if he wanted the 15-month period embedded in the Motion.

MINUTES

Council Member Klein answered yes.

Mr. Keene suggested the time period be 16 months rather than 15 months.

Council Member Klein agreed with the change to 16 months.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER after "Staff to seek regulatory approval for postponing" add "for a period of up to 16 months" and after "remaining 51 acres of uncapped landfill" delete "until 2014."

Council Member Klein believed voters wanted 10 acres preserved for an AD system. The extra costs of the compromise solution were unexpected. The City had a number of avenues to explore if the regulatory agencies denied the request for a postponement of capping.

Vice Mayor Shepherd believed incremental changes were needed to support this effort to cap landfills. She also favored not capping the entire landfill if that was a possibility.

Council Member Burt noted the Finance Committee recently considered a policy for energy purchase from a potential waste-to-energy facility. The rate for purchase of electricity from an ECF should be comparable to the CLEAN Program.

Council Member Holman inquired whether some of the costs to be borne by the City, as stated in the RFP, could be transferred to the contractor.

Mr. Bobel asked which costs Council Member Holman referred to.

Council Member Holman clarified the costs she questioned earlier in the discussion.

Mr. Bobel explained those costs would be charged to the project, and the contractor would add the costs to their costs. At the current time, contractors would utilize those costs to compute the tipping fee.

Council Member Holman asked how Staff determined the rental rate per acre.

Mr. Bobel reported Staff used the appraiser's rate for clean parkland. Because this land could not be used for light industrial, it was not appropriate to charge as though it could be used for light industrial.

MINUTES

Mr. Keene stated the Council could increase the rental amount, and then contractors could charge it back to the City.

Council Member Holman indicated those costs would affect the costs to the City. The public voted to undedicate 10 acres of parkland for an AD facility. The public did not vote to delay access to 51 acres. She opposed the Motion.

Mr. Keene noted Staff's recommendation included a concurrent award of a construction contract for a capping option. The Motion did not include that component. The Council had to consider the implications of regulatory agencies denying the City's request and implications to the timeframe for construction. Staff wanted to come to the Council earlier than April 2014 with the award of a construction contract in order to meet the construction season.

Mr. Bobel reported the City would not be in regulatory compliance if the Council deleted the provision for Staff to proceed with a construction contract and the regulatory agencies did not grant an extension in 2013. Regulatory compliance was the reason for Staff's recommendation of parallel tracks for an extension and a construction contract for capping.

Mayor Scharff inquired whether Staff suggested the Motion be amended.

Mr. Bobel suggested the Motion contain language similar to Staff's recommendation in order to maintain regulatory compliance. The Motion could include language of directing Staff to procure a construction contract to construct a cap in 2013. The Council would have three alternatives: do not follow through on the contract, cap the smaller acreage, or cap the larger acreage. That language could be included without precluding any of the options.

Council Member Price assumed that, once Staff had a decision from regulatory agencies, Staff would return to the Council for further discussion. She made comments earlier about the implications to the overall schedule. The original intent of the Motion was to assume a positive outcome.

Mr. Bobel explained the Motion introduced the possibility of a period of months where the City would be out of compliance.

Council Member Price inquired whether the Motion needed to include the back-up position.

MINUTES

Ms. Stump felt Staff was concerned about the amount of time needed to have a full conversation with State regulatory agencies and the short time remaining under the existing order. Perhaps Staff might be more comfortable if the Motion directed Staff to keep the Council apprised of regulatory compliance issues rather than Staff ensuring compliance.

Council Member Kniss asked if Staff would support a direction to inform the Council of compliance.

Council Member Klein suggested language for regulatory compliance was not needed. If Legislative intervention was needed, it would not occur quickly. The Council could not commit to the need for capping construction; therefore, Staff informing the Council of regulatory compliance was the best way forward.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER after "2) direct Staff to seek regulatory approval for postponing the" add "capping of the."

Mr. Keene suggested the language for Number 4 of the Motion be "all of this with the goal of remaining in regulatory compliance."

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add "4) and all of this with the goal of remaining in regulatory compliance."

Council Member Burt understood from Staff that the City would be out of regulatory compliance if the City received a denial and did not have a construction contract in place. He inquired whether Staff viewed a construction contract as an insurance policy for regulatory compliance.

Mr. Bobel explained having a construction contract in place would allow the City to proceed immediately with capping if a denial was issued.

Council Member Burt asked if Staff needed Council approval to issue a bid for construction of the cap.

Mr. Bobel indicated Staff sought authorization to issue a bid; however, Council authorization was not technically necessary. Because of the sensitivity of the matter, Staff felt it wise to obtain Council concurrence to issue a bid.

Council Member Burt inquired whether Staff needed Council approval to release a construction contract.

MINUTES

Mr. Bobel reported Staff needed Council approval to award a contract.

Mr. Keene reiterated Staff would release a bid with three alternatives. To be fair to potential bidders, the bid would include information that a contract may not be awarded. This change would allow parallel tracking of a construction contract with pursuit of regulatory approval.

Council Member Burt asked if the bid would include options for the three different scenarios.

Mr. Bobel answered yes. The scenarios were not to execute a contract, cap the 51 acres, or cap 34 acres.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to authorize Staff to issue a bid on the capping but not release the contract without approval of Council.

Council Member Kniss felt it appropriate to include the language.

Council Member Burt indicated Staff needed to take proactive steps.

Council Member Schmid felt the Council had not performed well in comparison to neighboring cities in exploring green solutions.

Council Member Berman stated Measure E set aside 10 acres for a possible ECF. The Council should ensure an ECF remained a possibility. He supported the Motion in order to obtain additional information and to maintain options.

RESTATED MOTION: Council Member Price moved, seconded by Council Member Kniss to: 1) approve the issuance of a Request for Proposal for development of an energy compost facility, 2) direct Staff to seek regulatory approval for postponing for a period of up to 16 months the capping of the remaining 51 acres of uncapped landfill for a period of up to 16 months when there will be a final decision of the remaining 10 acres, if any needed for the facility, and 3) direct Staff to research possibilities for an appeal and/or a legislative solution if the request for an extension of capping the landfill is denied by the regulatory agencies, 4) and all of this with the goal of remaining in regulatory compliance, 5) to authorize Staff to issue a bid on the capping but no release of the contract without approval of Council.

MOTION PASSED: 7-2 Holman and Schmid no

MINUTES

Council Member Kniss left the Council meeting at 10:00 P.M.

19. Approval of Pilot Residential Compostables Collection Program and Adjustment to Refuse Collection Frequency.

Phil Bobel, Assistant Director of Environmental Services reported the pilot program would apply to only one truck route or approximately 1/30 of the City. Key points were to decrease the amount of waste being sent to landfills, collect residential food scraps separately, and minimize program costs. The goals were to remove food scraps from garbage and landfills, and to reduce costs of the refuse program. Palo Alto would be the first city to try this concept; although, the concept had been discussed in other locations. The pilot program would simplify sorting for residents, because they would have two carts rather than three. The number of garbage truck trips would be reduced to zero in the pilot area.

Ron Arp, Manager Solid Waste explained the current waste cycle from pickup at residences to disposal at local facilities. Under the pilot program, all compostable materials would be collected in the green cart, and all other materials would be collected in the blue cart. Both carts would be collected weekly. The blue cart would collect recyclables, inert garbage, and bathroom and pet wastes. The green cart would collect yard trimmings, food scraps, and food soil paper. The last Waste Characterization Study indicated one quarter of black cart contents was truly garbage. The remaining portion was compostable or recyclable waste. The pilot program was chosen for its simplicity and convenience. The Finance Committee (FC) and the majority of residents supported the pilot program. The two cart system could offer some cost savings through elimination of separate garbage collection. The pilot route would consist of approximately 700 single family homes, which would be selected based on technical criteria. An outreach plan included a mailed notice to residents on the route, two meetings in March 2013, communication through newsletters, emails, neighborhood associations and Zero Waste block leaders, and distribution of a tool kit. Evaluation criteria would include cost, convenience, diversion rate, material quality, and reduction of greenhouse gas emissions. If approved, Staff would select the pilot area in late January 2013, conduct outreach meetings in February and March 2013, and begin the program in early April 2013 for a period of 12 months. Staff would conduct periodic surveys, audits, and assessments to adjust the program as needed. If significant problems occurred, then Staff would report to the Council. In mid-2014, Staff would present the Council with a report of results along with a recommendation to implement or not implement a City-wide program.

MINUTES

Herb Borock inquired about provisions to reopen the GreenWaste contract, timing for those actions, and whether GreenWaste could change revenue provisions if the pilot program was implemented City-wide.

Vice Mayor Shepherd stated the Finance Committee (Committee) provided direction to Staff rather than a recommendation for the Council. Staff presented two possibilities: keeping the black bin and infrequent collection. The Committee felt simplicity was important. Staff refined the pilot program and requested Council approval.

MOTION: Vice Mayor Shepherd moved, seconded by Mayor Scharff to approve and authorize Staff to implement a Pilot Residential Compostables Collection program for a one-year period in a small geographic area that will be evaluated and selected by Public Works Environmental Services Division Staff.

Council Member Schmid asked where the two carts were sorted.

Mr. Arp stated the blue cart would go to Z-Best in San Jose. The green cart would continue going to the SMaRT Station.

Council Member Schmid inquired whether those two facilities would increase their staff to separate the garbage collected in Palo Alto.

Mr. Arp indicated staff would not increase for the pilot program. The pilot program would provide the facilities with information of how many additional staff they would need if the pilot program was instituted City-wide.

Council Member Schmid asked if the City would receive an assessment of potential costs.

Mr. Arp answered yes.

Council Member Schmid inquired about the amount of garbage that would go to landfills.

Mr. Arp reported the amount of food-related compostables in garbage increased from 44 percent to 50 percent. If 25 percent of waste was true garbage, then the goal was to eliminate that 25 percent.

Council Member Schmid asked if the SMaRT Station would send waste to Z-Best and Kirby Canyon for anaerobic digestion.

MINUTES

Mr. Arp reported the SMaRT Station would accept the contents of black and green carts. Food scraps could be composted or utilized in the anaerobic digestion plant when it opened.

Council Member Holman questioned the need for a pilot program to determine costs.

Mr. Arp stated the percentage of waste removed from the black cart and placed in the green and blue carts was unknown. The two carts would have different tipping fees. GreenWaste initially estimated a reduction in garbage collections, but it did not have an exact amount.

Mr. Bobel explained that vendors had difficulty determining the manpower costs for separating bagged food waste. Vendors were reluctant to provide cost estimates until they actually tried the program. Secondly, Staff was uncertain how many residents in the pilot program would comply and how well they would comply. At the end of the year-long pilot program, Staff would be able to determine compliance, which would factor into the cost for the program.

Council Member Holman expressed concern about compliance with bagging wastes. She inquired whether the prior single stream versus dual stream discussion involved a dual compartment cart or two separate carts.

Mr. Bobel stated the City never had dual compartment carts.

Council Member Holman inquired whether a dual compartment cart would facilitate the separation of wastes.

Mr. Arp noted GreenWaste considered dual compartment carts. However, the City would have to invest in new trucks and determine how to handle the different carts. In order to meet zero waste goals, Staff felt segregation by bags was better than by cart.

Mr. Bobel stated the separation by bags was the only way to have a pilot program without changing technology. If the pilot program was implemented City-wide, Staff would review technology.

Council Member Holman clarified that a cart insert could be used rather than a dual compartment cart. She asked if Staff considered a more intensive composting program for the community.

Mr. Arp stated the City offered classes on backyard composting; however, there was little interest.

MINUTES

Council Member Holman did not feel the campaign for composting was robust.

Mr. Bobel said Staff could increase the messaging on home composting.

MOTION PASSED: 8-0 Kniss absent

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Berman said he was elected as a delegate to the California Democratic Party Convention in 2013-2014.

Council Member Schmid noted that Former Mayor Sandy Eakins passed away on January 2, 2013. She was engaged in youth activities and had a background in art history. She was on the Planning and Transportation Commission, Public Art Commission, Comprehensive Planning Committee and the City Council.

ADJOURNMENT: The meeting was adjourned the meeting at 10:27 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.