CITY OF PALO ALTO CITY COUNCIL DRAFT MINUTES

Special Meeting
February 4, 2013

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:08 P.M.

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

Absent:

STUDY SESSION

1. City of Palo Alto Performance Report for FY 2012 (Service Efforts and Accomplishments), The National Citizen Survey 2012, and Citizen Centric Report for Fiscal Year 2012.

The Office of the City Auditor presented the City of Palo Alto Performance Report (formerly Service Efforts and Accomplishments) for Fiscal Year 2012. This was the 11th annual Performance Report for the City of Palo Alto. The report incorporated results from the annual National Citizen Survey™ conducted through the National Research Center. Performance reporting is intended to supplement the City's financial reports and statements with additional performance data, trends, and comparisons. The goal was to provide the City Council, Staff, and the public with an independent, impartial assessment of past performance to help inform future decisions. The report used financial data obtained from various City documents as well as directly from departments. Expenditure and revenue data was primarily based on Fiscal Year 2012 Actuals from the City's budget. An alternative view of the data, based on the City's Comprehensive Annual Financial Report, can be seen at a high level in the Citizen Centric Report.

CITY MANAGER COMMENTS

James Keene, City Manager announced the City successfully deployed a new, redesigned intranet on February 1, 2013. The intranet used the same software as the external website. The City's Transportation Staff implemented signage and roadway marking improvements at the intersection of Newell Road and Edgewood Drive in response to concerns related to traffic control compliance, parking, and pedestrian visibility. The Police Department was issuing warnings to vehicles parked in the new no-parking areas, and would begin issuing formal citations the following week. In the spring, Staff would consider focused traffic calming projects on Newell Road between Edgewood Drive and Channing Avenue. As part of the Newell Road Bridge Project, the City completed a scope of work for a traffic impact analysis of the project. Neighbors Abroad would celebrate 50 years of Sister City friendship on Saturday, February 9, 2013, from 2:00 P.M. to 5:00 P.M., at the Lucie Stern Community Center Ballroom. At the Council Retreat on February 2, 2013, the Council adopted Priorities of Infrastructure Strategy and Investment, The Future of Downtown and California Avenue with a focus on transportation, parking, urban design and livability, and Technology and the Connected City.

ORAL COMMUNICATIONS

Stephanie Munoz objected to the State telling cities they had to have 2,000 more housing units in a built-out city. The City was now proposing to evict residents of the Buena Vista Mobile Home Park. The Council should reconsider the proposal for rezoning the Buena Vista Mobile Home Park, negotiate with the State regarding more housing, and offer developers the option to build high rises on part of the property.

Wynn Grcich spoke about Dr. Wynn Parker's interview with Lauren Morrette on February 3, 2008, regarding depleted uranium in drinking water. Chlorine was directly related to breast cancer and leukemia.

CONSENT CALENDAR

MOTION: Council Member Kniss moved, seconded by Council Member Price to approve Agenda Item Numbers 2 and 3.

2. Budget Amendment Ordinance 5184 to Close FY 2012 Budget and Authorize Reappropriations into FY 2013 Budget; Close Completed Capital Improvement Projects and Transfer Remaining Balances to Reserves; Approve the City's FY 2012 Comprehensive Annual Financial Report (CAFR).

3. Finance Committee Recommendation to Accept the Macias Gini & O'Conell's (LLP) Financial Statements and Management Letter.

MOTION PASSED: 9-0

ACTION ITEMS

4. Response to Colleague's Memo: Health Care.

Kathy Shen, Human Resources Director reported this report was the third in a series to respond to Council questions regarding attracting and retaining the best employees while having a sustainable package of pension and healthcare benefits. Both pension and healthcare benefits were provided through the California Public Employees' Retirement System (CalPERS). CalPERS' rules restrained cities from some actions. The City was facing an unfunded liability. For healthcare benefits, the City had some flexibility to craft benefits. Options for alternatives in the insurance market were limited, because the City had a large portion of retirees and a large percentage of retirees were pre-Medicare. She read that healthcare would increase at a rate of inflation plus 2-5 percent. That was a problem for both the City and retirees.

Molly Stump, City Attorney stated the Staff Report suggested the Council entertain a Motion regarding the issue of a policy statement on vesting. After additional consideration and because of the importance of the topic, Staff recommended a codified Ordinance rather than a Motion. The Council could benefit from a more detailed briefing on the question of vesting and its application to healthcare. Staff recommended the Council delete the last sentence of the first paragraph of the draft Motion and hold the issue of vesting for a Closed Session. The law on vesting in the health context was complex and rapidly developing. A number of communications from labor indicated they would consider litigation against the City if they moved in a direction that labor did not agree with. It was appropriate for the Council to receive a briefing with respect to those issues in a Closed Session. After that, if the Council wished to entertain a policy statement on vesting, Staff recommended the Council direct Staff to bring that forward.

James Keene, City Manager explained Council Members requested an opportunity to have an in-depth discussion with the City Attorney in Closed Session. Staff would formally respond to letters from Labor Unions regarding issues. An at-places memo responded to Council Member Schmid's questions.

Stephanie Munoz urged the Council not to have a Closed Session regarding healthcare benefits. Compensation for City employees was excessive. The Council must not change health benefits. A mutual insurance plan was the only method to obtain lower insurance costs.

Vice Mayor Shepherd expressed concern that healthcare costs would continue to rise at an estimated 6-7 percent in 2013, and inquired how the projection was obtained.

Lalo Perez, Director of Administrative Services noted the average came in at slightly more than 9 percent.

Vice Mayor Shepherd indicated the cost was a greater concern.

Mr. Perez explained the average pertained to plans available for non-Medicare participants and included Blue Shield, Kaiser, First Choice, and a few variations of Blue Shield. Taking into account the differing increases, the average for plans was slightly more than 9 percent.

Vice Mayor Shepherd asked if the City had to follow the CalPERS projection of 6-7 percent.

Mr. Perez reported Staff embedded the rates in the Budget as they learned of the rates. For example, in June 2012 CalPERS provided the increased rates. Staff made those adjustments in the Budget and used the actual rate. In terms of the Long Range Financial Forecast (LRFF), the Council instructed Staff to use 10 percent each year.

Vice Mayor Shepherd suggested that information be included in the Report to explain why the Council did not have confidence in the 6-7 percent increase.

Ms. Shen indicated the 6-7 percent increase was a United States figure. California had lower healthcare inflation than the remainder of the nation.

Mr. Keene stated the annual healthcare cost increases were significant numbers. In a good year, City revenues increased by 3-4 percent. These costs placed pressure on other areas of the City Budget.

Liliana Salazar, Senior Vice President of Compliance, Wells Fargo Insurance Services explained some of the trend factors in the prior year were higher because of health reform. The Affordable Care Act (ACA) mandated coverage of many provisions; therefore, costs increased as CalPERS deemed all plans to be non-grandfathered plans. The nationwide trend factor was anticipated to be 9 percent at the lowest level of the scale. Additional mandates to be presented in 2014 would continue to increase costs. Ten percent was realistic.

Vice Mayor Shepherd understood funds would be received from the federal government under ACA, and inquired whether CalPERS could access those funds.

Ms. Salazar reported the Retirement Drug Subsidy (RDS) program was one of the reasons why CalPERS was able to provide some sort of reprieve for the employer, in that CalPERS was able to subsidize part of the cost. The RDS and also the retiree healthcare reimbursement program would no longer exist. At least from the retiree healthcare side, CalPERS chose not to pursue the RDS program, and it was treating plans as Medicare Part D plans. There would be no reprieve for employers in that area any longer. With respect to the stop-loss plan for retiree healthcare programs, the assets that had been assigned under the ACA were no longer there. The type of reprieve that employers experienced in the past would not be available going forward.

Vice Mayor Shepherd inquired how that would affect rates.

Ms. Salazar stated potentially the rates would increase.

Vice Mayor Shepherd asked if the lack of a reprieve was part of the reason for rate increases.

Ms. Salazar answered yes.

Vice Mayor Shepherd inquired whether CalPERS was considering the plans as Medicare plans.

Ms. Salazar responded yes. CalPERS chose to become a Medicare Part D provider, so the reprieve was no longer built into premiums. CalPERS was using a different strategy because of the tax impact on benefits.

Vice Mayor Shepherd inquired whether the the pool of public employees was decreasing.

Ms. Salazar reported CalPERS had seen an increase in retiree headcount. That was conducive to a reduction in premium rates.

Vice Mayor Shepherd stated the pool remained at the same level.

Ms. Salazar agreed. The issue was the transition from those who were contributing to those who were receiving. For someone under the age of 65 and not entitled to Medicare, the delivery of care to that individual tended to be 3:1. It cost three times more to pay for the care of that early retiree than the cost of insuring an active employee. An increasing ratio would be another factor for CalPERS to consider.

Vice Mayor Shepherd requested Ms. Salazar's recommendations for the City.

Ms. Salazar encouraged the Council to consider potential changes to the current structure pertaining to the delivery of care to the active population and the retiree population. Various options and procedures were available for the Council to pursue. Many agencies in California were preparing to address cost increases to enable them to be financially stable for years to come.

Vice Mayor Shepherd inquired what she meant by changes in structure.

Ms. Salazar reported the City's specific provision of employee contribution costs no greater than 10 percent of the actual premium cost could be changed. Most agencies were transitioning from a defined structure to a flex plan structure that would create a defined contribution model where the employee would be able to access a particular dollar amount to purchase benefits based on the employee's benefit needs. For retirees, available approaches would enable individuals to maximize access to health insurance exchanges. Insurance exchanges would go live on October 1, 2013 with coverage effective January 1, 2014.

Vice Mayor Shepherd inquired about Ms. Salazar's relationship with employees.

Ms. Salazar explained she would educate employees on the various options available to them and hold an education forum.

Vice Mayor Shepherd asked if her approach would be informational rather than simply listening to employee interests.

Ms. Salazar indicated focus groups could take place where employee interests were heard and recorded.

Ms. Salazar stated an employee benefits attorney she worked with at many agencies wanted to address existing healthcare needs for active employees and retirees.

Council Member Kniss requested Ms. Salazar address the potential savings provided by ACA over the long term.

Ms. Salazar reported projections provided by the Congressional Budget Office (CBO) anticipated savings in the long term. However, in terms of existing healthcare costs, the ACA actually increased costs to both the employer and the consumer. Based on new mandates, the CBO anticipated future increases could range between 2-3 percent within a 12-month period. In the near future, healthcare costs were not anticipated to decrease. There were concerns about affordability for individuals pursuing coverage from an individual public exchange.

Council Member Kniss noted a majority of support for ACA was based on the belief that as people obtained more healthcare and became healthier, costs would decrease in the long term. A number of cities throughout the country embarked on healthcare programs, such as wellness plans, with employees to considerably decrease healthcare costs.

Ms. Shen stated one limitation of the CalPERS health plan was that the City could not obtain health information from CalPERS regarding employees' health levels. It would be difficult to implement a wellness plan because of that.

Council Member Kniss suggested the Council consider a wellness plan for a number of reasons.

Mr. Keene stated Staff planned to develop wellness programs for the benefit of employees regardless of whether or not the City could capture direct cost savings through a healthcare provider. One of the recommendations was to explore a broader range of healthcare plans and products that could be available.

Council Member Kniss did not know how to develop a wellness plan; however, it was a promising area and would make a difference for employees and costs.

Ms. Shen reported Staff would work with the League of California Cities, who had a Healthy Cities group to diagnose and create some wellness plans.

Ms. Salazar explained the City would never understand the kind of repercussions of implementing a wellness program and would never have access to information indicating the success or failure of a wellness program, because of CalPERS limitations. The City could maximize the impact of a wellness program through a decrease in absenteeism.

Council Member Price suggested the City could obtain health information from employees who volunteered for wellness plans rather than obtaining the information from CalPERS.

Ms. Shen agreed. The Police Department had a wellness program that partnered with a local health provider for a total health assessment and prescription of diet and exercise regimens. In some instances, the health assessment identified chronic conditions that the individual was not aware of.

Council Member Price inquired whether CalPERS was considering different kinds of plans and providing more variety in plans.

Ms. Salazar reported one of CalPERS' main concerns was the need to cover a large number of early retirees under the same terms and conditions as active employees. One of the greatest requests agencies submitted to CalPERS was to create a high deductible health plan; however, CalPERS did not support that concept. She hoped to have some sort of communication from CalPERS to further define plans of the future.

Council Member Price asked what accounted for lower healthcare costs for California versus the remainder of the country.

Ms. Salazar indicated some of the reasons were a relatively younger population, access to a larger number of providers, and a different mindset regarding lifestyle.

Council Member Klein noted line 12a on W-2 forms provided the cost to employers of medical insurance for the year. Line 12a did not impact the amount of taxes owed.

Ms. Shen reported the City recently provided total compensation statements to all Palo Alto employees. It provided graphs and charts about the value of benefits on an individual basis. Staff intended to do that every year.

Council Member Klein inquired whether the letter to CalPERS regarding definition of income had been sent.

Ms. Stump stated the draft letter was in process.

Mr. Keene noted other cities were also discussing how far reaching the definition was.

Council Member Klein inquired whether other cities would join Palo Alto in the letter.

Mr. Keene had not considered that. It was a big topic of discussion. Staff wanted to ensure comments in the letter aligned with experts' comments.

Council Member Klein requested Ms. Salazar explain the reportedly large amount of funds that would flow to the State under ACA, and how that might trickle down to the local level.

Ms. Salazar reported the California Healthy Families program would be replaced by Medicaid expansion on January 1, 2014. That change in programs could potentially save the State of California a couple billion dollars. Again, the issue was the large number of individuals who would not be able to afford healthcare coverage, even through an insurance exchange, because of the estimated cost of coverage. Anticipated savings from Medicaid expansion could be achieved, because the federal government would assume potentially 100 percent of the costs of Medicaid expansion from January 1, 2014 through December 31, 2016. On January 1, 2017, funding would decrease to 90 percent.

Council Member Klein noted another potential beneficiary was hospitals.

Ms. Salazar added insurance carriers. Because Medicaid reimbursement would expand to a larger population, hospitals would target a larger number of patients in the same way that insurance carriers would insure a larger number of individuals.

Council Member Klein inquired about the impact on Valley Medical, which was supported with tax dollars.

Ms. Salazar explained Valley Medical would potentially benefit financially, assuming that reimbursements were paid on a timely basis. Valley Medical's ability to support a larger demand placed on infrastructure would be another discussion.

Council Member Klein asked when Staff expected to have a response to the Union letters from the Union

Mr. Keene reported by the middle of the following week Staff would have the letters drafted.

Council Member Klein inquired whether Staff considered compiling a list of changes CalPERS or the Legislature needed to make to CalPERS limitations.

Ms. Shen indicated Staff's approach was to compile options under the current CalPERS rules. Theoretically, the City could exit CalPERS health and purchase insurance on the market.

Council Member Klein stated the Report persuaded him of the impracticality of that option.

Ms. Shen reported Staff wished to have Wells Fargo advise them so they could return to the Council with options. Other cities in the Bay Area had crafted solutions.

Mr. Keene noted one recommendation for review was having different types of plans available through CalPERS. The major thrust of managing costs in relation to the benefit levels the City wished to provide was review of employee and employer share of costs and how the City funded that. The City had more flexibility to negotiate with employee groups and with regard to a potential change in benefits and pay. Examples from other jurisdictions in the area would demonstrate the number of strategies available to the City.

Council Member Klein requested a preview of those options.

Ms. Salazar proposed a transition to a defined contribution model, which would enable the City to plan and forecast expenses for healthcare. Also, the employee population could select the plans that met their benefit needs. From a retiree healthcare standpoint, she recommended the City reconsider its current retiree healthcare offering. Various alternatives could follow a defined contribution model where the employee would receive a benefit, and that benefit would increase based on the years of service with the City of Palo Alto. There were various ways of achieving those recommendations. A defined contribution was preferred as it was tangible and easier to account and plan for.

Council Member Klein asked how much of the City's total insurance coverage bill was for family coverage, versus the employee only.

Mr. Keene clarified that Council Member Klein meant not the per family cost, but the share of the City's total expenditure for individual coverage versus family coverage.

Council Member Klein stated Ms. Shen said this was something good for potential employees.

Mr. Perez had numbers from the last actuarial report. Currently, retirees under the age of 65 numbered 377, of which 67 were on a family plan. The Blue Shield plan covered 27 retirees under 65. A couple hundred thousand dollars was the difference between what the City paid for the single 53 retirees under age 65 in Blue Shield and the 27 retirees under 65 for the Blue Shield plan.

Mr. Keene said he would provide a full report.

Council Member Klein wanted figures for active employees as well as retirees.

Mr. Perez said he would provide that; in terms of over age 65, the cost was much lower.

Council Member Klein expressed concerns about the Council advising Staff as to what inflation rates to use. He was uncomfortable with Council direction to Staff to use 10 percent for the inflation rate on pensions. The LRFF was not the Council's document; it was Staff's document and the Council should not second guess them. On the cost side of employee compensation, he noted four major variables the Council could impact: salary, pension which seemed to be off the table, healthcare, and reducing the number of employees.

Mr. Keene agreed those were factors on the expense side.

Council Member Klein wanted to focus on the expense side of things.

Ms. Shen also agreed. Providing services through fewer employees or public-private partnerships would be another method short of actually reducing Staff.

Council Member Klein indicated that was the same as having fewer employees.

Mr. Keene reported the competition between those choices would be determined by management and policy decisions. Remaining on a defined benefit healthcare plan in that trajectory could place downward pressure on salaries or to reduce the number of employees. The Council would have to confront this as an equity issue and a service level issue.

Council Member Schmid understood that the pension obligation was very different from the health obligation. The pension was allocated to the cities in which the employee worked. If an employee worked for one city for 20 years and another city for 20 years, the two cities shared the liability for future pensions.

Mr. Keene agreed. CalPERS tracked the bill that was due for each city for that individual and sent the resulting bill to each jurisdiction.

Council Member Schmid explained an active employee earned credits o for his retiree benefit, and the City made a payment now for the obligation in the future. If investment returns were not sufficient to pay the benefits promised, CalPERS would return to the City to pay the additional amount to cover the gap.

Mr. Keene agreed. When the City received the bill, it had to close the gap one way or another. The retired employee did not bear the impact of an inaccurate cost estimate.

Council Member Schmid noted CalPERS was only responsible for providing the bill to the City for the gap amount. The health was treated differently. The City paid health premiums for each active employee to cover this year's health needs. At the same time, the City also wrote a check for all the retirees' health premiums during that year. He asked whether CalPERS calculated a rate for active employees that were the same rate for people in their late 50s or early 60s.

Ms. Salazar responded yes.

Council Member Schmid stated active employees, who were younger and used the healthcare system less, paid a premium that subsidized retired employees. There were two forms of subsidy for retirees: the portion of active employees' premiums and the City's payment of retiree premiums. Over the past five years, the City had a decline in General Fund Staff of 10 percent. The General Fund Staff, over that same five years, had an increase in benefit payments of 41 percent. The Council reduced employees to save money, but paid more money for benefits. If the Council met efficiencies by reducing employees, it increased per employee costs. The LRFF indicated revenues over the next ten years would increase by 52 percent, benefit costs would increase by 96 percent, and employee salaries would increase by 17 percent. Employees who worked for other CalPERS cities could work for Palo Alto in their final few years before retirement, and Palo Alto had to cover their full retirement costs. To lower retirement costs, the City should have a nice distribution of employees. Of employees between the ages of 50 and 54, 38 percent worked for the City for less than 10 years and 61 percent for less than 15 years. Of employees between the ages of 55 and 59, 33 percent worked for the City less than 10 years and 66 percent for less than

15 years. He asked why the City did not hire younger workers. The City's financial outlook would be much better, and these issues would be much less prominent.

Ms. Shen reported that was a matter of demographics. Staff predicted in ten years, the City's workforce would turn over 50 percent; therefore, the City would have younger workers.

Council Member Schmid noted the workforce had retired for the previous ten years, and those employees were replaced with workers between ages 35 and 45. The City accepted a financial liability for the future by hiring those age groups without considering the cost.

Mr. Keene agreed with Council Member Schmid's concern, and suggested reviewing more recent data to determine the age issue. Staff also attempted to achieve other goals when hiring employees. He believed approximately 17 percent of the workforce were in the second tier pension plan since 2010, which was a significant turnover number.

Mr. Perez reported CalPERS provided the average entry age for the City's program. For Miscellaneous Employees, the average entry age was 34.9; for Safety Employees, it was 28.7 years.

Ms. Salazar explained many employees in their last years of service were looking for the most attractive employer to retire from. Many employers were trying to minimize that financial impact, because it was a lifetime commitment to this employee and his spouse. Many agencies were reviewing scenarios and programs to enable the employee to prefund their own retiree healthcare coverage through a retiree healthcare trust. Employees could use the assets in the trust to move from one employer to the next rather than pursuing the most attractive employer.

Council Member Schmid indicated that program did not fit in the CalPERS insurance program.

Ms. Salazar reported it was part of CalPERS.

Council Member Schmid was disappointed more employee representatives and employees were not present to share their concerns. He expressed concern that potential employees would not want to be a City employee after reviewing the City's financial information. A defined contribution plan was not part of the legal documents provided by CalPERS. He asked if Ms. Salazar was suggesting reforming CalPERS health insurance program.

Ms. Salazar responded no, because CalPERS recognized a defined contribution model. CalPERS did not deem that practice to be questionable or illegal, and many agencies in California had adopted the model throughout the years. CalPERS encouraged the creation of a defined contribution model.

Council Member Schmid felt it would be interesting to see suggested models, and requested the status of the 90/10 or 80/20 split.

Ms. Stump indicated Staff anticipated the conversation would be conceptual. A potential direction was captured by Ms. Salazar's comments regarding the difference between a defined benefit and a defined contribution structure for funding healthcare. Ms. Salazar described a number of examples of different benefit structures, and all were CalPERS agencies. Those structures could work within the CalPERS health system. From CalPERS' perspective, it provided quite a bit more flexibility than the pension system.

Council Member Schmid noted the Council's document did not outline some alternatives, and suggested Staff list the options available within the CalPERS insurance.

Mr. Keene felt Staff could return with that information. The City and its employees were searching for the same thing. Employees wanted to know what costs would be for a given benefit, particularly once they retired. The City knew it had potential rising costs, and wanted some structure and predictability for those costs. The simplest way to do that was to consider moving to a defined contribution amount. Each year, the Council could set that amount based upon how much money was available in the Budget. There could be a 90/10 subsidy through a defined contribution approach. In a different year, the subsidy could be an 80/20 contribution. Staff had not settled on their recommendation, because other factors needed to be part of the larger financial planning and Budget decisions. Staff could provide supplemental information regarding options.

Council Member Schmid believed both the City and Staff were interested in a healthy, functioning City Budget. The City's future and the retirees' future depended on healthy finances.

Mr. Keene reported the new Governmental Accounting Standards Board (GASB) rules effective in 2014 would require posting of these liabilities on the City's balance sheet. Those rules did not require the City fund those liabilities. Over the next ten years, GASB would have more regulations concerning cities' responses to plans. Concern about the sustainability of the benefits the City could provide employees long term was an issue.

Council Member Burt appreciated Ms. Salazar steering the Council to the issue of employees searching for employers with attractive retiree benefits. That issue became a real cost for the City. He inquired whether Staff could provide a comparison of Palo Alto and other cities that had lower medical retiree benefits in the past, indicate how that shifted the number of retirees for whom the City was responsible for paying benefits, and the dollar amount for that shift. The actuarial analysis was different from the City's usual calculation. The analysis indicated how the City attracted long-term, high-cost employees. With regard to claims made in labor groups' letters, he had difficulty considering benefit alternatives prior to having responses to those claims. He asked if Staff could generally respond to some of the claims, and referenced claims made in Service Employees International Union's (SEIU) letter.

Mr. Keene reported Staff had done little more than discuss an array of avenues that the City could review in determining how to fund its healthcare benefits for active and retired employees going forward. Staff certainly talked very clearly to employees that they thought a flexible benefits plan was a viable option along with other options. He told employees the City had rising healthcare costs and would have to find a method to fund them and, if costs continued to rise, the City would not be able to maintain the same benefits. He was not aware of any foundation for the numbers cited in the SEIU letter.

Council Member Burt inquired whether there was any scenario discussed with employees or considered under which the retirement medical benefit for long-term employees would be cut by more than 90 percent while leaving the benefit intact for newer employees.

Ms. Shen stated Staff had not discussed any type of specific arrangement. Staff had talked in broad, general terms. She was not familiar with his reference.

Council Member Burt indicated he was citing the January 31 letter from Evelyn Gutierrez.

Mr. Keene had not had a conversation that approximated anything like that with Staff.

Council Member Burt felt there was no point in asking follow-up questions as the remaining claims were based on that premise. He wished to understand the basis for the Unions' claims, and encouraged Staff to ask that question when responding.

Mr. Keene said Staff would do that. The Council was having a public discussion similar to any discussion with employees about the realities of the City's financial situation, rising costs, and the need to identify alternatives. Staff had to pursue discussion of any alternatives with all represented employees in fair bargaining. The Council wanted Staff to manage costs such that costs were affordable, and wanted employees and retirees to share in those costs. Those were the only directives. Staff could entertain different alternatives with the understanding that the Council wanted those goals accepted and used to frame the conversation. The main issue Staff encountered was a desire not to have retirees make any contribution ever in the future.

Council Member Berman believed the conversation helped him better understand employee total compensation and the unforeseen consequences of past decisions. The Council was constrained by outside factors. He hoped employees and the public gained a better understanding and appreciation for the City's current situation. He inquired whether Staff had a sense of whether employees would be interested in a high deductible plan.

Ms. Shen reported Staff did not specifically survey on a high deductible plan. At the CalPERS conference last year, there was a lot of discussion about CalPERS offering that plan. The plan would reduce the employee cost, especially for younger employees. That would be a good alternative as long as the City allowed employees to opt into different types of plans and to change that as circumstances warranted. CalPERS indicated it was reviewing the possibility of a high deductible plan.

Council Member Berman inquired about the age range for "younger" employees.

Ms. Shen indicated early 20s into 30s. She wanted the City to have more college recruiting for employees, and agreed with Council Member Schmid's comment regarding the lack of young employees.

Council Member Berman requested a ballpark estimate of savings a younger employee could achieve with a high deductible plan versus the current lowest cost plan.

Ms. Salazar could only hazard a wild guess, but could share estimates from the private sector. Because CalPERS was the second largest purchaser of healthcare in the U.S. and the largest purchaser of healthcare in California, the demographics varied. Employees who pursued high deductible health plans were both young and middle-aged, because it was a financial advantage. Depending on the increase in the deductible and the type of underlying co-insurance and copays, $2,000 for single and $4,000 for family, the decrease could be between 20-30 percent. Risk was also the key.

Council Member Berman inquired whether the League of California Cities or a loose coalition of cities was applying pressure to CalPERS to determine if CalPERS was acting behind the scenes.

Ms. Stump recalled the Council requested Staff raise this issue and others with Assemblyman Gordon. Assemblyman Gordon stated he expected cities to have those conversations amongst themselves, begin to build coalitions, and return in 2014 or later to develop ideas further.

Council Member Berman believed every city should be interested in this type of option as there did not appear to be a downside.

Council Member Holman inquired whether Staff had identified cities with whom the City could partner to provide a stronger message.

Mr. Keene believed it would be easy to identify cities that shared Palo Alto's interest in the future. Palo Alto acting alone legislatively would not have much impact. Working with the League of California Cities would be a key issue. Cities across the State were discussing these issues.

Council Member Holman requested Staff's opinion of the possibility of lobbying CalPERS for changes.

Ms. Shen recalled that approximately five years ago, the City attempted to pool with other South Bay cities to create a collective for healthcare as an alternative to CalPERS. That effort was not successful at that time, because the City already had too many retirees to purchase insurance on the market.

Vice Mayor Shepherd reported the League of California Cities had a legislative group, and that group worked with pension legislation the previous year.

Mayor Scharff noted the discussion covered specific examples other jurisdictions utilized to reign in healthcare costs and moving to a defined contribution. He requested Staff specifically outline other jurisdictions' actions.

Ms. Salazar inquired whether Mayor Scharff preferred the name of the agency or a general reference regarding actions.

Mayor Scharff wanted to know the name of the agency, but was fine if she was uncomfortable providing the names.

Ms. Salazar stated some information was public knowledge. One agency in financial distress reached out to Wells Fargo and requested advice regarding methods to minimize healthcare costs. The agency implemented a flex plan to create a defined contribution model for active employees. The agency could pay a large portion of the premium of one particular plan offered by CalPERS and that would be available to the majority of employees. The agency implemented a 3 percent inflationary rider on the defined contribution. They also created a different tier of retiree healthcare benefit allowance for new employees. Those employees would only receive from that particular agency a minimum contribution, which was required by CalPERS. They would have an equal contribution for active and retired employees, in which case they minimized their healthcare costs in the future as new employees would only receive the minimum contribution at retirement from that agency. At the same time, they chose to offer a retiree healthcare trust, which enabled the employee population to prefund the retiree healthcare costs through an automatic salary deduction. The agency matched up to $2,000 a year. Another agency implemented a defined contribution model. They had a plan similar to Palo Alto's, rescinded the CalPERS vesting schedule, and implemented their own retiree healthcare graded schedule

Mayor Scharff inquired whether the City could have its own vesting schedule rather than using the CalPERS schedule.

Ms. Salazar answered no. The City could not have a vesting schedule outside of the CalPERS. The agency offered a longevity stipend. Based on the years of service with that agency, the employee would be eligible to receive a defined contribution at retirement which would be deposited into a trust. The retiree would use trust funds for qualified healthcare expenses as defined under Section 213(d) of the IRS Code.

Ms. Stump inquired whether the City could change the benefit schedule contained in the Statute, Section 22893. However, the City could exit the plan and use CalPERS rules to create its own version negotiated with employees.

Ms. Salazar responded yes. It would not use the term vesting schedule, because it was not a vesting schedule. It would recognize years of service in the form of a longevity stipend or a graded retirement benefit.

Mr. Keene explained Section 22893 was the CalPERS term for the second tier plan implemented by the City between 2004 and 2006. The Council received labor correspondence about the second tier plan. The City did not need to maintain that existing program, and could restructure it in some way so as to be more aligned with Council goals.

Ms. Salazar agreed with Mr. Keene's statements. Based on current demographics, another agency pursued a third option to leave CalPERS. As it left CalPERS, it had no particular obligation to make a particular contribution towards retiree healthcare. The agency implemented two-tier plans, recognizing a particular dollar amount allowance for retiree healthcare upon an employee's retirement. For new employees under the new tier, the agency created a retiree healthcare trust to which the employee contributed and the employer matched the dollar amount. The amount increased based on years of service. At time of retirement, the employee vested on the employer contribution to the trust. If an employee did not retire from the agency, the funds reverted to the agency.

MOTION: Mayor Scharff moved, seconded by Vice Mayor Shepherd: 1) for Staff to review and summarize options for health benefit plans that may be considered for negotiation with represented employees and discussion with management employees, including flexible benefit plans; 2) City Staff should also review the continuing viability of the California Government Code Section 22893, a 20-year graduated benefit retiree health plan that is currently in place for employees who began City employment as of 2004-2006, depending on bargaining unit, returning with a recommendation to continue in the plan, amend or eliminate the plan; 3) for City Staff to review City benefit plans, policies and procedures for compliance with the Patient Protection and Affordable Care Act (PPACA), bringing back recommendations to Council for required action; and, 4) that staff identify best wellness practices and health plan benefits that emphasize, teach and reward wellness.

Mayor Scharff appreciated the outline of options for healthcare benefits. The Motion directed Staff to summarize Ms. Salazar's comments, to explain the vesting schedule, and to explore options without being prescriptive to amending, eliminating or continuing with the plan. He would support a wellness plan. It was unfortunate that CalPERS had disincentives to create wellness plans.

Vice Mayor Shepherd requested the large amount of data be presented incrementally for ease of understanding.

Council Member Holman was unclear whether Staff suggested the Council not take action at the current time.

Ms. Stump explained her suggestion was that the Council not take action on the specific component of setting a policy or intent statement on vesting. The Council and Staff would revisit that issue at a later time.

Council Member Holman supported the Motion, and suggested Staff create charts or grids regarding options when this Item returned to the Council.

Mr. Keene agreed, and Staff discussed doing that. The process would be iterative in providing information to the Council and to employees.

Council Member Holman felt identification of charts would be critical. Information about options would not be intended as solutions.

Council Member Klein noted the Council had not discussed the value of the City's trust with CalPERS, and requested Staff provide that information.

Mr. Keene believed the value was $54 million, with a $114 million unfunded liability.

Council Member Klein hoped Staff would also discuss the impact, if any, on the trust. Perhaps the Council could use trust funds to offset the cost of exiting CalPERS, or did the trust lock the City into CalPERS.

Council Member Price supported the Motion, and was pleased the language regarding vesting was removed from the Motion. The Council needed a better understanding of vesting law. She asked Staff to describe next steps based on conversations with employee groups.

Ms. Shen reported Staff was formulating possible next steps. Engaging with employees without direct dealing was a balancing act. She consulted with the City Attorney regarding procedures for employee forums to preclude the possibility of direct dealing. Staff could provide surveys, hold focus groups, and hold a Council meeting in a less formal location for employees and representatives.

Mr. Keene believed represented employees expected to resolve concerns about changes in healthcare benefits at the bargaining table. The question was how to hold informational discussions regarding possibilities and alternatives. The difficult conversation would concern sacrifices or greater contributions by employees. Conversations in the different forums were structured around avoiding any cost contribution by retirees. The concept for an engagement exercise was an open and full discussion by each side. Staff was committed to setting up any forum they could in order to share information and ideas. Some complaints about Staff sessions were unwarranted and unfounded. He would be the leader of Staff in reciprocating with employees.

Mayor Scharff explained the length of time devoted to the Agenda Item was based on three employee groups and additional employees speaking to the Council.

Council Member Berman supported the Motion and wanted a more in-depth discussion of the vesting issue. He agreed with Council Member Price's comments regarding engagement of employees. He was disappointed that employee groups decided not to speak to the Council, and wished to attend forums to hear comments.

Council Member Burt appreciated the Mayor's clarification regarding the lack of employee groups in attendance. The Council's intention was to have an open dialog regarding long-term problems and strategies, not a negotiation. He presumed he was not the only Council Member to receive requests to meet one-on-one with employee groups. He did not understand why employee groups requested one-on-one meetings, but would not participate in the public meetings.

Ms. Shen indicated Kevin McNally, head of the Fire group, was present.

MOTION PASSED: 9-0

5. Colleagues Memo From Council Members Klein and Schmid Regarding Annual Council Reorganization Meeting.

Council Member Klein reported twice in the last 10-12 years, the City came close to having an emergency in early January. The flood in 1998 occurred on December 28, and the third heaviest rain storm in the history of San Francisquito Creek occurred on December 24 or 25, 2012. If there was a need for an emergency Council meeting on January 1 or 2, in many years the Council would not have a quorum. Council Members who were reelected needed to take a new oath before they could act in the new term. If Council Members did not take their oath until January 6, 7 or 8, they were not authorized to act.

Molly Stump, City Attorney agreed. All Council Members who were elected to a new term needed to take the oath before they took any official action.

DRAFT MINUTES

Council Member Klein explained in the years five Council Members were elected, the City could conceivably not have a quorum. The easiest solution that did not require a Charter Amendment was to set the swearing in and reorganization date on the first business day of the year or January 2. The City Charter was out of sync, but a Charter Amendment required a vote of the people. Term ending dates could be earlier, but that would also require a Charter Amendment and vote of the people. The City Attorney correctly instructed former Mayor Yeh that he could not perform any actions as Mayor after December 31, 2012, because he was no longer in office. Having the swearing in ceremony on the first Monday in January could result in a serious problem.

MOTION: Council Member Klein moved, seconded by Council Member Schmid to request Staff prepare the necessary Resolution or Ordinance to set the first business day of the calendar year as the date for the swearing in of new Council Members, the election of the Mayor and Vice Mayor and the recognition of departing Council Members/Mayor/Vice Mayor, with no other business to be transacted at such meeting.

Council Member Schmid noted four Council meetings in January and February were not business meetings. It made sense to have the organizational meeting on the first business day, and hopefully the first Monday would add a meeting to keep the Agenda moving.

Council Member Kniss did not believe this had been a problem for many years. There was a historical precedent for holding the organizational meeting on the first Monday in January. The City liked the pomp and ceremony. She inquired whether anyone could be sworn in as early as January 1.

Ms. Stump answered yes. The only people who needed to be sworn were folks who were elected to a new term. They were eligible to be sworn from the first moment of January 1 under the Charter.

Council Member Kniss recalled that if the Council wished, it could extend the time period for the Mayor's service until January 7. She asked Council Member Klein if his term was extended in 1984 or 1985 because of extenuating circumstances.

Council Member Klein stated the terms of Mayor and Vice Mayor were defined differently. Council Members left office at midnight on December 31. Mayors and Vice Mayors, if they were still Council Members, continued in office until their successors were elected. Former Mayor Yeh could not continue in office beyond December 31, because he was no longer on the

Council. The extension of his Mayoral term for three or four weeks in 1985 was not extenuating circumstances; it was a nice honor by his colleagues.

Council Member Kniss reiterated that the Mayor's term could be extended.

Council Member Klein clarified that only a Mayor serving a new term or continuing on the Council could have his term extended. Former Mayor Yeh's term could not have been extended.

Council Member Kniss concurred. That situation was not an issue, because Vice Mayor Scharff was on the Council. She inquired whether an emergency Council could be utilized at any time.

Ms. Stump replied yes. Those individuals were available as provided by Ordinance in an emergency where the regular Council was not available.

Council Member Kniss felt Staff could handle an emergency. A meeting on January 2 could interfere with holiday vacations. She did not understand why the Council was trying to fix this; it was not broken. The public enjoyed attending the ceremony. She would support sending the Item to the Policy and Services Committee if there was strong sentiment for that.

Vice Mayor Shepherd was aware that Mayor Yeh could not perform any Council work after midnight on December 31. She asked if the candidate's oath was the same as the Council Member's oath.

Donna Grider, City Clerk responded yes. The oath was administered to a candidate and then to a Council Member.

Vice Mayor Shepherd inquired whether the oath was merely ceremonial.

Ms. Stump explained the California Constitution provided that, before exercising official duties, local officials must take the oath of that office. Taking the oath as a candidate was not the same. Council Members needed to take the oath before exercising the duties of the office they were assuming under the City Charter on January 1.

Vice Mayor Shepherd inquired whether the oath had to be administered to all Council Members at the same time.

Ms. Stump indicated swearing in could be performed in private.

AMENDMENT: Vice Mayor Shepherd moved, seconded by Mayor Scharff instead of having a Council Meeting the new Council Members are sworn in on the first business day of the year.

Vice Mayor Shepherd believed the concern was having an official nine-member Council as soon as the year began.

Mayor Scharff felt the pomp and ceremony on the first Monday was a community transition of power. It would be a shame to lose that tradition and many of the community. The practical issue was not having all Council Members sworn in, and the Amendment would take care of that issue. If an emergency occurred, the City would have sworn Council Members and a full contingent of Council Members. This was a situation of more perceived risk than actual risk.

Council Member Berman supported the Amendment and original concern. The Amendment did not address voting for Mayor and Vice Mayor and the number of working meetings in January. He did not want to lose the community meeting of the reorganization. The Amendment was a good compromise on the issue. He did not believe the Council could require Council Members to be sworn on January 2.

Council Member Holman indicated the Motion had a conflict in that the first business day was not always January 2. The Motion also mentioned election of Mayor and Vice Mayor. The Mayor did not have more authority to take action than the Council majority did. A standby Council was available for service. There were a number of questions and issues that required more vetting.

SUBSTITUTE MOTION: Council Member Holman moved, seconded by Council Member Klein to refer this Item to the Policy and Services Committee.

Council Member Klein stated the Motion used the first business day. He would support the Substitute Motion. The Amendment may be out of order, because it moved the status quo which was not allowed. The Amendment was not a compromise, because it was already possible. He was concerned about any use of the Emergency Standby Council. There could be situations where both the Mayor and Vice Mayor were leaving office. The Council needed to protect themselves from that. The people's business was more important than a nice party.

Council Member Burt recalled as recently as January 1, 2010, both the Mayor and Vice Mayor were termed out, leaving no Council leadership.

There was real confusion as to whether the outgoing Mayor was in charge when there was almost a flood at Chaucer Bridge on January 1, 2006. He inquired whether the State Constitution and the Charter prohibited newly elected and reelected Council Members from taking the oath before January 1.

Ms. Stump explained the Charter did not prohibit any oath taking wish to engage in, but the oath was ineffective to make one eligible to take authority as a Council Member until one was in the office, which was the first moment of January 1.

Council Member Burt stated Mr. Borock asserted that Council Members had taken office prior to January 1 in the past.

Ms. Stump indicated, with due respect to Mr. Borock, the office began at the first moment of January 1.

Council Member Burt did not believe it was the intention of the community to rely on an Emergency Standby Council. He encouraged the Policy and Services Committee to consider adding a circumstance where if the Mayor and Vice Mayor were termed out and only on that occasion, then the first meeting would be moved to the first business day of the year.

Council Member Price supported the Substitute Motion, and agreed with comments made in support of the Substitute Motion.

Council Member Kniss suggested the Council determine why it had an Emergency Standby Council; consider electing a Vice Mayor that would be in office longer than January 1 of the next year; and, consider actions of other cities in similar situations.

Council Member Schmid urged the Policy and Services Committee to address the issue of only four business meetings in January and February.

SUBSTITUTE MOTION PASSED: 9-0

6. Approval of Resolution Scheduling the City Council Vacation and Winter Closure for 2013.

Donna Grider, City Clerk reported the Municipal Code required the Council to set its Vacation schedule for the calendar year in the month of February. She polled Council Members for their preferences for the summer and winter breaks, and reported that information in the Staff Report. The prior year's Vacation from July 24 to August 24, 2012 was not the norm. In the previous five years, the Vacation began after the first meeting in August and extended through Labor Day. The Winter Break traditionally occurred the week between Christmas and Near Year's Day. The Winter Break could extend for more than one week if the Council chose. If the Council proposed a measure for the ballot, the Council had to provide it the 88th day prior to the election according to the Election Code. The 88th day would occur on August 9, 2013. The last day of school was May 30, 2013, and the first day was August 15, 2013. The Budget was tentatively set for approval on June 10, 2013.

Herb Borock recalled that when the Council provided for a Vacation, the Council determined that there should not be any Regular or Special Meetings of the Council or its Committees during the Vacation. The Code provision was changed to allow a meeting to determine the random order of the ballot. During a recent election year, the City Attorney used the Secretary of State's random ballot to implement the Charter provision of choosing the ballot order by lot. The Code should be changed not to allow Regular or Special Meetings, but to allow Emergency Meetings. Utilizing the Secretary of State's method for choosing a random ballot should be included in the Code.

Council Member Kniss inquired whether qualification of a ballot measure could occur at any time prior to the 88th day before an election.

Ms. Grider explained that she had to provide a certified Resolution and the proposed Ordinance to the Board of Supervisors on the 88th day. Traditionally, the Council reviewed the measure in June and July with Staff Reports.

Council Member Kniss stated the Council could make its decision prior to the Vacation.

Ms. Grider agreed.

Council Member Kniss asked if July 29, 2013 was a Monday.

Ms. Grider replied yes. It was a fourth Monday, and the Council could call a Special Meeting for that date.

Council Member Kniss stated the Council could have a last meeting on July 29 and return on the first Monday in August.

Ms. Grider noted the first Monday in August was August 5.

Council Member Kniss inquired whether those dates would give the Clerk enough time to provide the Resolution to the Board of Supervisors.

Ms. Grider reported August 5 would give her four days to provide a Certified Resolution to the Registrar of Voters as it was due by August 9.

Council Member Kniss inquired whether the Council could vote on a Resolution as late as August 5.

Ms. Grider responded yes.

Council Member Kniss clarified that a Resolution could be adopted prior to the Vacation.

Ms. Grider agreed.

MOTION: Council Member Kniss moved, seconded by Vice Mayor Shepherd to hold Council Break from July 1 through August 2, 2013.

Council Member Kniss felt this schedule would work well with other events in the community.

Vice Mayor Shepherd noted other Councils along the Peninsula scheduled their breaks for July, and Council Members often attended regional meetings during the Vacation.

Council Member Schmid recalled the City Manager mentioned the possibility of issues with the ending and beginning of the fiscal years. He inquired whether the Council could have one meeting in July to cover the ending and beginning of the fiscal years.

James Keene, City Manager agreed there was a great deal of activity with closing the fiscal year and the Budget, thus a Council meeting could be needed in July. That could be tempered by more planning and discipline.

Council Member Schmid suggested the beginning date of the Vacation be changed to July 9 to allow for one Council meeting.

Vice Mayor Shepherd noted a meeting could be held on July 1, 2013.

Council Member Schmid agreed.

Council Member Kniss inquired whether the beginning date would move to July 2, 2013.

Mayor Scharff answered yes.

Ms. Grider confirmed the Council Vacation from July 2 through August 2, 2013.

Council Member Kniss suggested if the Council did not need a meeting on July 2 after meeting on June 29, then the meeting on June 29 would cover the meeting on July 2.

Council Member Schmid inquired whether the Council had to formally state the Council Vacation by the end of February.

Ms. Grider reported that was required by the Municipal Code.

Mr. Keene did not want to ask for a meeting on July 2 that was unnecessary. In addition to Council concerns, Staff attempted to manage Staff vacations when the Council was on Vacation. He felt it was easier for the Council to declare a whole month as the Vacation.

Council Member Schmid withdrew his suggestion of moving the start date to July 2.

Mayor Scharff clarified the Motion to be a Council Vacation for the entire month of July 2013.

Council Member Burt indicated that historically the Council's Agenda following adoption of the Budget and before Vacation was very busy. He preferred not to return two weeks before school began, and preferred the first Council meeting after the Vacation be held on August 12, 2013.

AMENDMENT: Council Member Burt moved, seconded by Council Member Price to end Council Break on August 12 and begin on July 9, 2013.

Council Member Kniss called point of order. She felt the Amendment was actually a new Motion.

Mayor Scharff indicated Council Member Burt's Amendment was an Amendment.

Council Member Price stated the Amendment represented a compromise for the school schedule, allowed the Council to prepare for a ballot measure deadline in August, allowed the Council time to complete mid-year Council

Appointed Officer discussions, and provided flexibility to attend regional meetings.

Mayor Scharff would not support the Amendment. It was important to have a Council meeting on August 5, 2013, and easier to take off the month of July.

AMENDMENT FAILED: 3-6 Burt, Price, Schmid, yes

MOTION PASSED: 9-0

Ms. Grider noted the Council had not set a time for the Winter Break.

MOTION: Council Member Klein moved, seconded by Vice Mayor Shepherd to continue discussion of the Council Winter Break after a report back from the Policy and Services Committee.

Council Member Kniss recalled that the dates had to be posted at the current time.

Ms. Grider reported the Code required the Council to set the vacation for the year by the last meeting in February.

Council Member Klein felt the Council had discretion to continue the Item.

Mayor Scharff deferred to the City Attorney.

Molly Stump, City Attorney reported the Code stated no later than the third meeting in February. This was an internal rule for the Council's governance of itself, and the Council had discretion to interpret and apply those rules. The Council had discretion to decide how it wished to proceed.

Council Member Klein believed the Council should continue the Item in order to be consistent with earlier action. The Item would return from the Policy and Services Committee by late February.

Council Member Kniss felt knowing a beginning date for the Winter Break would be helpful in making personal plans.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to start Winter Break at close of business on December 20, 2013 with ending date to be determined based on the report from the Policy and Services Committee.

MOTION PASSED AS AMENDED: 9-0

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Vice Mayor Shepherd noted that there would be a CalTrain electrification scoping project meeting on February 28, 2013.

Council Member Klein discussed the repayment of a bond measure to the City of San Francisco regarding the Bay Area Water Supply and Conservation Agency. Palo Alto's savings had been doubled and were now reported as a savings of $6 million.

Mayor Scharff said he had been appointed to Regional Housing Needs Association Appeals Committee.

Council Member Burt reported on a recent San Francisquito Creek Joint Powers Authority meeting where they authorized an additional state grant for upgrades.

ADJOURNMENT: The meeting was adjourned at 10:22 P.M.