



CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting
April 8, 2013

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

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

Absent:

CLOSED SESSION

1. CONFERENCE WITH CITY ATTORNEY/LEGAL COUNSEL
Potential Litigation Relating to Water Service Charges,
Palo Alto Hills Golf Country and Club
Section 54956.9(c) - Potential Initiation of Litigation - 1 Case

Council Member Holman did not participate due to a conflict with her membership in the Palo Alto Hills Golf Country and Club.

Council returned from Closed Session at 6:45 P.M.

At 6:55 P.M. Mayor Scharff reported that there was no reportable action from the Closed Session.

SPECIAL ORDERS OF THE DAY

2. Resolution 9327 entitled, "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Stephen A. Emslie Upon his Retirement.

Council Member Burt read the Resolution into the record.

Mayor Scharff presented Stephen Emslie with the City's Resolution, a Stanford flag, and a Proclamation from the State Assembly.

Cash Alae, Senior Management Analyst, indicated his pleasure in working with Mr. Emslie, and thanked Mr. Emslie for being his mentor. He read a

MINUTES

former position announcement for Director of Community Planning and Environment for which Mr. Emslie was perfectly suited.

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Price to adopt the Resolution Expressing Appreciation to Stephen A. Emslie upon his retirement.

Council Member Price was proud of Mr. Emslie's service to the City. She congratulated Mr. Emslie on his retirement.

Vice Mayor Shepherd stated Mr. Emslie understood and worked well with the Council and community.

MOTION PASSED: 9-0

Stephen Emslie indicated working with appointed and elected officials was a collaborative effort. He was honored and pleased to serve the community. His time with the City of Palo Alto was rewarding. The Palo Alto process personified democracy.

Mayor Scharff thanked Mr. Emslie for his service to the City.

AGENDA CHANGES, ADDITIONS, AND DELETIONS

MOTION: Mayor Scharff moved, seconded by Council Member Burt, to move Agenda Item 12, "Approval of Amendment Number 2 to Contract #C10131396 in the Amount of \$1,173,000 with CDM Smith Inc. to Provide Additional Services Associated With the Reservoir, Pump Station, and Well at El Camino Park and Mayfield Pump Station Augmentation Project WS-08002, for a Total Not to Exceed Amount of \$6,300,802 (Continued From April 1, 2013)" to a date uncertain.

MOTION PASSED: 9-0

CITY MANAGER COMMENTS

Pamela Antil, Assistant City Manager, announced the Public Works Department would repave two miles of Alma Street with rubberized asphalt concrete beginning April 11, 2013. The City's Wellness Committee announced a 5K walk/run on April 27, 2013. PG&E pipeline work would resume April 11, 2013.

MINUTES

ORAL COMMUNICATIONS

Jeff Bedolla felt gay marriage was not a rights issue. Homosexuality was a stage of personal development. The process of growth could be better supported by not granting homosexual relations institutional recognition.

Malcolm Beasley welcomed development that created a vibrant and exciting Downtown; however, development had to be balanced with negative consequences. A credible process was necessary for good decisions and public acceptance of those decisions.

The Council should clearly articulate its concept for the residential neighborhoods adjacent to commercial corridors and establish up-to-date standards and norms for parking and traffic.

Sally-Ann Rudd stated excessive traffic and no on-street parking for residents, guests and employees were detrimental to quality of life in the Downtown area. The Downtown area would not have sufficient parking spaces once pipeline projects were completed. The City should not build more parking, but should incentivize carpools and use of alternative transportation and build more housing rather than office space.

Nila-Ann Nag related her experience with crossing the intersection of Webster and Channing while walking to school with her brother.

Stephanie Munoz believed the City was losing a public benefit regarding low-income housing at Buena Vista Mobile Home Park. The State of California had an interest in retaining low-income housing. The City had to keep the low-income housing so that workers' children could be properly educated.

Ken Alsmann suggested the Council ask Staff to prepare a moratorium on all applications and all building permits where parking did not meet the needs of potential tenants. This would not solve existing problems, but would help stem the flow of employee parking in neighborhoods.

Neilson Buchanan reported neighbors were trying to consolidate neighborhood opinion to present to the Council. He planned to meet with Council Members and Planning and Transportation Commissioners, to identify ten people active in civic affairs, to meet with other neighborhoods experiencing similar traffic issues, and to review best practices in other cities. He asked the Council to make the Comprehensive Plan more specific with regard to objective standards.

MINUTES

MINUTES APPROVAL

MOTION: Council Member Kniss moved, seconded by Vice Mayor Shepherd to approve the Minutes of March 4 and March 11, 2013.

MOTION PASSED: 9-0

CONSENT CALENDAR

David Cornell requested the Council postpone voting on Agenda Item Number 6. The article he provided the Council by email explained the rationale behind his request. A below-market-rate (BMR) resident paid almost twice the amount a market-rate resident paid over a five-year period under the current program, and approximately 50 percent more over a two-year period under the proposed alternative. The proposed alternative would not improve the 50 percent vacancy rate for BMR units.

Council Member Schmid noted he would be voting no on Agenda Item Number 3.

Council Member Burt inquired about opportunities to revisit issues should the Council approve the recommendation for Agenda Item Number 6.

Curtis Williams, Director of Planning and Community Environment, had not seen Mr. Cornell's letter.

Council Member Burt inquired whether the Council and Staff could revisit the issue if the Council adopted the recommendation and occupancy rates did not improve over the next year.

Mr. Williams reported Staff would work with Moldaw Family Housing to provide other proposals to the Council if occupancy rates did not improve.

MOTION: Council Member Holman moved, seconded by Mayor Scharff to approve Agenda Item Numbers 3-10 with revisions on Agenda Item Number 7 indicating that the Budget Amendment Ordinance would reference the agreement being approved and Section Three would indicate the foundation contribution would fund temporary salaries in the Children's Program area.

3. Recommendation that City Council Approve Amendment No. 1 to a Contract with BASE Energy, Inc. for the Administration of a Third-Party Non-Residential New Construction Efficiency Program.

MINUTES

4. Approval of Record of Land Use Action Approving a Request for Extension of a 2010 Site and Design Review Approval to May 2014 for the Hotel Project at 1700 Embarcadero Road (Mings Site).
5. Submittal of Mitchell Park Library and Community Center Bi-Monthly Construction Contract Report.
6. Approval of Amendment to the Agreement Between Moldaw Family Housing and City of Palo Alto for the Below Market Rate (BMR) Units at 899 Charleston Avenue to Restructure the Repayment Options.
7. Budget Amendment Ordinance 5192 for Letter of Agreement Between Palo Alto Art Center Foundation and City of Palo Alto Memorializing Ongoing Financial Support of Children's Programs at the Palo Alto Art Center.
8. Approval of Letter to Association of Bay Area Governments (ABAG) to Transfer 200 Housing Units of Regional Housing Allocation (RHNA) from City of Palo Alto to Santa Clara County for the 2014-2022 Planning Period.
9. Appointment of Sandra Hirsh, John Melton, Dena Mossar, James Schmidt, and Alice Smith to the Library Bond Oversight Committee for Five Terms Ending on May 31, 2017.
10. Appointment of David Bower, Beth Bunnenberg, and Patricia DiCicco to the Historic Resources Board for Three Terms Ending on May 31, 2016.

MOTION PASSED AGENDA ITEM NUMBER 3: 8-1 Schmid no

MOTION PASSED AGENDA ITEM NUMBERS 4-10: 9-0

ACTION ITEMS

11. Public Hearing: Adoption of an Ordinance Amending the Zoning Map to Add the Ground Floor Combining District to the CD-C-P (and CD-S-P) Zoned Properties Fronting the 600 Block of Emerson Street.

Amy French, Chief Planning Official, recommended Council adoption of the draft Ordinance which amended the Zoning Map to add the Ground Floor Combining District to the Commercial-Downtown Community with Pedestrian Combining District (CD-C-P) and Commercial-Downtown Service with Pedestrian Combining District (CD-S-P) parcels in the 600 block of Emerson

MINUTES

Street. The Planning and Transportation Commission (P&TC) held an outreach meeting and two public hearings after the Council's discussion in November 2012. The P&TC recommended adding corner parcels which included three CD-S-P zoned, street-facing, ground-floor offices in the Forest Plaza complex. The fourth ground-floor property was located at 203 Forest Avenue. The owner of 203 Forest Avenue sent letters to the Council providing his reasons for not rezoning the property and spoke to the P&TC. The Comprehensive Plan, Program L-9, asked that Staff monitor the effectiveness of the ground-floor retail requirement in the University Avenue-Downtown area. Staff reported to the P&TC that it was likely the Downtown Development Cap analysis would explore potential incentives for retail. A rezoning of existing non-conforming legal ground-floor offices had implications for those spaces.

Public Hearing opened at 7:41 P.M.

Chop Keenan opposed the proposal for spot zoning. The Council should not move from office to retail zoning.

Roxy Rapp believed University Avenue was the core location for retail business. Retail businesses had a difficult time succeeding at locations outside the core.

David Kleiman stated the building at 203 Forest Avenue was not suitable for a retail business and should not be included in the Ordinance. He supported retail business; however, the Ordinance should have a trial period of three to six months.

Robert Moss believed Downtown was an excellent location for retail businesses. Higher rents for office space provided incentives for property owners to convert retail space to office space. Retail businesses provided sales tax and income to the City; offices did not.

Public Hearing closed at 7:54 P.M.

Vice Mayor Shepherd inquired whether ground-floor retail would be required for any redevelopment of a building in the 600 block of Emerson Street under current Zoning Ordinances.

Ms. French indicated a legal, non-conforming office on the ground floor could remain as long as there was not a vacancy of 12 months or more. Under this zoning, retail space could not convert to office space at a later time.

MINUTES

Vice Mayor Shepherd asked if ground-floor office space was allowed at the current time.

Ms. French answered yes.

Council Member Schmid recalled the Council voted several months previously to amend the Comprehensive Plan to include the vision statement from the Rail Corridor Study regarding a vibrant area. Business-only districts did not work well. The goal of the Agenda Item was to make the area vibrant and attractive. The Downtown Development Cap Study (Study) was supposed to be an essential part of the Council's discussion of the Downtown area, yet Staff prepared and released a Request for Proposal (RFP). He asked Staff how the Council could assure that it had the opportunity to discuss this.

Curtis Williams, Director of Planning and Community Environment, explained the RFP for Phase 1 of the Study concerned data gathering. Phase 2 would be oriented to policy and zoning. Phase 2 would come to the Council later and would be a part of the Council discussion. Some zoning issues could possibly be separated from the Study, because the Council had some priorities for moving forward.

Council Member Schmid noted a number of P&TC Commissioners made the point that a goal for the Downtown area should be set prior to discussing particular buildings on one street. It was important for the Council to discuss the Study to allow a broader viewpoint. From a City perspective, it was important to have the types of revenues generated by sales activity. The City had an important and vital financial interest in ensuring Downtown retail businesses were effective and widespread. He supported the Staff proposal which supported ground-floor retail on Emerson Street. He asked if the proposal included the two corner lots.

Mr. Williams answered yes.

Mark Michaels, Planning & Transportation Commissioner, reported Staff's recommendation passed on a 5-2 vote. Members of the public who spoke to the P&TC opposed the recommendation. The P&TC minority reasoned that requiring ground-floor retail on a street-by-street basis was not holistic.

Council Member Holman recalled the 600 block of Emerson Street was discussed for ground-floor retail protections during the SOFA 2 discussions and during the 2009 rezoning discussions. She inquired whether Staff considered the proposal spot zoning.

MINUTES

Mr. Williams did not believe the proposal was spot zoning. Emerson Street was a link from the main core of Downtown to Whole Foods.

Council Member Holman stated retail and service businesses were lost, because Emerson Street did not receive ground-floor retail protections. The Council's responsibility was to support the vitality, financial viability, and health of the City. The scope of the recommendation with regard to uses was broad. University Avenue was great for retail business because of high visibility; however, the rents were also high. Local businesses could not support rents on University Avenue. She recalled the Council previously made Ordinances effective on specific dates, and inquired if that could apply in this instance. She asked if another retail business was in danger of closing.

Mr. Williams did not believe the Council could make the Ordinance retroactive without some kind of notice. The City was not at risk of having anything happening before the proposed Ordinance was adopted and the 31 days expired.

MOTION: Council Member Holman moved, seconded by Council Member Schmid to adopt an Ordinance amending the Zoning Map to add the Ground Floor (GF) Combining District (regulated under PAMC Section 18.30(C)) to properties on the 600 block of Emerson Street zoned CD-C-P (Commercial-Downtown Community with Pedestrian Combining District) and street fronting ground floor spaces zoned CD-S-P (Commercial-Downtown Service with Pedestrian Combining District), as listed on the Ordinance's Exhibits 1 and 2.

Council Member Holman felt Emerson Street was a primary and critical connector.

Council Member Schmid believed this was a good example of protecting the retail vibrancy of Downtown. The P&TC's discussions were helpful.

Council Member Burt inquired about Staff's thinking regarding the two corner parcels.

Mr. Williams indicated that Staff did not believe either parcel was a good retail location. However, ground-floor retail zoning would be appropriate for the sites if they were redeveloped in the future, because they would probably have a second floor. Including the two parcels provided that connection. If the Council adopted the recommendation, the sites could continue as office uses.

MINUTES

Council Member Burt inquired about the Anheuser Busch Beer garage.

Ms. French stated it was office space. 195 Forest Avenue was not part of the item, because it did not face the street.

Council Member Burt indicated 171 and 175 Forest Avenue were part of the item.

Ms. French added 698 Forest Avenue. Some of those sites were retail spaces in the past.

Council Member Burt inquired whether office space had to convert to retail space when the office occupant changed.

Mr. Williams answered no. As long as there was not a 12-month cessation of an office use, the site could continue as office use unless the Council were to amortize the site.

Council Member Berman felt the general consensus was to have a ground-floor retail overlay for the 600 block of Emerson Street. The concern seemed to be the corner sites. The area provided an opportunity for new retail companies to get started at cheaper rents. For that block, ground-floor retail was preferable. The current building at 203 Forest Avenue did not appear to be conducive to retail use; however, it could continue as an office use. He asked about the implication in one of the P&TC meetings that the 12-month vacancy rule could be extended in certain circumstances.

Mr. Williams explained in a few instances Staff had extended the time period when remodeling projects unexpectedly required a vacancy of more than 12 months.

Council Member Berman indicated the statement was in response to a hypothetical from one of the Commissioners regarding unanticipated delays.

Molly Stump, City Attorney, stated in some cases a decision was made at the administrative level that the circumstances warranted an extension of the 12-month time period. Staff did not have open-ended discretion to reinterpret application of the Ordinance in extenuating circumstances.

Council Member Berman inquired about the Council's ability to mandate ground-floor retail at 203 Forest Avenue if the property was excluded from the Motion.

MINUTES

Mr. Williams reported the Council did not have that ability unless the property owner requested another type of zoning.

Council Member Berman asked if the property owner could build two stories.

Mr. Williams replied yes, with the ground floor being office space if the ground-floor zoning did not apply.

Council Member Berman stated having this 12-month time period gave property owners the flexibility to test the retail market.

Mr. Williams explained the 12-month period was a vacancy issue.

Council Member Berman inquired whether the property owner would have to change the use prior to seeking a tenant for the space.

Mr. Williams replied no.

Council Member Berman indicated if a property owner could not find a retail tenant after three or four months, then he could rely on the commercial use. There was flexibility for the legal, non-conforming use.

Council Member Price would not support the Motion. The earlier Staff recommendation had merit, and she concurred with comments made by the minority opinion of the P&TC. She supported retail uses, the flexibility of having office uses, and providing opportunities for the property owners. This action was premature because of the Study. Including all the properties was not logical.

Vice Mayor Shepherd asked if an office use could move into a space zoned for retail use.

Mr. Williams responded no, if retail zoning was in effect.

Vice Mayor Shepherd did not support the Motion. Design as well as location was important for retail businesses. She preferred to have a ground-floor retail overlay for redevelopment. Until a property owner could redesign the building, it was a mistake to impose this type of zoning.

Council Member Kniss supported the Motion. Decisions about zoning would change. The Council could not know if its decisions regarding Downtown retail were appropriate unless the decisions were implemented. The Council had the flexibility to review the decision in the future.

MINUTES

Council Member Klein believed the Motion had limited impact. The Council favored retail because it was essential to a vibrant community. Retail use did provide more tax revenue than office use, but that was not always the case. The Council should look at the issue more broadly and consider incentives to encourage more retail uses.

SUBSTITUTE MOTION: Council Member Klein moved, seconded by Council Member Price to continue the item and move it into the larger Downtown Development Cap Study.

Mayor Scharff would not support the Substitute Motion. Many retailers could not afford to start off on University Avenue, because of high rent rates. This block was unique in that it connected Downtown to SOFA. The Motion would protect retail uses. Once retail space converted to office space, it was unlikely to convert again to retail space. The Substitute Motion did not protect existing retail uses.

Council Member Berman noted the Colleagues Memo expressed concern about losing retail spaces on Emerson Street. He requested a tentative timeline for the Study.

Mr. Williams recalled this zoning was discussed in 2009. The P&TC recommended rezoning for Emerson Street. The Council did not accept that recommendation. Since 2009, two retail establishments converted to office space. He felt there was some vulnerability or potential for businesses to convert to office space. Wrapping this zoning into the Study would require six-months before Staff could present it to the Council.

Council Member Berman asked if the Council would begin a discussion or take action in six months.

Mr. Williams hoped the Council would vote on something at that time. Some zoning issues would be parsed out as Staff performed the Study. There was more vulnerability in the 600 block of Emerson Street than in other locations Downtown.

Vice Mayor Shepherd asked what Staff would study if zoning for the 600 block of Emerson Street was included in the larger Study.

Mr. Williams explained Staff would review the whole Downtown area, extensions or contractions of ground-floor retail, and other techniques to entice retail uses.

MINUTES

Vice Mayor Shepherd could not imagine retail businesses in a few of the locations. She was interested in having the Study, because she was interested in designing for retail. She inquired whether including this item in the Study would allow redevelopment with ground floor retail.

Mr. Williams reported zoning for Emerson Street could be considered as redevelopment incorporating retail as part of the larger Study. This area and much of the Downtown without the ground-floor overlay had a provision that if a property was redeveloped, then it would be redeveloped and designed to accommodate retail.

Vice Mayor Shepherd was interested in redevelopment including design features.

Council Member Holman stated the 600 block of Emerson Street was a critical block, a corridor connector between Downtown and SOFA. Converting back to retail use from commercial use was nearly impossible. For the security of businesses located in the 600 block of Emerson Street, she urged Colleagues to support the original Motion.

SUSTITUTE MOTION FAILED: 3-6, Klein, Price, Shepherd yes

MOTION PASSED: 6-3 Klein, Price, Shepherd no

13. Approval of a Water Enterprise Fund Contract with RMC Water and Environment, Inc. for a Total Not to Exceed Amount of \$193,914 to Complete the Environmental Analysis of Expanding the City's Recycled Water Delivery System (Continued From April 1, 2013).

Karen Sundback encouraged the Council to approve the contract. Investigating the use of recycled water for landscaping made good sense. She wished to see the study completed to find answers.

Cedric de La Beaujardiere supported continuing the study. He hoped the study would examine and address concerns about the effect of salt on trees. Salt levels were lower than other saltwater sources.

Vice Mayor Shepherd had not received any negative public communications regarding the study. She inquired whether City landscaping or trees had been damaged by the use of recycled water.

MINUTES

Phil Bobel, Assistant Director Environmental Service, reported Greer Park was a former salt marsh, and the soil was extremely saline. Important elements of landscaping were types of plants, soil condition, and the irrigation system. Recycled water should be applied at a high rate to allow salt to flow through the soil to the groundwater and out to the Bay. No one determined which of these factors was most important in causing harm to the trees in Greer Park. There was no definitive answer to Vice Mayor Shepherd's question.

Vice Mayor Shepherd asked if people were interested in purchasing recycled water.

Mr. Bobel noted State law required recycled water to be used if it was located along a given property. He did not expect customers to be excited about buying recycled water. Recycled water in Palo Alto met standards through blending.

Nicolas Procos, Senior Resource Planning, reported Staff identified a list of customers while developing a Facility Plan in 2008. Over the last few years, Staff talked with other entities interested in using recycled water.

Vice Mayor Shepherd understood construction costs would be spread among ratepayers.

Mr. Procos stated one likely source for funding was recycled water customers. The majority of potential customers were Utilities customers, who would shift from customers for potable water to customers for recycled water. Alta Mesa Cemetery was an exception because it utilized groundwater.

Council Member Schmid inquired whether Staff had any comments concerning the at-places handouts.

Mr. Bobel explained total dissolved solids (TDS) were anything that would pass through filter paper. About half of TDS was either sodium or chloride, commonly known as salt. Those were the two principal causes of adverse effects for plants. The second slide attempted to explain saltwater/seawater, Bay water, and freshwater. The third slide showed fresh water sources. The Council adopted a TDS goal of 600 ppm (parts per million). The user group in Stanford Research Park provided a TDS goal of 640 ppm. Blended recycled water in Palo Alto had a TDS level below 600 ppm. While the Recycled Water Project was under construction, if the Council approved it, Staff would work on further reductions in salt content of water. Blending was only one mitigation measure for salinity. Lastly, the

MINUTES

Council in its prior discussion expressed concerns that once salt was in the ground, it was there forever and that salt caused problems with the irrigation system at the Golf Course. Flushing salt through the soil resulted in salt leaving the soil and flowing to the Bay. Staff researched problems with the Golf Course irrigation system, and would answer questions if the Council wished.

Council Member Schmid recalled issues of runoff from the Water Treatment Plant killing the marshland; customers dropping out of the program to use recycled water from the aerobic digester; damage to Greer Park trees; and Stanford Research Park concerns regarding redwood trees. He inquired whether the Environmental Impact Report (EIR) would cover those types of scientific issues.

Mr. Procos explained the EIR focus was defined by the Project. The proposed time extension focused on the EIR and the Project to extend recycled water primarily to the Stanford Research Park. The item would not focus on the issues mentioned, but some lessons could be learned during the EIR process. Staff performed some studies to address water quality issues, and those studies would feed into the EIR.

Council Member Schmid suggested Stanford funding should be used to study salinity and toxic plume issues to provide context for Council decisions. The TDS goal of 600 ppm was realistic for effective utilization of recycled water.

Council Member Kniss believed landscaping tolerant to salinity could be used, and requested Staff provide information offline on that topic.

MOTION: Council Member Kniss moved, seconded by Council Member Price to approve a contract with RMC Water and Environment, Inc. (RMC) to complete the environmental analysis of an expanded recycled water project to serve the Stanford Research Park for \$176,286, plus a contingency of \$17,628, for an amount not to exceed \$193,914. Staff also recommends that Council approve this contract as a "sole source" exemption from the City's competitive bidding process under its authority in Palo Alto Municipal Code Section 2.30.360(d).

Council Member Berman inquired about impacts of salinity on the Golf Course irrigation system.

James Allen, Manager Water Quality Control Plant, reported the Golf Course had problems with corrosion of iron fittings over the prior 15 years. Staff discussed the problem and concluded corrosion was caused by the corrosive nature of the Bay mud.

MINUTES

The irrigation system at the new Golf Course would be comprised of plastic pipe and fittings to minimize failures caused by the corrosive nature of Bay mud. Recycled water was not the cause of problems with the irrigation system.

Mr. Bobel explained the Golf Course was located on the same type of land as Greer Park. The Bay mud was far saltier than Palo Alto's recycled water.

Council Member Holman did not understand how flushing salt through the soil would work given the type of soil in Palo Alto.

Mr. Bobel reported the ground was composed of layers of different types of soils. The movement of groundwater through soil toward the Bay was well documented.

Council Member Holman asked if salt remained in the soil.

Mr. Bobel stated with adequate flushing, salt would move through the soil. Flow rates of water could be increased to move those salts through the soil.

Council Member Holman believed flushing would use more recycled water, and more recycled water would deposit more salt.

Mr. Bobel indicated salt could be moved with recycled water. The EIR would describe flushing as a mitigation strategy and a prevention strategy.

Council Member Holman wanted to know how entities receiving recycled water would pay for improvements.

Valerie Fong, Director Utilities, did not have a proposal for recovering costs.

Mr. Procos reported there were a variety of ways to retail recycled water. Some agencies indexed the recycled water rate to the potable water rate.

Council Member Holman referenced an April 17, 2009 letter from Stanford, and requested Staff's assurance that the EIR would address recycled water impacts on landscaping and aesthetics.

Mr. Procos noted the original proposal was submitted as a negative declaration, while the current proposal was an EIR. Staff had an ongoing dialog with Stanford regarding the Project. The City's relationship with Stanford was much improved from previous discussions of the Project.

MINUTES

Council Member Holman inquired whether potential impacts would be identified.

Mr. Bobel had every intention of addressing impacts in the EIR. Staff anticipated that TDS levels would meet the 600 ppm goal by the time any Project was built. Current recycled water met the goal through use of blended water.

Council Member Holman requested that impacts be addressed head on.

Council Member Burt asked how long the City had been using blended water with a TDS level less than 600 ppm.

Mr. Bobel reported the last six months.

Council Member Burt requested the TDS level a few years ago.

Mr. Bobel indicated the TDS level for blended water was slightly above 600 ppm.

Council Member Burt asked if blended water had been used all along.

Mr. Bobel answered yes.

Council Member Burt inquired whether Staff anticipated the cost of recycled water being less than the cost of Hetch Hetchy water.

Mr. Procos stated Staff applied for an \$8 million federal grant, and was considering low-interest State Revolving Fund Loans. Based on those sources of funding, recycled water would be competitive with Hetch Hetchy water.

Council Member Burt reiterated that recycled water would be competitive only if the City received the federal grant and Hetch Hetchy rates increased as projected. He inquired whether Staff considered that the cost of recycled water was greater than the cost of Hetch Hetchy water.

Mr. Procos explained that other agencies were searching for alternatives to Hetch Hetchy water, which would further increase the cost of Hetch Hetchy water. The federal grant was the unknown funding source.

Council Member Burt asked if the original plan objectives were to use less Hetch Hetchy water and to have recycled water at a lower cost than Hetch Hetchy water.

MINUTES

Mr. Procos did not believe a comparison of water rates was a part of the original discussion. Using recycled water reduced purchases of potable water, and reduced discharges to the Bay.

Council Member Burt clarified use of recycled water provided two environmental benefits, a long-term cost benefit if the grant was approved, and price stability.

Mr. Bobel noted the City had a Recycled Water Master Plan since the early 1990s. Use of recycled water was not economical now, but would be economical when enough grant funds were secured and when Hetch Hetchy water rates reached a certain point. The Project had to be developed before Hetch Hetchy rates reached that point. Mountain View charged approximately three-fourths of the rate of potable water, thus providing an incentive for use of recycled water.

MOTION PASSED: 6-3, Holman, Scharff, Schmid no

14. Colleague's Memo From Mayor Scharff and Council Members Burt, Price, and Schmid Regarding Expansion of Percent for Art and Public Art in Private Developments and Appropriate Maintenance of Our Existing and Future Public Art Collection.

Larisa Usich, Chair of the Public Art Commission, stated the Art Commission investigated the possibility of expanding funding. Best practices for public art were seeking dedicated funding for the creation of new art, creating a strategic arts plan, utilizing community panels, and having dedicated Staff. She thanked the Council for taking the important first step.

Council Member Price felt it was important to celebrate artistic expression and creativity. Public art was an approach to innovation. Other communities had very strong public art programs. The City of Palo Alto devoted 1 percent of construction costs to art. The Colleague's Memo extended the policy to apply to commercial developments and to housing projects, but not to historic preservation sites. One of the key issues was not only the creation of artwork but also preservation and maintenance of artwork. The Colleagues Memo recommended broadening the scope beyond municipal projects; suggested an examination of a developer commissioning artwork for a site or providing a 1 percent in-lieu fee to the Public Art Commission; and acknowledged the need for resources for care and maintenance of artwork. The City should welcome and encourage a wide variety of artistic expression to create an exciting environment. Colleagues

MINUTES

sought support to refer this to the Policy and Services Committee for further analysis and recommendations.

Council Member Kniss inquired about the type of projects in the category of new or remodeled private large commercial developments and housing projects.

Council Member Price explained Staff would return with an analysis of those issues.

Council Member Kniss reiterated that Staff would address those details, and questioned whether the category would include churches and hospitals. She asked who would monitor public artwork to ensure developers provided maintenance and care. Many developers could choose to pay the in-lieu fee as being less expensive than long-term maintenance.

Council Member Schmid liked the focus on large projects, inclusion of a care and maintenance plan, and the variety of artwork.

MOTION: Council Member Schmid moved, seconded by Vice Mayor Shepherd to: A) extend the current One Percent For Art Policy to new and or remodeled private large commercial developments and housing projects with the details of the Policy to be developed by Staff and considered by the Policy and Services Committee. Single-family homes, duplexes, triplexes and four-plexes and historical preservation sites would be exempt. The Policy at a minimum should provide that; 1) the applicant may choose to pay the 1 percent in-lieu fee to the Public Art Commission rather than commission artwork at the site; 2) That the care and appropriate maintenance of the artwork will be the responsibility of the private developer; 3) The care and maintenance plan will be reviewed and monitored by the City Staff; and 4) The artwork must not be demolished, removed or destroyed without City approval, B) direct Staff to develop a robust plan for consideration by the Policy and Services Committee and then the full Council that evaluates the current modest General Fund contributions and considers a possible administrative fee and or set aside of a portion of the funds received under the current Percent for Art Policy to account for ongoing and future maintenance of the existing and future artworks commissioned under the Percent for Art Policy based on a realistic assessment of the maintenance needs of the Cities Public Art Collection and administration needs of that collection. The goal should be a transition to a self-sustaining robust program that does not rely on General Fund contributions, and C) welcome and encourage a variety of art experiences including interactive art, sculptures, murals, mosaics, innovative spaces or facades that engage the public and signature architectural features.

MINUTES

Vice Mayor Shepherd stated the Public Art Commission was actively tending to artwork. She hoped the Policy and Services Committee could simplify the language. With more money, public art could actively engage the public.

Council Member Holman requested Staff address these items: exclusion of non-profit organizations as Council Member Kniss noted; the applicant's choice to install artwork or pay an in-lieu fee; and more varieties of artwork to be included. Regarding innovative spaces or facades and signature architectural features, the applicant should not think the artwork had to address the street better than the architecture itself. The artwork should not make the buildings look acceptable.

Council Member Klein believed details of the proposal were important. Artwork would not enhance the financial values of the community. The value of some commercial projects could lead to very high dollar amounts for artwork; therefore, a cap could be appropriate. Religious buildings and low-income housing projects should be exempt.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER not to include building projects by religious organizations and affordable housing projects.

Mayor Scharff was pleased to support the Motion. This would enhance public art and the perception of public art.

MOTION AS AMENDED PASSED: 9-0

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Price reported that Caltrain planned signal upgrades at East Meadow and at Churchill. This will include safety improvements to train approach warning systems.

Council Member Burt said at the Caltrain Policy Makers Working Group's last meeting they discussed the proprietary positive train control system called C Boss. There was a Federal mandate requiring the installation of this type of system by 2015, but that will likely be extended.

Council Member Holman said she was in Pasadena for the League of Cities meeting. Presentations included plastic bag legislation.

MINUTES

Vice Mayor Shepherd said that Council Members Price, Holman, Kniss, and Berman are participating, along with herself, in the League's Bocce Ball Tournament.

Mayor Scharff reported the Ad Hoc Committee on Technology and the Connected City would be chaired by Council Member Kniss and would include Mayor Scharff, Vice Mayor Shepherd, and Council Member Klein.

ADJOURNMENT: The meeting was adjourned at 10:00 P.M.