



CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting
May 13, 2013

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:30 P.M.

Present: Berman, Burt, Klein, Kniss, Price arrived at 5:35 p.m., Scharff, Schmid, Shepherd arrived at 5:35 p.m.

Participating Remotely: Holman participating from the Econo Lodge, 1441 West Central Avenue, Carthage, Missouri 64836

Absent:

CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS, CALIFORNIA, GOVERNMENT CODE SECTION 54956.8

Property: U.S. Post Office, 380 Hamilton Avenue, Palo Alto 94301
Agency Negotiators: James Keene, Lalo Perez, Hamid Ghaemmaghami, Joe Saccio, Curtis Williams, Aaron Aknin, Meg Monroe, Molly Stump, Cara Silver

Negotiating Parties: City of Palo Alto and United States Post Office
Under Negotiation: Purchase: Price and Terms of Payment.

2. CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray, Val Fong) Employee Organization: Utilities Management and Professional Association of Palo Alto (UMPAPA) Authority: Government Code Section 54957.6(a).

Herb Borock believed the Council should decide Agenda Item Number 16 prior to the Closed Session. The U.S. Postal Service's correspondence to the State Historic Preservation Office was displayed at the Post Office and

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identified three consulting parties regarding the historic nature of the building.

Council Member Burt inquired about the reason for holding the Closed Session regarding the Post Office Building prior to the policy discussion.

Molly Stump, City Attorney, reported the Council traditionally held Closed Sessions prior to Regular Meetings. That allowed the Council to hold the Closed Session at a reasonable hour, given the close of Council meetings tended to be late in the evening.

Council Member Burt believed holding a policy discussion after a Closed Session on the same topic was not tradition.

Ms. Stump added that the permissible Closed Session under the real estate exception to the Brown Act was fairly narrow. It was limited to price and terms of payment with respect to lease or sale. Policy-level matters were not Closed Session items. The scope of the two items were not concurrent and she indicated that the order of the two Items were within Council discretion.

MOTION: Council Member Burt moved, seconded by Council Member Klein to continue Agenda Item Number 2, Closed Session "CONFERENCE WITH LABOR NEGOTIATORS City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray, Val Fong) Employee Organization: Utilities Management and Professional Association of Palo Alto (UMPAPA) Authority: Government Code Section 54957.6(a)" to the end of the current meeting.

Council Member Burt said the policy discussion would influence the Closed Session discussion.

Council Member Klein stated the only justification for holding the Closed Session first was to obtain confidential information which could influence Council Member questions in the open session. In the past, the Council held Closed Sessions at the end of meetings.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to limit the closed session to only hearing confidential information with no decision on the merits of the issue.

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Vice Mayor Shepherd felt the sequence of discussion was better with the incorporation of Council Member Klein's comments. The Council requested that Staff provide the information for the Closed Session.

Council Member Kniss was comfortable with the City Attorney's interpretation and would not support the Motion.

MOTION AS AMENDED FAILED: 4-4 Burt, Klein, Price, Schmid yes, Holman not participating

Council Member Burt inquired whether Council Member Holman could vote on the Motion.

Ms. Stump reported the 4-4 vote did not override the Agenda as noticed.

Council adjourned into the Closed Session at 5:45 P.M.

Council reconvened from the Closed Session at 7:00 P.M..

Mayor Scharff announced no reportable action on the Closed Session regarding the Post Office Building, and the Closed Session regarding labor negotiations was continued until the end of the City Council meeting.

Council Member Holman left the meeting at 7:00 P.M.

CITY MANAGER COMMENTS

James Keene, City Manager, announced that Senator Jerry Hill and Assembly Members Kevin Mullin and Rich Gordon would host an interactive event on May 15, 2013 from 7:00-8:30 P.M. regarding the State Budget. The Downtown University Avenue Beautification Project was completed the prior week.

ORAL COMMUNICATIONS

Bhavna Parekh suggested the Request for Proposals (RFP) regarding the proposed Matadero Creek Trail include an alternative route. The proposed alternative route would prevent blind intersections; provide for bicyclists to travel main roads rather than behind residences; and utilize existing infrastructure.

Philippe Bouissou stated residents proposed modifications to the current draft RFP for the proposed Matadero Creek Trail; however, City Staff was

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unresponsive. He kindly asked the Council to consider incorporating some or all of residents' comments into the RFP.

Joe Brock felt the RFP for the proposed Matadero Creek Trail was inadequate in numerous ways. He enumerated many of the residents' concerns regarding the RFP.

Winter Dellenbach reported the property owner submitted the Relocation Impact Report for the Buena Vista Mobile Home Park. Each step brought 400 residents closer to losing their homes. Support for residents continued to grow. The Human Relations Commission adopted recommendations in support of residents of Buena Vista Mobile Home Park.

Jeff Rensch read a letter from Mary Alice Thornton, president of the Palo Alto League of Women Voters, supporting residents of Buena Vista Mobile Home Park. A public-private partnership could be utilized to purchase the land and preserve the low-income housing.

Erika Escalante, president of the Buena Vista Residents Association, expressed concerns about the small number of mobile homes that would survive relocation and the proposed relocation benefit. Most residents would not only lose their homes but also their jobs, because they would not be able to remain in Palo Alto or the Bay Area.

Sue Eldredge advocated for the families and students of Buena Vista Mobile Home Park. Redevelopment of Buena Vista represented the single largest displacement of children in Palo Alto's history. The Parents and Teachers Associations Council supported keeping Buena Vista children in Palo Alto schools by supporting efforts to locate affordable housing within Palo Alto Unified School District (PAUSD) boundaries. The PAUSD Board would adopt a statement of support for Buena Vista students. She urged the Council to keep Buena Vista residents in Palo Alto.

Donald Barr recalled the compromise which led to development of Oak Court and Woodmark condominiums. The only alternative to maintaining Buena Vista as a mobile home park was a collaborative, cooperative joint development providing affordable housing and market-rate housing on the site.

Terry Godfrey encouraged the Council to consider adding a School Resource Officer (SRO). One SRO was eliminated from the Budget in 2009. Children needed a positive experience with police officers.

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Stephanie Munoz felt the City should save the low-income housing located in Buena Vista Mobile Home Park.

CONSENT CALENDAR

Paul Albritton spoke regarding Agenda Item Number 12. Staff and the Architectural Review Board provided a new design, design criteria, pole selection criteria, and landscaping information which led to a good design for AT&T. He encouraged the Council to keep the Agenda Item on the Consent Calendar. Poles and antennas were installed, resulting in much faster service speed.

John Hamburger spoke regarding Agenda Item Number 12. About a year ago, 22 residents signed a petition requesting that the City and AT&T consider reasonable alternative locations for a DAS antenna. Relocating the antenna would provide a smaller impact on the community.

Roger Peterson spoke regarding Agenda Item Number 12. Antennas should be located along roadways rather than close to homes. In his neighborhood, poles were located in yards rather than along streets. It was unfortunate that residents did not have a technical expert to advocate for relocation of antennas.

MOTION: Council Member Kniss moved, seconded by Vice Mayor Shepherd to approve Agenda Item Numbers 3-12.

3. Adoption of a Resolution 9335 entitled "Delegating Authority to the City Manager, or his Designee, to Execute and Administer the Northern California Power Agency Agreement Regarding the Use and Non-disclosure of Information."
4. Adoption of a Resolution 9336 entitled "Summarily Vacating Several Public Easements Which Have Been Relocated at 4329 El Camino Real."
5. Adoption of a Resolution 9337 entitled "Amending Utility Rule and Regulation 3 (Description of Utility Services), 5 (Service Contracts), 18 (Utility Service Connections and Facilities on Customers' Premises), and 20 (Special Electric Utility Regulations)."
6. Policy and Services Committee Recommendation to Accept the Auditor's Office Quarterly Report as of March 31, 2013.
7. Policy and Services Committee Recommendation to Accept the

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Discussion of the Fraud, Waste, and Abuse Hotline Pilot and the City Auditor's Recommendation to Continue the Hotline Beyond the Pilot Phase.

8. Approval of Amendment No. 2 to Contract with RBF Consulting to add \$134,088 for a Total Not To Exceed \$484,088 for Design Services for the California Avenue Transit Hub Corridor Streetscape Improvements Project.
9. City of Palo Alto Response to Plan Bay Area Final Draft and Environmental Impact Report.
10. Approval of Solar Water Heating Incentive Program Services Contract with the Center for Sustainable Energy California.
11. Approval of Contract with Summit Uniforms for Five Years for an Amount Not to Exceed \$520,000 for the Purchase of Police, Fire, and Park Ranger Uniforms and Related Equipment.
12. Appeal of and Recommendation to Uphold Director's Architectural Review Approval of the Co-location by AT&T Mobility LLC of One Pole-Mounted Wireless Communication Antenna and Associated Equipment Boxes on the Existing Utility Pole Within the City's Public Utility Easement on 3704 Carlson Circle.

MOTION PASSED to approve Agenda Item Numbers 3-12: 8-0 Holman absent

ACTION ITEMS

13. Acceptance of Long Range Financial Forecast for Fiscal Years 2013 to 2023

Lalo Perez, Director Administrative Services/Chief Financial Officer, reported the financial picture for the Long Range Financial Forecast (LRFF) was better than in recent years. Data indicated State and local economies improved. Unemployment in Palo Alto as of March 2013 was 3.8 percent. Staff projected deficits for Fiscal Years (FY) 2011 and 2012; however, higher than expected revenues and employee cost-sharing measures contributed to budget surpluses. Consequently, the Council authorized transfers totaling \$7.6 million from the General Fund to the Infrastructure Reserve Fund. Staff expected a surplus for FY 2013 of approximately \$3 million, but it could be as high as \$5 million. Sales taxes and building permits were bringing in more income than projected. The California Public Employees' Retirement

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System (CalPERS) tentatively approved changing the period for smoothing the rate of return from 15 years to 5 years, and changing the assumption regarding life expectancy. The LRFF presented to the Finance Committee in December 2012 projected a \$4.2 million surplus over 10 years without factoring in the CalPERS changes. In March 2013, the LRFF presented to the Finance Committee projected a \$0.5 million surplus including the CalPERS changes. Impacts from the CalPERS changes would be included in the Proposed Budget for FY 2016. The LRFF projected a \$34.8 million gap when the model included CalPERS changes and an additional 1/4 percent rate decrease for the rate of return assumption. Potential savings from the third tier of pension were not reflected in the LRFF, because Staff needed an actuarial firm to calculate those savings. The Finance Committee requested Staff utilize 20-year compounded annual growth to project revenue trends. Projections were matching actual numbers with regard to the five major taxes and total revenues. The base model of the LRFF contained an additional 1 percent as a contingency amount for any unforeseen CalPERS changes. The 1/4 percent rate reduction resulted in additional costs of \$8.1 million for Miscellaneous Employees and \$6.3 million for Public Safety Employees. Using the base model, Staff projected small surpluses in FY 2014 and FY 2015 and a \$2.4 million deficit in FY 2016. The alternative scenario reflected the additional 1/4 percent decrease for the rate of return resulting in a \$49 million deficit. This deficit did not include savings from the third tier for pension or any cost savings measures implemented by the City. He expected CalPERS Staff to approach the CalPERS Board in February 2014 with a recommendation to reduce the rate of return another 1/4 percent. Staff recommended the City not smooth the impact of the decreased rate of return over two years, but rather to pay it in one year. He said Staff presented samples from the Cost of Services Study, received feedback, and expected to provide a draft summary report in the next few months. The Council could expect to make decisions regarding delivery of services and cost recovery policies. Staff should continue to secure funding for infrastructure needs and continue to restructure benefits for cost sharing with employees. The Finance Committee recommended the Council discuss the possibility of earmarking new revenues for infrastructure.

Council Member Burt, Chair of the Finance Committee stated the Finance Committee had three meetings on the LRFF. The Finance Committee requested the LRFF project revenue on the basis of a 20-year compounded rate of growth; and utilize the most recent CalPERS rate of return and assumptions. The LRFF did not include potential savings from the third tier of pension. A majority of the Finance Committee recommended the Council discuss new revenue streams, such as the Transient Occupancy Tax (TOT) from new hotels. He asked if the LRFF included projections for increased TOT from new hotels.

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Mr. Perez noted the projection included revenue from one hotel, but not all four.

Council Member Burt indicated the question for the Council was whether to set aside new revenue streams for infrastructure improvement.

Council Member Price said Staff could project TOT revenue once a hotel project was under construction. With respect to savings from the third tier for pension, she asked if Staff had any information that would allow them to provide a wide range of possible savings.

Mr. Perez explained that City Staff had limited data regarding the many factors that would be required to calculate any savings. An actuarial firm would have much more of the data needed to provide a reasonable estimate of any savings. It would take a while for savings to occur, because the number of employees in the third tier was small.

Council Member Price inquired whether Mr. Perez discussed and compared assumptions with financial officers from other agencies.

Mr. Perez indicated that financial officers discussed general assumptions and lately CalPERS changes. Because of differences in benefits and employee data, Palo Alto's assumptions would be different from the assumptions another agency would make. Comparisons could be made in a few areas, but some areas would always be different.

Council Member Kniss inquired about the amount of funds CalPERS was required to keep on hand; the bankruptcy cases of California cities; and whether CalPERS would ever default on its obligations.

Mr. Perez reported that CalPERS ran hundreds of models, and each model indicated that the proposed changes were necessary to prevent the funding level from reaching 50 percent in the next 20 years. He did not have any information regarding the Stockton and San Bernardino bankruptcy cases. CalPERS would not allow an agency to stop making payments and would take any action needed to ensure payments continued.

Molly Stump, City Attorney, stated San Bernardino had not been ruled eligible for bankruptcy, and CalPERS was challenging the case. San Bernardino was in arrears with their CalPERS payments.

Council Member Klein requested the dollar amount represented by the additional 1 percent per year for unforeseen pension cost increases.

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Mr. Perez stated \$11.8 million for Miscellaneous Employees and \$5.7 million for Public Safety Employees for the 8-year period.

Council Member Klein asked if 1 percent was an accurate amount.

Mr. Perez was comfortable using 1 percent, because it approximately equated the impact of CalPERS changes.

Council Member Klein inquired about sales figures from Tesla Auto Sales.

Mr. Perez could not speak to specific businesses. Media information documented the increase in Tesla sales figures.

Council Member Klein felt the Council needed some amount for the savings from the third tier for pensions, and requested some amount purely for discussion.

Mr. Perez suggested the amount in year 3 or 4 could be in the hundreds of thousands of dollars, and in the outer years the amount could be in the millions of dollars. The Council could direct Staff to provide a range based on available information.

James Keene, City Manager, explained Staff wished to obtain some real data before determining a range for the savings amount. The difficult piece was determining the increases in future years.

Council Member Klein did not want to make decisions without having some information for the cost savings amount. He asked when Staff could retain an actuary and provide the Council with data.

Mr. Perez suggested an actuary could perform the new analysis along with updating the retiree medical liability. Staff wanted to validate some of the CalPERS assumptions through the actuary's data for other agencies. Staff hoped to return to the Council or the Finance Committee in March 2014 with additional data and the CalPERS Board decision.

Council Member Klein noted the 2 percent salary increase represented approximately \$2 million a year. In the outer years, that \$2 million was almost equal to the projected deficit. He asked why Staff included a 2 percent salary increase when City benefit packages were higher than comparable communities.

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Mr. Perez reported benefit packages started out high, but were aligning with other cities. \$2 million was not an unmanageable deficit.

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Kniss to accept the Fiscal Year 2013 to 2023 Long Range Financial Forecast as Staff's latest projection of the City's revenue and expenditure picture given current and projected developments.

Vice Mayor Shepherd believed this was the worst way to manage pensions. The City tried to be a good custodian. Cash flow in the next few years would be okay, but not after that.

Mr. Keene asked Vice Mayor Shepherd if her comment regarding managing pensions related to CalPERS.

Vice Mayor Shepherd replied yes.

Council Member Burt requested the Council consider whether to dedicate new revenue streams, focusing on TOT from hotels under construction, toward infrastructure spending.

Mayor Scharff understood Council Member Burt wanted to agendize the question for future discussion. The topic was not agendized for the current discussion.

Council Member Burt explained the question was whether dedication of revenue streams would be included in the LRFF. Implementation of funding would be a separate Agenda Item. He inquired about the process to address those two aspects.

Ms. Stump reported the dedication of funds was a budgetary action taken by the Council on an annual basis. The forecasting decision could be made and reflected in the LRFF subject to implementation.

Council Member Kniss felt it would be wise to dedicate funding for infrastructure, because infrastructure was a Priority and a community interest.

Council Member Schmid noted salaries could increase no more than 2 percent per year in order for the City to meet pension obligations. The two critical revenue streams were property tax and sales tax. Those taxes grew more slowly than pension obligations. The current revenue streams did not allow the City to provide the services the community wanted. He recommended that the Council consider alternative revenue streams,

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reforming Proposition 13, reforming sales tax, and reassessing development funds. Revenue streams should not be dedicated to specific areas until the Council discussed alternative revenue streams.

AMENDMENT: Council Member Burt moved, seconded by Council Member Kniss that the Long Range Finance Forecast reflect dedicating the new revenue from new hotels to infrastructure uses.

Council Member Burt believed dedicating revenue to infrastructure was a sound policy. Infrastructure was a priority for the community, and new hotels were an opportunity for a new revenue stream. This was an opportunity for the Council to increase funding for infrastructure.

Council Member Kniss agreed infrastructure was an appropriate use of funds.

Council Member Price did not support the Amendment. The Council should consider alternative ways to use revenue from new hotels. Infrastructure was a serious need, but there were other needs as well. The Amendment seemed to preclude further discussion of alternative ways to allocate a percentage of revenue from hotels.

Council Member Klein would not support the Amendment. The LRFF was not an official Council document; the Motion was to accept not approve the LRFF. The Council set policy through adoption of the Budget. The Council needed time to discuss and consider all factors and consequences for dedicating new revenue. The Infrastructure Committee was working to present a report of viable projects and sources of revenue.

Mayor Scharff agreed with Council Member Burt's intentions; however, the LRFF was not the appropriate place to dedicate revenue streams. Council Procedures allowed for two Council Members to agendaize an item for a future Council Meeting without a vote, if Council Member Burt wished to proceed with a discussion.

AMENDMENT WITHDRAWN

MOTION PASSED: 8-0, Holman absent

MOTION: Council Member Burt moved, seconded by Mayor Scharff to agendaize discussion regarding the Long Range Finance Forecast reflecting the dedication of the new revenue from new hotels to infrastructure uses.

NO VOTE REQUIRED PER COUNCIL PROCEDURES

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14. Council Discussion of the Cubberley Community Advisory Report and Guidance Regarding Negotiations Related to the Cubberley Lease and Covenant Not to Develop

James Keene, City Manager, noted the Council had requested the Cubberley Community Advisory Report be agendaized for a public discussion with a later Closed Session on May 20, 2013 to discuss the Cubberley Lease and Covenant Not to Develop. This was the first independent meeting the Council had in response to the recommendations from the Cubberley Community Advisory Committee (CCAC). He read a summary from the report indicated there were two types of recommendations; the first was specific near term decisions that were required as essential components of the long term solutions that would serve the best interest of the entire community, and the second were decisions identified as critical steps down a path which would enable the community to ultimately achieve a solution. The Council's conclusion whether the covenant and lease not to develop were considered one of the near term decisions. Under the terms of the current lease agreement the Council would need to make the decision by the end of the 2013 calendar year. Staff urged Council to proceed on the issue of setting the process to determine whether the City would renew the lease or modify the terms.

Robert Moss agreed with the recommendations by the CCAC. One recommendation was the extension of the lease for five years; he recommended the Council consider 10 years. Although he agreed with the City maintaining the 8-acres they owned he disagreed with changing the 8-acres to a new location.

Stephanie Munoz proposed teacher housing with meeting space on the Cubberley property.

Jim Schmidt urged the Council not to renew the lease. He agreed with the Parks and Recreation recommendation to utilize the funds expended on the lease and use them for alternative uses to benefit the community. He suggested any future agreements between the City and the Palo Alto Unified School District (PAUSD) be simplified.

Sheri Furman stated the PAUSD may not need the Cubberley site for nearly 20-years the Palo Alto community should not need to wait that long for a community center. She felt the City should maintain the 8-acres and a land swap may achieve the end results. She did not believe continuing to pay for upgrades was a sufficient use of City funds on a building that was to be torn down.

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Carla Wittenberg believed Cubberley was a hub to the community and provided support.

Malati Raghunath requested the Council maintain Cubberley for the community.

Patricia Rohrmeier spoke highly of the pre-school program at Cubberley.

Brian Carilli believed a citywide needs assessment would be beneficial to determine all of the needs rather than simply Cubberley.

Mike Cobb spoke on the demands placed on the City by the Association of Bay Area Governments (ABAG). He supported an agreement between the City and PAUSD before the ABAG process removed the possibility.

Kelly Carnevale recommended the City and PAUSD work together to create a viable joint space use plan.

Megan Swezey Fogarty understood the Cubberley discussions were complex in nature and that it was rare to have an opportunity to recreate civic space. She encouraged Council to be courageous in their journey through Cubberley.

Lanie Wheeler asked Council to renew the lease and come to an agreement with the PAUSD to divert the funds from the Covenant Not to Develop into the infrastructure needs at Cubberley. The needs assessment should be performed citywide not strictly for Cubberley.

Elizabeth Alexis did not believe there was a reason for Cubberley to sit idle until the PAUSD needed the site. The schools were doubling in their size while the community needs were not matching those needs.

Penny Ellson spoke regarding cooperation between the City and the PAUSD. Understanding the comprehensive needs of the City and a comprehensive understanding of the resources available to meet those needs should be accomplished prior to moving forward.

Claire Kirner said Cubberley was a vibrant and centrally located facility. She urged the Council to complete a needs assessment.

Diane Reklis asked Council to share their general vision for the Cubberley site.

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Jean Wilcox supported the idea of the five year lease extension with an option for another extension after the City reviews the infrastructure status.

Donna Pioppi urged the Council to work with the PAUSD on a joint use plan.

Rachel Samoff stated the land at Cubberley was a rare and precious resource that should be coveted.

Council Member Klein appreciated the CCAC report which provided two services. It revealed that PAUSD did not need the more than 27 acres for a comprehensive high school and the notion of the site housing more land with a different configuration. He felt it was appropriate for Council to publically discuss their thoughts on renewing the lease, the needs assessment, and the discussion of a shared use plan. There were a number of items that should not be publically discussed such as the lease extension, property rent amounts, or the options between the PAUSD and the City.

MOTION: Council Member Klein moved, seconded by Council Member Price to; A) state publically that the City was in favor of renewing the lease subject to significant revisions with the Palo Alto Unified School District, and B) to refer to the Policy and Services Committee whether a needs assessment study should be completed.

Council Member Klein stated the lease of the 27 acres over the past 24 years has benefited the community as a whole. He understood the world and needs of the community have changed in those 24 years and thus so should the terms of the lease. The needs assessment should be vetted by the Policy & Services Committee (P&S) to derive the actual needs of the City and community. He was not in favor of the City expending large sums of funds on the assessment and was not certain what the design of the assessment should be. The concept of a shared facility was not part of the Motion because there were currently a number of joint uses between the City and the PAUSD. The term shared implied planning buildings together and/or occupying buildings, which was a long distance away. Neither the PAUSD nor the City was in a position to discuss the functional needs wanted or needed for Cubberley. Foothill Community College was leaving the Cubberley site by 2015 once their new facility was complete which was going to free a significant amount of space.

Council Member Price shared her appreciation for the work the community has put into the Cubberley effort. She supported the general community needs assessment be conducted inclusive of a detailed site utilization. There needed to be a clear set of program goals and objectives prior to a site plan. The agreed Master Plan was critical but it was not uncommon to perform a

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general comprehensive master plan for a parcel of Cubberleys' size. The concept and articulation of shared use needed to be refined; the Guiding Principles that had been developed during the course of the Cubberley effort should be considered in future activities.

Council Member Kniss felt it was important for the community to understand Council was sharing their thoughts, not negotiating tactics. Once negotiations were underway alterations were more fluid. The original intent of the lease in 1988 was for the School Board to be assisted by the City Council. The City owned one-quarter of the Cubberley site while the PAUSD owned the other three-quarters so the concept of a shared plan would not be equal. She believed completing the needs assessment was a valid tool to have.

Council Member Schmid stated it was important to draw in and maintain new and standing community members. The PAUSD would not be where they were today without the assistance of the City in the 1980's. The PAUSD and the City support the same voters, the same community, and desire the same achievement of a successful City.

SUBSTITUTE MOTION: Council Member Schmid moved that the City would explore a joint shared City/School District use for Cubberley.

SUBSTITUTE MOTION FAILED DUE TO LACK OF A SECOND.

Council Member Schmid acknowledged there were ample elements of Cubberley that would benefit all involved parties. He suggested as the discussion continued that the PAUSD and the City work together to achieve the best outcome for the families of Palo Alto.

Vice Mayor Shepherd supported the Motion. She noted Cubberley had been a community center longer than it was an active school site. She hoped to actively maintain the CCAC report through the future negotiations of the site. There were a number of joint efforts in the current lease agreement; Palo Alto child care, the sports programs at the middle schools, and field uses. The thought of a longer term lease agreement provided more time to consider and identify what needs to be done.

Council Member Burt agreed with the Motion but felt it did not accomplish all that should be discussed. There was a series of recommendations from the CCAC and the Council had not discussed which ones they agreed to, disagreed with, or could be modified. He felt the Council owed the community what principles they saw going forward for Cubberley and from PAUSD. The goal would be for P&S to return recommendations to the Council

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on setting Guiding Principles and intentions. There should be Guiding Principles for the negotiation process on what could be addressed in public such as; no covenant not to develop; the City does not pay rent on the 8 acres, a longer term lease, and any funds returned to the City currently paid to PAUSD would be dedicated towards a dedicated Cubberley Fund in the Infrastructure Fund for Cubberley needs.

AMENDMENT TO MOTION: Council Member Burt moved, seconded by Council Member Schmid that the City Council supported the concept of a joint use design and a needs assessment study for Cubberley.

Council Member Schmid stated the Amendment extracted language from the recommendations on sharing joint use of everything and it directed the needs assessment as a key ingredient to cooperative work.

Vice Mayor Shepherd was not supportive of documenting the language of the Guiding Principles, she felt P&S should decipher the principles or agendaize them for a City Council meeting when there was adequate time set aside for individual discussions and response. There were a number of needs assessments currently occurring in the City and without knowing the parameters of this specific one there could be overlap.

Council Member Kniss could not support the Amendment until further information was vetted on the concept of what joint use design was defined as. She agreed P&S needed to define the details prior to Council making a decision.

Mayor Scharff agreed the commitment to a joint use plan was premature as was the statement of a needs assessment was necessary without P&S reviewing the details.

Council Member Berman agreed there needed to be a broader discussion on the entire CCAC report. He supported a comprehensive needs assessment as well as a comprehensive needs analysis. He was supportive of investigation of a joint use plan. He did not support the Amendment.

Mayor Scharff suggested they agendaize a future meeting to discuss the CCAC report further.

Council Member Berman supported agendaizing a future meeting.

Mayor Scharff asked if other Colleagues supported a future meeting for the CCAC report discussion.

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Vice Mayor Shepherd supported a future meeting.

Council Member Burt stated if there were to be a future meeting specifically to discuss the CCAC report recommendations he would withdraw his Amendment.

Mayor Scharff stated there would be an agenda meeting for the discussion of the CCAC report.

AMENDMENT WITHDRAWN

Council Member Schmid asked if reagendizing the discussion of the Cubberley report would obviate the negotiating session on May 20, 2013.

Mayor Scharff stated no.

Council Member Schmid noted the topics were similar.

Mayor Scharff stated if Colleagues desired to make a Motion to not have the Closed Session on May 20th it would be heard although Council had voted to hold a Closed Session. He stated each Council Member needed to have their topics agenda for the meeting. If there was a topic for discussion, it should be sent to the City Manager to be agenda.

Council Member Berman supported renewing the lease subject to significant revisions with PAUSD.

Mayor Scharff stated his vision of Cubberley was a vibrant community center and the site should be improved with the rent not being paid to the PAUSD on the land owned by the City. There needed to be protection for the fields as well as the uses of the fields. The PAUSD and the City had joint use agreements for the fields at the middle schools but not at the high schools. His concern with Cubberley was the loss of field use when it became a high school in the future.

Council Member Burt was interested in whether there was Council support in providing greater clarity around the issue of the City position on the lease, Guiding Principles, around the lease negotiations. He asked whether it should be a separate Motion or an Amendment to the Motion on the table.

Mayor Scharff suggested a subsequent Motion.

MOTION PASSED: 7-1 Schmid no, Holman Absent

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MOTION: Council Member Burt moved, seconded by Council Member Berman to adopt guidelines for the lease renewal and that they consist of eliminating the covenant not to develop, that the City not pay rent on the 8 acres they own, and any funds that would be freed up by those two changes would be dedicated toward future infrastructure improvements at Cubberley.

Mayor Scharff believed the issues in the Motion would to be agendized in the next meeting in terms of developing Guiding Principles and having a thoughtful and long term discussion.

Council Member Burt felt the Motion was necessary prior to the May 20th Closed Session lease negotiation.

Council Member Berman stated the Motion was a way to update the current lease and make it more equitable to the current situation while using the savings toward that broader community need.

Council Member Klein would support the Motion as a Closed Session discussion but did not support negotiations in an open arena. The more rigid the guidelines the less flexibility the City Manager had in negotiations.

Council Member Kniss believed there needed to be a great deal of flexibility during negotiations. The negotiation between the City and the PAUSD was specific and she was unfamiliar with each aspect without the basic needs assessment.

Council Member Price did not support the Motion as she felt it was premature.

Mayor Scharff did not support the Motion because of the impending negotiations.

MOTION FAILED: 3-5 Berman, Burt, Schmid Yes, Holman Absent

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Schmid to move Agenda Item 2 "2. CONFERENCE WITH LABOR NEGOTIATORS City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray, Val Fong) Employee Organization: Utilities Management and Professional Association of Palo Alto (UMPAPA) Authority: Government Code Section 54957.6(a)" and Agenda Item 16, "Consideration of City of Palo Alto Offer to Purchase U.S. Post Office Building at 380 Hamilton Avenue and Agreement to Assume Enforcement of Historic

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Covenant" to a date uncertain.

Council Member Burt inquired whether the Closed Session regarding the Post Office Building would precede the Closed Session regarding labor negotiations.

Mayor Scharff responded yes.

MOTION PASSED: 8-1, Holman absent

15. Transmittal of Policy and Services Committee Recommendation To Council For The Adoption of An Ordinance Amending Chapter 9.14 (Smoking And Tobacco Regulations) of the Palo Alto Municipal Code to Establish New Smoking Restrictions for Parks Under Five Acres; Increase No-Smoking Buffer Zones from 20 to 25 feet for Consistency with LEED Standards; and Make Findings Regarding the Purpose of No-Smoking Regulations In City Parks

Greg Betts, Director of Community Services, reported members of the business community contacted Staff regarding smoking restrictions at Lytton Plaza, Cogswell Plaza and Sarah Wallis Park. With support from the Chamber of Commerce, the Downtown Business Association and Santa Clara County Health, Staff presented the issue to the Policy and Services Committee on March 19, 2013. At that meeting, Staff proposed a smoking ban at the three parks and to change the distance from buildings where smoking was allowed. Under the current Ordinance, smoking was banned within 20 feet of the entrance to a public building. The Policy and Services Committee wished to expand the smoking ban to 24 parks and plazas containing 5 acres or less. Smoking was banned currently in portions of the larger parks. The Policy and Services Committee voted unanimously to support the ban of smoking in the 24 parks. Because the item was agendized for only three parks, the City Attorney's Office recommended that Staff present the matter to the Council as an Action Item for proper notice and discussion.

Janet Ghanem, Breathe California, worked with Palo Alto neighborhood and community groups regarding smoke-free parks. She supported the banning of smoking in parks, and hoped larger parks would be included in the future.

Stephanie Munoz suggested an area within parks be designated for smoking. Perhaps the City could provide stop-smoking programs.

MOTION: Council Member Kniss moved, seconded by Council Member Klein to: 1) Adopt an ordinance to amend Chapter 9.14 (Smoking And Tobacco

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Regulations) of the Palo Alto Municipal Code, by adding Sections 9.14.005 and 9.14.035 and amending Section 9.14.010, that would establish new smoking restrictions for City parks and plazas under five acres in size; increase the no-smoking buffer zones near public building entrances from 20 to 25 feet for consistency with LEED standards; and make findings regarding the purpose of no-smoking regulations (Attachment A); and 2) Refer the further investigation of the expansion of the new smoking restrictions for City parks and open space areas five acres in size or larger to the Parks and Recreation Commission, and direct the Commission to make recommendations to the Policy & Services Committee for further consideration and action.

Council Member Kniss felt the Motion was a positive action for the Council, and suggested future action include a ban in all City parks.

Council Member Price concurred with comments regarding public health.

Council Member Burt asked why the Policy and Services Committee did not include larger parks.

Council Member Kniss indicated the Policy and Services Committee would consider extending the ban. The Policy and Services Committee did not discuss policies or procedures for enforcing the ban, but could ask Staff to propose language for enforcement. Perhaps the Council could consider a smoking ban for the entire City.

Mayor Scharff felt the Council should extend the smoking ban to all parks without referring it to the Parks and Recreation Commission (PARC).

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to extend the smoking ban, request Staff return to Council with ordinance on the Consent Calendar with an amendment, and refer designated smoking areas in large parks to the Parks and Recreation Commission.

Council Member Kniss supported extending the smoking ban to all parks, and inquired whether the ban could be enforced.

Mr. Keene believed having a uniform smoking ban was easier to enforce than a selective ban.

Vice Mayor Shepherd questioned whether the largest parks should have designated smoking areas, so that park users would not have to leave the park and activities to smoke.

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Mayor Scharff suggested referring the issue of designated smoking areas to the PARC.

Council Member Burt supported the concept of extending the ban; however, the Council may not have contemplated all issues of a smoking ban. The usual review process would allow that consideration.

MOTION AS AMENDED PASSED: 7-1, Burt no, Holman absent

16. Consideration of City of Palo Alto Offer to Purchase U.S. Post Office Building at 380 Hamilton Avenue and Agreement to Assume Enforcement of Historic Covenant

This item was continued to a date uncertain.

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Vice Mayor Shepherd spoke about the Parent Teacher Association Council luncheon she attended earlier in the week. The Palo Alto Police Department got an award for a program they ran for Palo Alto parents.

Council Member Klein attended the Avenidas Board Meeting where they announced they were in the concept stage of planning an addition to the Bryant Street building. The City owns the building and has leased it to Avenidas for \$1 a year since 1978. Avenidas will likely come to the City to renegotiate the lease as it expires in about 15 years.

Council Member Price noted she attended the Bike to Work Day on May 9th.

ADJOURNMENT: The meeting was adjourned at 11:05 p.m.