



CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting
June 13, 2013

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:07 P.M.

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

Absent:

ACTION ITEMS

1. Continued Public Hearing – Assessment for California Avenue Area Parking Bonds - Plan G: FY 2013-2014; Adoption of a Resolution 9350 entitled “Confirming Engineer’s Report and Assessment Roll, California Avenue Parking Project No. 92-13 (For Fiscal Year 2013-2014).”

Mayor Scharff reported this was the time and place set for the Public Hearing of the parking assessment rolls for the California Avenue Parking District No. 92-13, Resolution of Intention No. 7230 adopted August 9, 1993. The City Engineer prepared and filed with the City Clerk a report providing for the levying of special assessments within the California Avenue Parking Assessment District. The report set forth the amounts of assessments proposed to be levied for Fiscal Year (FY) 2013-2014. Assessments would be utilized to pay principal and interest on bonds issued for the Assessment District. The report was open for public inspection. At-places was an amended version of Exhibit D. The purpose of the hearing was to allow the Council to hear all persons having an interest in any real property within the Parking Assessment District; to hear all objections, protests or other written communications from any interested person; to take and receive oral and documentary evidence pertaining to matters contained in the filed report; to remedy and correct any error in formality in the report; and to amend, alter, modify, correct and confirm the report and each of the assessments therein. He inquired whether the City Clerk received any communications from interested persons.

Donna Grider, City Clerk, replied no.

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Mayor Scharff asked if Staff had comments.

Mike Nafziger, Senior Engineer, indicated the at-places memorandum described changes to the estimated assessment roll which occurred between publication of the Council packet for the June 10, 2013 meeting and the beginning of the current meeting. The adjustments resulted from a data input error and the addition of a recently completed commercial parcel within the Assessment District. The net effect of the corrections was a decrease in the estimated assessment for one parcel affected by the input error and a nominal increase in the other District parcels in the range of \$0.30-\$150.00.

Public Hearing opened at 6:13 P.M.

Mayor Scharff inquired whether any protests were submitted.

Ms. Grider responded no.

Public Hearing closed at 6:13 P.M.

MOTION: Council Member Klein moved, seconded by Vice Mayor Shepherd to adopt the attached Resolution (Attachment A) confirming the Engineer's Report and Assessment Roll for California Avenue District, Project No. 92-13.

MOTION PASSED: 7-0 Kniss, Price absent

2. Continued Public Hearing (PUBLIC TESTIMONY CLOSED): Consideration of 567-595 Maybell Avenue Planned Community(PC), including: (1) Approval of a Mitigated Negative Declaration; (2) Adoption of a Planned Community Ordinance Amending the Zoning Map to Change the Zone Designations from R-2 and RM-15 to Allow a 15 Unit Single Family and 60 Unit Affordable Rental Development for Seniors, including Two Concessions under State Density Bonus Law (Building Height and Daylight Plane); and (3) Approval of a Resolution Amending the Comprehensive Plan Designation for a Portion of the Site to Single Family Residential (from Multifamily Residential), for the Project Located at 567-595 Maybell Avenue. *Quasi-Judicial.

Mayor Scharff reported the Council received a letter from Coalition for Safe and Sensible Zoning regarding the Negative Declaration.

MOTION: Council Member Kniss moved, seconded by Vice Mayor Shepherd to: 1) Approve a Mitigated Negative Declaration (Attachment B); amended

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June 4, 2013; 2) Adopt a Planned Community Ordinance Amending the Zoning Map to Change the Zone Designations from R-2 and RM-15 to Allow a 12 Unit Single Family and 60 Unit Affordable Rental Development for Seniors (Attachment A), including Two Concessions under State Density Bonus Law (Building Height and Daylight Plane); and 3) Approve a Resolution Amending the Comprehensive Plan Designation for a Portion of the Site to Single Family Residential (from Multifamily Residential), for the Project Located at 567-595 Maybell Avenue (Attachment C).

Council Member Kniss felt a vote on affordable housing was always difficult, because the community was resistant to affordable housing. The Maybell Avenue site was appropriate for affordable housing. She suggested the single-family homes be reduced in number to 12 and in size to two stories.

Mayor Scharff inquired whether the applicant would be allowed to choose which three units were removed from the development.

Council Member Kniss indicated the three housing units should be removed from Maybell Avenue. The total number of housing units for Maybell Avenue would be six.

Vice Mayor Shepherd understood most community members approved of the senior housing portion of the development. She objected to the wall of single-family houses, and needed further clarification of the development from Palo Alto Housing Corporation (PAHC). She withdrew her second of the Motion.

REVISED MOTION: Council Member Kniss moved, seconded by Council Member Price to: 1) Approve a Mitigated Negative Declaration (Attachment B) amended June 4, 2013; 2) Adopt a Planned Community Ordinance Amending the Zoning Map to Change the Zone Designations from R-2 and RM-15 to Allow a 12 Unit Single Family and 60 Unit Affordable Rental Development for Seniors (Attachment A), including Two Concessions under State Density Bonus Law (Building Height and Daylight Plane); and 3) Approve a Resolution Amending the Comprehensive Plan Designation for a Portion of the Site to Single Family Residential (from Multifamily Residential), for the Project Located at 567-595 Maybell Avenue (Attachment C). Furthermore, to reduce the number of homes on Maybell from 9 to 6 and homes on both Maybell and Clemo would change from 3 stories to 2 stories.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to improve the street facing elevations of all single family units by varying setbacks of units along Maybell and Clemo; to strengthen and refine the design features, roof lines and landscaping of all

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housing units on the entire site; to provide shuttle services for senior housing residents; and to require the applicant to have an accelerated payment schedule of \$200,000 for Maybell Avenue improvements to ensure expediting of these improvements prior to the issuance of grading permits and building permits.

Council Member Kniss inquired whether payment of the \$200,000 for improvements would be accelerated.

Council Member Price answered yes. The sidewalk and other improvements were contained in the Staff Report, draft Ordinance and Conditions of Approval. The Motion addressed the need for affordable housing and reduced the massing by adding additional design features. Improvements to Maybell Avenue should be completed as soon as possible.

Council Member Berman inquired about setbacks required under RM-2 and RM-15 zoning.

Tim Wong, Senior Planner, indicated the minimum front yard setback was 20 feet.

Council Member Berman inquired about height limits for RM-2 and RM-15 zoning.

Mr. Wong answered 30 feet and 35 feet respectively.

Council Member Berman asked if the City could prohibit garages and aprons on Maybell Avenue for a development constructed under existing zoning.

Aaron Aknin, Assistant Director Planning and Community Environment, reported typically the developer would be allowed to place driveways on Maybell Avenue under standard zoning.

Council Member Berman asked if the City could require a sidewalk as part of a new project on Maybell Avenue under RM-2 zoning.

Mr. Aknin indicated the requirement of a sidewalk would need some type of nexus. If the project was to replace homes, then the answer would most likely be no.

Council Member Berman asked if setbacks were measured from the curb.

Mr. Aknin explained that typically the setback was measured from the property line, and the curb was usually located at the property line.

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Council Member Berman asked where the setback began for the proposed project.

Mr. Aknin stated the sidewalk would be constructed on the property, so setbacks would be measured from the curb. With the sidewalk, the setback would appear smaller.

Council Member Berman noted the current proposal was a 5-foot sidewalk with 11 or 12 feet of yard to the house, for a total setback of either 16 or 17 feet on Maybell Avenue.

Mr. Aknin agreed.

Council Member Berman inquired about the requirements for the 35 percent density bonus.

Mr. Wong reported the developer had to provide either 10 percent very-low-income or up to 20 percent low-income housing to be eligible under the Density Bonus Law.

Council Member Berman asked if the City could alter the density bonus.

Mr. Wong responded no. Density bonus was by right under State law.

Council Member Berman inquired whether a traffic study would be required for a development under R-2 and RM-2 zoning.

Mr. Wong indicated no traffic study would be needed under R-2 zoning.

Mr. Aknin reported an environmental review would be performed, but it probably would not trigger the need for a full traffic study.

Council Member Berman asked if the City could limit development to 8 units per acre under existing zoning.

Cara Silver, Senior Assistant City Attorney, explained the City could not force the developer to build a lesser project if the developer requested an item that was permitted by right.

Council Member Berman inquired whether the developer could construct up to 46 single-family homes on the property under the Density Bonus Law.

Ms. Silver replied yes.

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Council Member Berman inquired whether the City could prevent a developer from constructing one or more driveways onto Maybell Avenue under existing zoning.

Ms. Silver reported the City could have some input if the project required a subdivision map.

Council Member Berman felt in all likelihood the developer would be allowed to construct a driveway onto Maybell Avenue.

Ms. Silver answered yes, because there were four existing houses with driveways onto Maybell Avenue.

Council Member Berman asked how PAHC could construct sidewalks in front of existing homes on Maybell Avenue.

Ms. Silver indicated the applicant agreed to provide a certain amount of money to study the area. Staff needed an additional survey to determine who owned the right-of-way. PAHC could own the landscape buffer on the south side of Maybell Avenue that was considered a right-of-way. There may not be a City easement over that right-of-way.

Council Member Berman requested the applicant explain the history of the sale of this site.

Candace Gonzales, Executive Director of Palo Alto Housing Corporation, stated the property had been on the market for the last few years, and PAHC considered purchasing the site because it was adjacent to an existing PAHC site. In 2011, PAHC was unsuccessful in a bidding competition with other developers. The property owners returned the property to the market, and PAHC was successful in a second bidding competition.

Council Member Berman asked why the property owners chose PAHC over private developers.

Ms. Gonzales explained the owners wanted to close the sale before 2013 capital tax gains increased and to take advantage of the charitable contribution.

Council Member Berman inquired about PAHC's means to fund construction of the project.

Ms. Gonzales reported the purchase price was funded through five or six different sources. PAHC would apply for tax credits in July 2013 which would supply approximately \$13 million for construction of senior housing. In addition, PAHC would utilize a conventional construction loan.

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Council Member Berman asked if PAHC's plan was to sell part of the property for market rate homes.

Ms. Gonzales replied yes. Selling a portion of the property would offset some of the construction costs for senior housing.

Council Member Berman inquired whether PAHC would sell the property before or after building homes.

Ms. Gonzales planned to sell the land to a market rate builder.

Council Member Berman inquired about the cost to construct the senior facility.

Jessica DeWitt, Senior Project Manager of Palo Alto Housing Corporation, indicated the total cost was approximately \$24 million.

Council Member Berman asked why PAHC did not build and sell the market rate homes.

Ms. Gonzales explained that was not PAHC's business. PAHC's experience and expertise concerned affordable housing.

Council Member Berman visited Maybell Avenue in the mornings and afternoons to observe traffic, the neighborhood, the school and the development site. He shared his observations and vehicle, pedestrian and bicyclist counts from his visits. Maybell Avenue was not a Safe Route to School to Juana Briones Elementary School. The proposed project increased safety along Maybell Avenue by adding a sidewalk, removing four driveways, and eliminating parking on one side of the street from 7:00 A.M. to 7:00 P.M. He shared some safety concerns relating to the portion of Maybell Avenue he observed. With respect to increased traffic along Maybell Avenue, his observations indicated the increase resulted from school traffic. The ratios provided by the peer review of the applicant's traffic analysis indicated the project was safer than a 34-unit single-family development. The applicant offered to build a 5-foot sidewalk in front of the project, resulting in a 17-foot setback, which was 3 feet less than current zoning allowed. The applicant moved driveways to the rear of the property and created a smaller setback for safety purposes. The height restriction for R-2 zoning was 30 feet, and the proposal was 32 1/2 feet. He agreed with decreasing the number of stories and number of houses on Maybell Avenue.

Ms. Silver noted Coalition for Safe and Sensible Zoning correspondence was received after the public hearing closed. The Council was not required to consider testimony submitted after closure of the public hearing. The letter

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stated that modifications made to the Mitigated Negative Declaration (MND) required recirculation. Under California Environmental Quality Act (CEQA) guidelines, recirculation was not required when new information merely clarified, amplified or made insignificant modifications. The letter stated that the Bay Area Air Quality Management District (BAAQMD) Standards that were used were improper. The BAAQMD Standards for Greenhouse Gas Emissions were subject to litigation, and BAAQMD rescinded its standards. Until BAAQMD issued new standards, cities were free to utilize different greenhouse gas standards. Palo Alto chose to use earlier BAAQMD standards. With respect to hazardous materials, Phase 1 and 2 studies were prepared by an outside consultant. A series of mitigation measures were required as a result of the Phase 2 study. Most of the mitigation measures were fulfilled. The County of Santa Clara recently issued a closure of investigation report for the site. The MND conservatively required a series of mitigations notwithstanding the closure letter. In the hazardous materials section of the MND, Staff recommended that the check box in H(a), (b) and (c) be changed from no impact to less than significant impact and the addition of a mitigation measure to require the applicant to sweep the surrounding streets daily while contaminated soil was hauled offsite. With respect to hydrology and water quality, the impervious surface would be increased. Safety and emergency access were not environmental issues. The Fire Department reviewed emergency access and determined response times were acceptable. Fire Station 5 provided EMS services. The reconfiguration of parking on Clemo Avenue was not a CEQA issue, but a community benefit suggested by the applicant. The neighborhood could determine whether they wanted perpendicular parking. Staff suggested the City require the applicant to fund a study of parking measures on Clemo Avenue and to implement any measure suggested through that study. There was a legal basis to adopt the MND.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that in the hazardous materials section of the Mitigated Negative Declaration change "no impact" to "less than significant impact" in H(a) (b) (c) and add a mitigation measure of "sweep surrounding streets daily while contaminated soil is hauled offsite."

Council Member Price understood additional parking was needed to offset the parking removed from Maybell Avenue between 7:00 A.M. and 7:00 P.M., which was a question for the Planning Department.

Mr. Aknin reported additional parking was needed to increase the amount of available parking in the area.

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MOTION TO CONTINUE: Council Member Klein moved, seconded by Council Member Holman to continue this item to Monday, June 17th, during that time the Palo Alto Housing Corporation and the neighborhood will meet and negotiate to see if they can achieve a resolution, with the Mayor or his designee facilitating the discussions. Designees by Barron Park Association, Green Acres II Association, and the Maybell Action Group will be present; Mayor may add one or two members of the neighborhood.

Council Member Klein had not experienced this level of opposition from the community in any other discussion. If litigation was instigated, then the community would be the ultimate loser. If the parties could reach a compromise, then the Council had time to hold a second meeting in June 2013.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that in addition to Mayor or his designee attending the meeting, appropriate City Staff may attend to provide technical answers.

Council Member Klein suggested Staff not be a party to the negotiations, but be present to answer technical questions.

Mr. Keene understood Staff was to be present at the negotiations solely in a technical capacity.

Council Member Holman felt the community had been involved in unpleasant and uninformed meetings, and wished to obtain information from the applicant.

Mayor Scharff inquired whether Council Member Holman's questions of the applicant related to the Motion to Continue.

Council Member Holman replied yes. She asked if the applicant paid people to attend the June 10, 2013 Council meeting to speak in support of the project.

Ms. Gonzales did not pay anyone to attend the Council meeting. PAHC rallied supporters, residents, staff and community members to attend the meeting. PAHC staff volunteered to attend the meeting and did not receive overtime pay for the afterhours meeting.

Council Member Holman asked if PAHC got members of the public located outside City Hall to come into the meeting to support the project.

Ms. Gonzales answered absolutely not.

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Council Member Holman inquired about the nature of the supporters who attended the June 10 Council meeting.

Ms. Gonzales reported PAHC requested support from members of the community who supported affordable housing.

Council Member Holman noted some items in the June 10 presentation were not listed as Conditions of Approval, and those items could reduce the traffic impact.

Mayor Scharff indicated the discussion related to the Motion to Continue.

Council Member Holman was attempting to provide topics for discussion at the meeting of the parties.

Mayor Scharff felt those topics were not germane to the Motion to Continue.

Council Member Holman wanted the City Attorney to make that determination.

Mayor Scharff indicated that was a Mayoral decision. The debate was limited to whether the Council wished to continue the Agenda Item and, if so, the time of the meeting.

Council Member Holman requested the same latitude allowed in the discussion of the Motion.

Mayor Scharff stated the debate was limited to continuation of the Agenda Item.

Council Member Holman requested the City Attorney determine if her questions were beyond the scope of the Motion.

Molly Stump, City Attorney, reported the issue was meeting management, which was within the Mayor's purview subject to the vote of the Council to move in another direction.

Council Member Holman disagreed.

Council Member Schmid inquired whether the meeting would be open or closed to the public.

Council Member Klein felt the meeting would be closed; however, that was a decision for the participants. The meeting was not subject to the Brown Act.

Council Member Schmid asked who would speak for the neighborhood.

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Council Member Klein indicated designees of the Barron Park Homeowners Association, the Green Acres II Neighborhood Association, and the Coalition for Safe and Sensible Zoning would be parties to negotiations. The Mayor or his designee were empowered to include other designees as appropriate. He did not consider individuals as parties to the negotiation.

Council Member Schmid inquired about a deadline for parties to provide a report of the meeting.

Council Member Klein hoped they would provide a report before the Council meeting on Monday.

Council Member Schmid asked if information pertaining to a Council decision had to be made available to the public before the scheduled discussion.

Ms. Stump reported the requirement was for an item to be agendaized and noticed 72 hours in advance of a regularly scheduled meeting. For a special meeting, the notice requirement was 24 hours. Informational material should be provided to the public at the same time as to the Council, but there was not a deadline for providing material.

Mr. Keene indicated the Council instituted a policy requiring material developed by Staff be provided in advance of the meeting. The negotiations involved different parties.

Council Member Schmid asked if a report of the negotiations could be provided to the Council and the public at the Monday Council meeting.

Ms. Stump stated that procedure was lawful.

Council Member Kniss inquired whether Barron Park Homeowners Association, the Green Acres II Neighborhood Association, and the Coalition for Safe and Sensible Zoning would name their designees to the meeting.

Council Member Klein responded yes.

Council Member Kniss asked who would be the designee for PAHC.

Council Member Klein indicated PAHC could name its designee.

Council Member Kniss assumed PAHC would have three designees to balance the three designees on the opposing side.

Council Member Klein did not feel that was necessary, but was acceptable.

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Council Member Kniss felt the Motion called for the Mayor to mediate the matter.

Council Member Klein deliberately did not use the term mediation.

Council Member Kniss asked if the Mayor would facilitate the discussion.

Council Member Klein replied yes. The number of designees was not important, because a vote would not be utilized to make a decision. The parties would agree or disagree with regard to terms of a compromise.

Council Member Kniss inquired whether the Council should accept a compromise agreement reached by the parties.

Council Member Klein answered yes. If the parties agreed to a compromise, then most likely the Council would accept the compromise.

Ms. Stump reported Staff would need time to make changes or amendments to documents and to respond to a compromise, if one was reached. There could be timing issues with a tight timeframe for discussion and response.

Council Member Burt expressed concerns about timing. The public should have an opportunity to review any information from the meeting in advance of Council discussion. If a compromise was reached, then Staff could need to review some or all of the terms of the compromise. He questioned whether the deadline contained in the Motion should be June 17 or June 24.

Ms. Stump reported the Council had the discretion to vary from its procedures. Results of the negotiations could trigger a noticing issue such that the City would need to provide information and an opportunity for public comment.

Mr. Keene was concerned that Staff would not have sufficient time to respond if an agreement was reached. If negotiations did not result in a compromise, then the Council would be in the same position as at the current time.

Ms. Stump explained the Council could move the item to June 24, 2013; however, a second reading within ten days would not occur in the month of June. PAHC needed the second reading to occur in June for application deadlines in July. As an alternative, the Council could direct that a meeting occur and that there be discussions and a report to the Council on discretionary items still to be resolved.

Council Member Burt did not believe the timing issue had to be resolved at the current time. If a compromise was in place on June 17, 2013, then the

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Council would have to consider whether to take action or have a special meeting. If the Council held a special meeting on June 20, then it could have a second reading before the end of June.

Ms. Stump indicated Council approval of a project on June 17 would leave only two business days, June 27 and 28, for a second reading. The last two days of June fell on Saturday and Sunday.

AMENDMENT TO MOTION TO CONTINUE: Council Member Klein moved, seconded by Mayor Scharff that the agreement, if one is reached, would be submitted to City Clerk's Office no later than 1:00 P.M. on Monday, June 17, 2013.

AMENDMENT TO MOTION TO CONTINUE PASSED: 8-0 Holman Abstaining

Council Member Price inquired whether negotiating parties could include individuals involved in the community working group and who spoke at the public hearing held June 10.

Council Member Klein wanted the parties to be PAHC and those adversarial to PAHC. PAHC could represent individuals in favor of the project. Negotiations would not be successful if parties were simply making speeches.

Council Member Price felt the individual participants could assist the discussion.

Vice Mayor Shepherd requested the City Attorney comment regarding negotiating parameters.

Ms. Silver reported the neighborhood voiced a variety of issues. The City chose not to address those issues as required Conditions of Approval or as mitigation measures in the MND, because the documentation did not legally justify the requirements. Additional measures could be adopted that would assist the neighborhood. Many measures could address the existing conditions more than the actual project impacts, because project impacts were small in relation to overall conditions.

Vice Mayor Shepherd inquired about the existing conditions that concerned neighborhoods.

Ms. Silver indicated some issues were described in improvements considered for Maybell Avenue, such as Safe Route to School improvements, sidewalks, additional crossing guards, and shuttle services.

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Vice Mayor Shepherd felt the Council would vote on the Motion on June 17, and inquired whether the topics open for negotiation could be limited.

Mr. Akin understood the primary issues were safety related to traffic and visual impacts related to three-story homes along Maybell Avenue.

Vice Mayor Shepherd asked Council Member Klein what the Council should expect to receive from negotiations.

Council Member Klein hoped the Council would receive an agreement between PAHC and a representative group of the neighborhood. Any agreement could be included in Council Motions or rejected.

Vice Mayor Shepherd inquired about the Coalition for Safe and Sensible Zoning.

Ms. Stump knew only the name and address for the group.

Mayor Scharff requested a representative of Coalition for Safe and Sensible Zoning provide additional information about the group.

Jennifer Fryhling, Maybell Action Group, indicated Coalition for Safe and Sensible Zoning was comprised of four members. Other groups and a large number of members comprised the Maybell Action Group.

Mayor Scharff inquired whether the Maybell Action Group would like to appoint a designee to participate in negotiations.

Ms. Fryhling answered yes. Barron Park Association, Green Acres II, Maybell Action Group, and the Coalition would like to have designees at the meeting.

Vice Mayor Shepherd continued to have questions regarding the Motion that could provide additional information for the negotiations.

Mayor Scharff inquired whether continuing the item would also reopen the public hearing.

Ms. Stump felt it was safe to assume the public hearing should be reopened.

Mayor Scharff announced public comment would be held on June 17 if the Council approved the Motion to Continue.

Ms. Stump added that the public could learn the results of the negotiations at the meeting itself.

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Mayor Scharff believed he or his designee would report on the negotiations and possible compromise at the meeting on June 17, 2013, and asked if the Motion would be held in abeyance.

Council Member Klein replied yes. If the negotiations resulted in no compromise, then the Motion would be open to debate and action.

Mayor Scharff requested the City Clerk retain the Motion for possible future action.

Council Member Klein substituted Maybell Action Group for Coalition for Safe and Sensible Zoning. The Mayor had discretion to include additional neighborhood designees to the negotiations.

Council Member Berman supported the Motion to Continue because it allowed additional community input; however, timing issues were a concern. He questioned the impact of Council discussions on the negotiations. He would not support the Motion to Continue unless the topics for negotiation were limited to number of houses, height of houses, and setbacks.

Council Member Kniss agreed with Council Member Berman regarding limiting the topics for negotiation. She inquired whether the negotiations would be open to the full project or limited to the application and Council changes.

Mayor Scharff, as meeting facilitator, would limit the negotiation to issues discussed at Council meetings; consequently, the Council should not worry about vast and inappropriate changes to the project.

Council Member Kniss requested the negotiation be limited to those parameters which the Council, as a voting body, was asked to review.

Council Member Klein did not believe restricting negotiations would be helpful. The Mayor, as facilitator, should guide the discussion.

AMENDMENT TO MOTION TO CONTINUE: Council Member Kniss moved, seconded by Council Member Schmid to restrict the conversation to what was discussed on June 13, 2013, leaving discretion to the Mayor. Discussion will address the actual Motion made on June 13, 2013.

Council Member Schmid reiterated concerns about timing.

AMENDMENT TO MOTION TO CONTINUE PASSED: 6-3 Burt, Klein, Scharff no

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Council Member Holman was concerned that the meeting was closed, and inquired whether the Council was expected to approve any compromise resulting from negotiations.

Council Member Klein reported the Council was not bound by an agreement resulting from the negotiations. If the PAHC agreed to the terms of a compromise, then most likely the Council would adopt those terms. The parties were not public entities; therefore, an open meeting was not required. Holding negotiations in an open forum would constrain the ability of the parties to reach an agreement.

Mayor Scharff asked PAHC if it was interested in participating in negotiations.

Ms. Gonzales was open to discussions with the understanding PAHC had to meet the tax credit application deadline. She reiterated Council Member Price's concern that the designees were not representative of the general neighborhood.

Mayor Scharff inquired whether PAHC supported the Motion to Continue to allow negotiations between the parties.

Ms. Gonzales would support the Motion to Continue if the Council would agree to hold a special meeting for a second reading of the Ordinance in June.

Mayor Scharff would attempt to schedule a meeting for June 27, 2013; however, he was unsure if five Council Members would be available to attend the meeting.

Vice Mayor Shepherd requested the Mayor determine if five Council Members would attend a meeting on June 27.

Mayor Scharff requested Council Members indicate by a show of hands whether they were available for a meeting on June 27, 2013.

Council Member Klein indicated he could participate by telephone.

Donna Grider, City Clerk, reported telephone participation was not acceptable for a quorum.

Mayor Scharff announced five Council Members would attend a Council meeting on June 27.

Council Member Kniss inquired whether public comment would be allowed at the June 17 meeting.

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Mayor Scharff indicated the public hearing would reopen at the meeting scheduled for June 17.

Council Member Kniss asked what the public would comment on.

Ms. Stump reported Staff would re-notice tonight's item for June 17, 2013. The notice would be published the following morning.

Ms. Grider would prepare a revised Agenda for the June 17, 2013 Council meeting.

Ms. Stump explained the Clerk would revise the Agenda to reflect a continuation of the item.

Council Member Kniss again asked what the public would speak about.

Council Member Burt suggested Staff provide any information regarding the negotiations to the Council and the public as soon as they received the information.

Mr. Keene indicated Staff would make their best efforts to publish any information they received as quickly as possible.

Council Member Kniss inquired whether the public would comment on a new suggestion or a new decision.

Ms. Stump explained the discussion would concern relatively narrow changes to the proposed project. If proposed changes were very broad or ambitious, Staff would advise the Council that it probably could not have a final vote on Monday.

Mr. Keene added that PAHC clearly indicated the June 30 deadline was important. There were practical limitations to the number of revisions that could be made.

Council Member Klein noted the neighborhood also had incentives to reach an agreement.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to allow Council Members to ask technical questions (not comments) after vote.

MOTION TO CONTINUE PASSED: 7-2 Kniss, Schmid no

Council Member Holman requested a definition of "technical questions."

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Mayor Scharff explained technical questions concerned building height, landscaping, specific questions about the proposed project. He requested Council focus on questions regarding traffic as the consultant had to leave the meeting.

Council Member Price inquired whether a reduction in the number of houses would impact traffic.

Gary Black, Hexagon Transportation Consultants, reported the number of trips were proportional to the number of units. The trips generated would decrease by three trips, one per unit. He identified an impact at Clemo Avenue and Arastradero Road under the scenario where the project had access to Clemo Avenue only. If the project had access to Clemo Avenue and Maybell Avenue, then the number of units would not affect the finding of significance.

Vice Mayor Shepherd asked if Hexagon utilized the Santa Clara Valley Transportation Authority (VTA) methodology for the study.

Mr. Black replied yes.

Vice Mayor Shepherd asked if that methodology was different from the San Mateo County methodology.

Mr. Black noted there were some differences between the two methodologies.

Vice Mayor Shepherd added some of the differences were important. She asked if Hexagon utilized the Santa Clara County (County) methodology.

Mr. Black responded yes.

Vice Mayor Shepherd noted a deviation from the accepted practice required an explanation.

Mr. Black indicated the traffic study for the project was voluntary. The County required a traffic study only if the project would generate more than 100 peak hour trips. The County would not require a traffic study for this project.

Council Member Schmid noted the City's methodology was based on 2005 growth projections which were not accurate, and inquired whether the model was no longer valid.

Mr. Black reported that the County model was updated on a regular basis.

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Council Member Schmid explained that the VTA model was 50 percent inaccurate and the City's model was 50 percent inaccurate; therefore, the error was compounded. He asked why the City did not utilize the 9th edition of the Institute of Transportation Engineers (ITE) Manual which was released 18 months ago.

Mr. Black stated the 9th edition was not available when the project began. Hexagon performed special trip generation studies of three other senior projects. Those projects were within 1 trip of the number used in the current project.

Council Member Schmid added that those three senior projects were within walking distance of shopping.

Mr. Black explained that using the 9th edition did not change the impact.

Council Member Schmid inquired whether Mr. Black would recommend the City update to the 9th edition.

Mr. Black indicated any project started today would utilize the 9th edition.

Mayor Scharff inquired whether the trees located along Clemo Avenue would remain.

Mr. Wong reported 10 of the 12 mature oak trees would remain. Two oaks in poor to moderate condition would be removed.

Mayor Scharff asked if there were additional protections for those trees.

Mr. Wong stated the City had a number of existing tree protection requirements. The homes in the project were designed with placement of the oak trees as consideration.

Mayor Scharff inquired whether additional Architectural Review Board (ARB) review would be required if the Council required substantial redesign of the houses.

Mr. Aknin believed the redesign of the homes could be presented for ARB recommendations with ultimate approval by the Director.

Mayor Scharff asked if an appeal of the ARB decision would go to the Director.

Mr. Aknin explained that the ARB made a recommendation to the Director, and the Director's decision was appealable to the Council.

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Mayor Scharff asked if height was limited to 30 feet under RM-2 and RM-15 zoning.

Mr. Wong answered yes.

Mayor Scharff reiterated that the height limit was 30 feet on both Maybell Avenue and Clemo Avenue unless the Council approved rezoning.

Mr. Wong replied yes.

Mayor Scharff asked if a three-story house could be constructed within 30 feet.

Mr. Aknin believed it would be difficult.

Vice Mayor Shepherd requested PAHC comment on the change of lot size resulting from the decrease in number of houses.

Ms. Gonzales needed to evaluate the change. The lot sizes would be approximately 5,400-6,000 square feet.

Vice Mayor Shepherd inquired whether that was the normal size of a lot for a single-family home.

Ms. Gonzales responded yes, in that neighborhood.

Vice Mayor Shepherd asked if the lot size would be approximately 55 feet by 100 feet.

Ms. Gonzales replied yes, approximately that size.

Mr. Aknin noted the lots would be approximately 57 feet wide.

Vice Mayor Shepherd asked if the lot depth would be 100 feet.

Mr. Aknin reported the depth would be slightly less with the street and driveway. Across Maybell Avenue, the average lot width was 50-52 feet.

Council Member Kniss inquired whether the project review and approval could be completed by the end of June with additional ARB review.

Ms. Stump explained that the Planned Community (PC) Ordinance could be passed and adopted while the limited issues of design review would return to the ARB for review. That process did not bar PAHC from proceeding with the tax credit applications.

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Mr. Keene requested a meeting occur the following day regarding technical aspects of the project.

Mayor Scharff requested contact information for the Maybell Action Group.

3. Continued Public Hearing and Proposition 218 Hearing: Adoption of Budget Amendment Ordinance 5199 entitled "for FY 2014, including Adoption of Operating and Capital Budgets and Municipal Fee Schedule"; Adoption of 6 Resolutions 9351, 9352, 9353, 9354, 9355, and 9356 entitled, "including: Adopting a Dark Fiber Rate Increase and Amending Utility Rate Schedules EDF-1 and EDF-2; Adopting a Water Rate Increase and Amending Utility Rate Schedules W-1, W-2, W-3, W-4 and W-7; Amending Utility Rate Schedule D-1 (Storm and Surface Water Drainage) to Increase Storm Drain."

Lalo Perez, Chief Financial Officer and Director of Administrative Services, noted the Agenda Item had a deadline of June 30, 2013. At places were a June 10, 2013 memorandum entitled Additional Information Pertaining to Fiscal Year (FY) 2014 Proposed Budget; a water rate increase table; and slides. Staff was updating rent amounts for City departments and would return with complete information at a later time. Property tax revenues increased \$511,000 because of Proposition 8 property reassessments. During the Finance Committee Budget hearings, Chair Burt recalled an agreement that allowed excess revenues from City property adjacent to Parking Lots S and L to provide funding for teen programs. Staff provided Attachment A which contained a reconciliation of the transactions. Based on the Council-approved Motion, \$217,334 was included in the Proposed Budget to be allocated to teen programs. The Finance Committee did not review Staff's recommendation to reduce the photovoltaic system fee from \$320 to \$311 to match the industry standard. The Council directed Staff to adjust Human Services Resource Allocation Process (HSRAP) allocations to Avenidas and Palo Alto Community Child Care (PACCC) by 7.2 percent for a total of \$58,299. Attachment C provided additional explanations regarding HSRAP allocations. Staff provided additional information regarding water rates and benchmarking. In Packet 3782, pages 827-830, Police Chief Burns discussed the School Resource Officer (SRO). On June 3, 2013, the Budget contained a \$31,000 surplus. After the noted changes in revenues and expenses, the surplus totaled \$266,000. Based on Council discussion, Staff recommended the 2 percent salary increase of \$589,000 for Miscellaneous Employees be returned to Reserves. With the addition of \$589,000, the Budget Stabilization Reserve (BSR) fund balance totaled \$855,000. On June 17, 2013, Staff would recommend Council approval of contracts for park maintenance and a budget amendment totaling \$226,000 for those

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contracts. Funding for HSRAP increased by \$105,725, for a total HSRAP Budget of \$1.2 million.

Mayor Scharff reported the Council conducted its first public hearing on the Budget and utility rate changes on June 3, 2013, and would conduct the second and final hearing on the Budget and related items at the current time. A portion of the hearing would relate to a change in water rates and would be governed by Proposition 218.

Molly Stump, City Attorney, explained that the procedure for water rate changes would follow the requirements of the California Constitution adopted by the voters as Proposition 218. Proposition 218 set forth procedural rules that local governments were required to follow before increasing property-related fees. The California Supreme Court found that water rates were property-related fees and were subject to Proposition 218 requirements. After close of the public hearing, there would be a majority protest procedure. The proposed dark fiber rates and proposed storm drain rates contained in the Budget did not need to follow Proposition 218 procedures. The dark fiber rates were not property-related fees. Storm drain inflation rate adjustments were previously approved by the voters. Those rates would be considered during the public hearing.

Mayor Scharff indicated all residents and other interested persons would have an opportunity to provide testimony on the water rate increase. To be valid, protests to the proposed rate increases were required to be in writing, signed and submitted to the City Clerk prior to the close of the public hearing. The protest must identify the parcel and the rate being protested. The City Clerk would accept written protests until the public hearing closed. At the end of the public hearing, the City Clerk would count the number of written protests against the proposed rate increases. The Council would determine whether a majority protest existed for the rate increases. If a majority of customers and property owners did not submit protests by the close of the public hearing, the City Council could adopt the new water rate schedules as part of the Ordinance adopting the Budget for FY 2014.

Public Hearing opened at 9:06 P.M.

Mayor Scharff inquired whether any protests were submitted.

Donna Grider, City Clerk, received 21 written protests.

Mayor Scharff asked if that constituted a majority.

Ms. Grider replied no.

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Public Hearing closed at 9:07 P.M.

Mayor Scharff tabulated the written protests pursuant to Proposition 218. There were 20,040 property owners and water customers subject to the rate increase; therefore, 10,021 protests were needed to create a majority. He inquired whether the City Clerk received 10,021 protests.

Ms. Grider received 21 protests.

Mayor Scharff stated the total number of protests received was not greater than 50 percent; therefore, there was not a majority protest. The Motion to adopt the water rate changes would be made as part of the Ordinance adopting the Budget for FY 2014.

Molly Stump, City Attorney, reported that the Political Reform Act required public officials to refrain from making or participating in governmental decisions that could impact a source of income to the official. In the Budget process, traditionally the Council separated Budget Items related to Stanford University; consequently, the Budget would proceed through discussion in two phases. Portions of the Budget related to Stanford University would be discussed first.

Council Member Klein recused himself from participation in Budget items related to Stanford University because his wife was an employee at Stanford.

Council Member Schmid recalled there were ongoing discussions with Stanford related to fire services, and inquired whether those discussions would affect the FY 2014 Budget.

Mr. Perez answered no. The current agreement with Stanford University required a 12-month notification to exit the agreement.

MOTION: Council Member Schmid moved, seconded by Council Member Berman to approve the Finance Committee and Staff Recommendations on the portions of the Police, Fire, and CIP Budgets related to Stanford University for Fiscal Year 2014 and the related Ordinance portions.

MOTION PASSED: 8-0 Klein not participating

Vice Mayor Shepherd asked if the HSRAP Budget would be \$1.2 million in future years.

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Mr. Perez felt the Council should make that decision. He did not recall the Council discussing whether the HSRAP funding increase was a base increase.

Vice Mayor Shepherd wanted to understand the Human Relations Commission's (HRC) rationale for allocating HSRAP funding.

Jill O'Nan, Human Relations Commission Chairperson, reported the HRC did not intend to slight PACCC or Avenidas. The HRC felt it was important to open HSRAP to new agencies to fill gaps in services. To fund new agencies, the HRC reduced funding for two-year agencies. PACCC and Avenidas held six-year contracts. When the Council provided additional funding, the HRC restored funding to the two-year agencies and allocated additional funds for the two-year agencies, PACCC and Avenidas. Because PACCC and Avenidas received a disproportionately larger share of funding than other agencies, a straight percentage increase would have given them almost the full amount of funding. Consequently, the HRC attempted to distribute funds equitably. Council Member Klein's suggestion to provide PACCC and Avenidas an additional grant would place PACCC and Avenidas in the same position as the smaller agencies.

Vice Mayor Shepherd inquired whether the funding would be additional funds or would restore funding.

Minka Van Der Zwaag, Community Services Manager, explained all HSRAP agencies received a 5 percent reduction in 2005 and a 5 percent reduction in 2009. Additional funds would not restore grants to prior levels.

Vice Mayor Shepherd understood the HRC reduced funding for two-year agencies by 5 percent to fund new agencies. The Council provided a 5 percent increase such that the reduction for two-year agencies was not necessary.

Ms. Van Der Zwaag stated the 5 percent reduction did not apply to PACCC and Avenidas because their contracts were not available for renewal.

Vice Mayor Shepherd asked if additional funds would be provided to PACCC and Avenidas.

Ms. Van Der Zwaag answered yes. They would receive 7.2 percent of the total grant allocation each or approximately \$28,000 each.

Vice Mayor Shepherd inquired about the percentage increase for PACCC and Avenidas.

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Ms. Van Der Zwaag reported funding for PACCC and Avenidas increased by 7.2 percent.

Vice Mayor Shepherd asked if 7.2 percent of the original 10 percent reduction was restored.

Ms. Van Der Zwaag replied yes.

Vice Mayor Shepherd indicated the question for the Council was whether \$1.2 million would be the base funding for HSRAP.

Mr. Perez suggested the Council provide direction to Staff regarding base funding for HSRAP.

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Price to establish a base Human Services Resource Allocation Process at \$1,216,178 going forward as an advisory measure to the Finance Committee.

Mr. Keene recommended the Motion be voted on separately as it was a direction to Staff for the FY 2015 Budget and would not be part of the Budget Ordinance Amendment.

Mayor Scharff clarified that the Motion was advisory for the Finance Committee.

Mr. Keene reported Staff would propose a Budget for FY 2015 utilizing base funding of \$1.2 million for HSRAP.

Council Member Klein understood that a significantly smaller percentage of funds was allocated to PACCC and Avenidas.

Ms. O’Nan reported it was difficult to allocate funds to agencies that were so disparate in size. The HRC focused on the smaller agencies to fill critical unmet needs.

Council Member Klein was concerned about the process for allocating funds. Some organizations were larger than Avenidas and PACCC.

Ms. O’Nan indicated in terms of amount, PACCC and Avenidas received more funding than the smaller agencies.

Council Member Klein felt the HRC historically had difficulty funding Avenidas and PACCC.

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INCORPORATED INTO THE MOITON WITH THE CONSENT OF THE MAKER AND SECONDER to formally refer to the Policy and Services Committee a proposal to split off Avenidas and PACCC from Human Services Resource Allocation Process process.

Mr. Keene noted the base funding amount for HSRAP would change if the Motion was adopted.

Ms. O’Nan reported the HRC considered splitting off Avenidas and PACCC in the past. The concern was that the smaller agencies would be overlooked when larger agencies were removed. The smaller agencies provided critical services to the community.

Council Member Holman asked how PACCC and Avenidas would be funded if they were not part of HSRAP.

Mr. Keene explained they would be funded through a separate grant fund.

Council Member Holman inquired whether Staff was anticipating a funding process.

Mr. Keene replied no. The City would provide PACCC and Avenidas, as external agencies, with funds through some process.

Ms. Van Der Zwaag reported a similar process happened with the Palo Alto Mediation Program. Similarly, PACCC and Avenidas could be general services contractors with the Community Services Department.

Council Member Holman inquired whether baseline funding for HSRAP should be removed from the Motion.

Mr. Keene responded no, because the Council did not have a recommendation from the Policy and Services Committee.

Council Member Schmid asked if HSRAP funding originated from a U.S. Housing and Urban Development (HUD) or U.S. Health and Human Services (HHS) grant.

Mr. Perez explained \$1.2 million was provided by the General Fund. Additional funds could be provided through the Community Development Block Grant (CDBG) program.

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Vice Mayor Shepherd questioned whether the Council should refer HSRAP funding to the Policy and Services Committee or the Finance Committee.

Council Member Klein felt the question was policy rather than financial.

Vice Mayor Shepherd indicated HSRAP funding was not submitted to the Policy and Services Committee upon approval.

Council Member Klein explained his Motion concerned the process for allocating funds, not the amount of funds.

MOTION AS AMENDED PASSED: 9-0

Council Member Burt felt the community did not sufficiently understand the function of a School Resource Officer (SRO), and requested Staff clarify the SRO's role.

Ron Watson, Police Captain, could provide the role of the SRO now versus a few years ago when the City had two SROs.

Council Member Burt wanted to know the roles, other than law enforcement, of the SRO.

Mr. Watson explained the majority of a SRO's time was spent either in the two high schools or performing functions related to the high schools. The difference was the day-to-day relationship with the schools, parents and students. Without an SRO, patrol officers would respond to calls at the schools. An SRO typically identified a faster, more efficient, and longer lasting resolution for a problem, because of his familiarity with the circumstances, administrators and students. The SRO had an ongoing relationship with the students, parents and administrators which a patrol officer would not have. The SRO worked with the Parent Project and the Code Red training, reviewed all juvenile arrest reports, participated in the absence review board committee and the county truancy boards, and provided juvenile training.

Council Member Burt related the history of the Downtown Teen Center. He recommended Staff identify a sustainable process to utilize funds for teen programs. The Council could provide Staff with policy guidance to return with a sustainable process based on the anticipated revenue.

Council Member Price assumed the Youth Council and youth advisory boards would be engaged in the discussion regarding potential uses of funding.

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Mr. Perez agreed.

Council Member Burt wanted outreach to include many if not all of the various youth agencies.

Council Member Price agreed with obtaining broad input from youth voices.

Council Member Berman agreed with Council Member Price's comments to engage youth in the discussion.

MOTION: Council Member Burt moved, seconded by Mayor Scharff to adopt Budget Amendment Ordinance 5199 for the FY 2014 proposed Capital and Operating budgets and proposed Municipal Fee Schedule, including tentatively approved changed by the Finance Committee and to include the following changes: a \$511,000 increase to property tax revenue, an additional \$217,334 to the Community Services Department budget for the teen program contribution, an additional \$58,299 contribution to the Human Services Resource Allocation Process, and return \$589,000 to the Budget Stabilization Reserve for the 2% miscellaneous employee increase, leaving the proposed budget BSR increase to be \$855,000. In addition, include the change to the residential photovoltaic systems municipal fee, reducing the fee from \$320 to \$311. Request that Staff return with a plan for sustainable expenditure of the teen program funding based upon anticipated future revenue from the dedicated funding source; this is being referred to the Policy and Services Committee prior to returning to the full Council; Policy and Services will determine what Boards and Commissions should consider the program. Adopting Resolution 9351 for a Water Rate Increase and Amending Utility Rate Schedules W-1, W-2, W-3, W-4 and W-7; Adopt a Resolution 9352 Amending Utility Rate Schedule D-1 (Storm and Surface Water Drainage) to Increase Storm Drain Rates. Adopting Resolution 9353 for a Dark Fiber Rate Increase and Amending Utility Rate Schedules EDF-1 and EDF-2. Adopt a Resolution 9354 Amending the 2011-2013 Compensation Plan for Management and Professional Adopted by Resolution No. 9282 to Change the Title and Salary of One Position; Adopt a Resolution 9355 Amending the 2012-2013 Memorandum of Agreement for Local 521, Service Employees International Union (SEIU), Adopted by Resolution No. 9277 to Add One new Classification and Adopt a Resolution 9356 Amending the 2010-2014 Compensation Plan for the International Association of Fire Fighters (IAFF) Adopted by Resolution No. 9204 to Properly Record the Top Step Salary for One Existing and Create One New Position.

Council Member Burt reported this was the first opportunity to restore funding to programs in his tenure on the Council. Revenue increases and structural reforms to expenditures allowed the Council to increase funding.

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Surveys indicated residents were receiving better services with fewer employees.

Mayor Scharff indicated the City now had a sound financial structure; however, the City had more work to do. Many employee costs were outside the Council's control.

Council Member Kniss believed increased revenues could lead to implementation of new programs and increased Staff. However, the Council made the reductions necessary for sustainability and could avoid that pitfall. She asked if there was a teen center.

Council Member Burt related the Council's discussions regarding the teen center in 2001.

Council Member Kniss recalled a community push for a teen center.

Council Member Holman inquired whether Council Member Burt meant for the Motion to refer the teen program to the Policy and Services Committee. Typically such programs were referred to the Parks and Recreation Commission (PARC).

Council Member Burt suggested the Policy and Services Committee determine which advisory bodies would review the teen program.

MOTION PASSED: 9-0

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Mayor Scharff said that Council moved to hold the Council Retreat scheduled for June 13, 2013 to August. August was already full with meetings and he thought they should move the retreat to September instead.

MOTION: Mayor Scharff moved, seconded by Council Member Berman to move the Council Retreat to September 2013.

Council Member Holman said that two Council Members would be at the League of Cities meeting in September and asked that they consider that when scheduling the Retreat.

MOTION PASSED: 9-0

Council Member Price asked for clarification on the policy regarding naming streets in memory of public safety members.

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Molly Stump, City Attorney, said she would provide the policy to Council Member Price.

Council Member Holman said she believed the process for naming streets went to the Historical Association.

ADJOURNMENT: This meeting was adjourned at 9:55 P.M.