



# CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting  
September 23, 2013

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:04 P.M.

Present: Berman, Burt, Holman, Klein, Kniss, Price, Scharff, Schmid, Shepherd arrived at 5:10 P.M.

Absent:

## CLOSED SESSION

1. 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, Kathy Shen, Breena Rowe, Rebecca Burnside)  
Employee Organization: Service Employees International Union, (SEIU) Local 521; Hourly Unit  
Authority: Government Code Section 54957.6(a)

The Council adjourned from Closed Session at 6:55 P.M. and Mayor Scharff announced no reportable action.

## SPECIAL ORDERS OF THE DAY

2. Presentation by Santa Clara County District Attorney Jeff Rosen.

Jeff Rosen, District Attorney, explained that the mission of the District Attorney's Office was to aggressively pursue justice while treating everyone fairly, equally and with respect. The core values were service, hard work, transparency and integrity. The District Attorney's Office employed 540 people. The crime laboratory was state of the art and internationally accredited. Tours of the crime laboratory were available. The District Attorney's Office prosecuted approximately 40,000 criminal cases a year, the majority of which were misdemeanor cases.

# MINUTES

The crime rate had increased slightly over the past couple of years, because of fewer police officers in the county. Palo Alto had an outstanding Police Department, beginning with Chief Burns. He shared a story of the Palo Alto Police Department finding a stolen iPhone in San Jose, leading to the discovery of other stolen electronic devices and 750 pounds of methamphetamine. He and other District Attorneys were working to have makers of electronic devices install kill switches in case of theft. The District Attorney's Office and the Palo Alto Police Department held a gun buy-back program a few months previously. He highlighted community programs provided by the District Attorney's Office. He hoped the District Attorney's Office created a culture of excellence.

170.6 was accused of untrue allegations in 2003. He remained accused of those crimes because a statute of limitations did not apply to the matter; however, the Police Department did not attempt to resolve the case.

Lois Salo inquired about Mr. Rosen's stand on the unconstitutional ban.

Tony Ciampi questioned the District Attorney's actions regarding the crime lab's analysis of evidence submitted by the Palo Alto Police Department.

## CITY MANAGER COMMENTS

Lalo Perez, Chief Financial Officer, announced the Palo Alto Airport Association would host the Annual Airport Day on September 29, 2013. Approximately 3,000 people participated in the 29th Annual Palo Alto Weekly Moon Run and Walk on September 20, 2013. The Children's Theatre was named the best place for live entertainment in 2013 in a readers' poll performed by the Palo Alto Weekly. The Palo Alto Art Center would hold the Great Glass Pumpkin Patch September 24-29, 2013. The Bibliophilia exhibit continued at the Palo Alto Art Center. Owl-shaped bollards were installed at the Mitchell Park Library and Community Center.

## ORAL COMMUNICATIONS

Herb Borock stated the Council should appointment an Acting City Manager when both the City Manager and the Assistant City Manager were absent. The Agenda description for the Council Appointed Officers Committee was deficient with respect to Brown Act requirements. Under the Brown Act, the Committee was a legislative body; therefore, negotiations should be held in public. There was a precedent for public negotiations.

# MINUTES

Stephanie Munoz wished to make the Council aware of the possibility it would have to buy back real estate at exorbitant prices to house the homeless.

## CONSENT CALENDAR

Herb Borock requested Agenda Item Number 5 be removed from the Consent Calendar. The Council had the prerogative to direct Staff to hire a recruiting firm for the position of City Auditor. Council policy indicated Council Committees were advisory to the Council. The current opening for City Auditor was not listed on the City's website.

**MOTION:** Vice Mayor Shepherd moved, seconded by Council Member Kniss to approve Agenda Item Numbers 3-6.

3. Approval for the City Manager to Purchase a Police Records Management System (RMS), and Field-based Reporting Applications in Partnership With the Cities of Mountain View and Los Altos for Palo Alto's Participation in the Tri-Cities CAD and RMS "Virtual Consolidation" Project and Related Budget Amendment Ordinance in the Amount of \$100,000 in Contingency Funding from the Information Technology Internal Service Fund.
4. Approval of Crescent Park - No Overnight Parking (2:00 A.M.-5:00 A.M.) Trial Program Resident Permit Application and Program Expansion.
5. Council Appointed Officers Committee Recommendation of Appointment of Acting City Auditor.
6. Reauthorization to Engage in a Non-Binding "Smart Cities Alliance Agreement" with the City of Heidelberg, Germany, and Direction on Exploring Future "Smart City" Alliance.

**MOTION PASSED:** 9-0

## ACTION ITEMS

7. Colleague's Memo From Vice Mayor Shepherd, Council Members Berman, Holman, and Price Regarding the Building Code and Stalled Construction.

Gil Woolley lived adjacent to an unfinished construction project. He supported the Colleague's Memo.

# MINUTES

Former Mayor Gail Woolley stated the residence adjacent to her home was demolished in January 2007. Partial construction occurred in 2008 and 2009; however, the construction remained incomplete. Incidents of drug dealing and storage of stolen property occurred at the site.

Linda Vlasic urged the Council to direct Staff to draft an Ordinance related to stalled construction projects. She recommended the Council consider architectural review of one-story projects.

Council Member Price indicated the Colleague's Memorandum addressed the issues of stalled construction in residential neighbors. Stalled construction projects impacted the quality of life in neighborhoods and became destinations for dangerous behaviors. The authors of the Colleague's Memorandum requested the item be referred to the Policy and Services Committee to prepare an Ordinance addressing the imposition of time limits for building permits and daily penalties for projects which exceeded the life of building permits.

**MOTION:** Council Member Price moved, seconded by Mayor Scharff to direct Staff to: 1) draft an Ordinance that amends the Municipal Code regarding completion of residential construction projects in a timely manner, to include the imposition of time limits for building permits and daily penalties for projects that exceed the life of a building permit; 2) return to the Policy and Services Committee with a brief update and analysis of delays in commercial construction projects in Palo Alto, if similar issues have arisen, along with potential solutions; and 3) this draft shall be reviewed by Council's Policy and Services Committee for final recommendation to Council.

Council Member Price reported community members clearly expressed concern about the conditions. It was important for the Council to move forward with the recommendation, because of the impacts on neighborhoods. Stalled construction projects occurred throughout Palo Alto.

Mayor Scharff felt stalled construction projects were a quality of life issue. He had heard complaints about stalled construction projects over several years. He inquired about a time limit for fencing to remain around stalled construction projects.

Peter Pirnejad, Development Services Director, reported if there was no construction activity within a prescribed time period after issuance of a building permit, then Staff began the enforcement process.

# MINUTES

Aaron Akin, Planning and Community Environment Interim Director, added that fencing around stalled construction projects could violate the City's Fence Ordinance.

Council Member Kniss asked if there were any requirements for the contractor, property owner or developer to repair the sidewalk or street at the end of a construction project.

Mr. Pirnejad explained that a public works encroachment permit was associated with a building permit for residential construction. In order to finalize the building permit, the public works encroachment permit needed to be finalized.

Council Member Kniss inquired about a penalty to the contractor for repair of sidewalks and streets.

Molly Stump, City Attorney, suggested Staff review current permits for a remedy. To the extent a remedy was not available, Staff could consider other actions to recover the cost of damages to the City's right-of-way and other facilities.

Council Member Kniss asked if Staff could provide that information without it being a part of the Motion.

Ms. Stump felt the direction was sufficient for Staff to provide additional information.

Council Member Kniss hoped Staff could return by the end of the year.

Ms. Stump could provide that information along with the recommendation from the Policy and Services Committee.

Council Member Berman agreed with prior comments. He supported the Motion for two reasons: 1) to provide an incentive for builders and owners to complete projects in a reasonable and responsible amount of time; and 2) to give neighbors a reasonable expectation of the duration of construction.

Council Member Holman believed stalled construction projects were blights on the community. She inquired whether Staff needed direction to bolster Code enforcement efforts as part of the Motion.

Ms. Stump did not fully understand what Council Member Holman was requesting Staff provide.

# MINUTES

Council Member Holman stated not enforcing the Code was a missed opportunity to resolve the issue.

Ms. Stump explained that many Code and permit requirements applied to construction projects. If there were complaints about a site, Staff would first review Code and permit requirements. The Code Enforcement Unit became involved and spoke with the contractor, which usually resolved the issue. If a resolution could not be reached, then Staff moved to a formal enforcement action. If Staff identified other gaps in the Code, then they would present that information to the Council.

Council Member Holman inquired whether the stalled construction Ordinance would relate to Code enforcement.

Ms. Stump responded yes. An Ordinance was enforceable, and a violation generally resulted in a misdemeanor charge.

Council Member Schmid understood the need to act on community blight. He questioned whether deadlines and fines would create the right incentives to solve the problem. The City had construction projects that were behind schedule and subject to such fines. The Policy and Services Committee should consider the consequences of any incentives.

Vice Mayor Shepherd indicated the City had few abilities to force completion of construction. Stalled construction projects disturbed the quality of life for neighbors around the stalled projects. She inquired about possible timing of a proposed Ordinance being presented to the Council.

Mr. Pirnejad reported Staff would present to the Council a proposed Ordinance to amend the Building Code in October for a first reading. A proposed Ordinance was a high priority for Staff.

Vice Mayor Shepherd reiterated that a proposed Ordinance would not be adopted during the current Code cycle.

Council Member Klein noted a proposed Ordinance would not apply to existing construction projects, and inquired about a means to require existing projects to move forward.

Ms. Stump explained that a new Ordinance would apply when a new permit was issued. Stalled construction projects would need to renew building permits before continuing construction. At that point, the new requirements would apply to existing projects.

# MINUTES

Projects with active building permits were covered under existing Codes, and Staff used those Codes to move projects forward. The General Nuisance Law provided the City with the means to bring a general nuisance action.

Council Member Klein asked if the City had remedies for stalled projects without active building permits, such as the project mentioned in public comments.

Ms. Stump reported City Staff corresponded with the owners of the property and identified a number of potential violations at that site. She was unsure whether the site had an active permit.

Mr. Pirnejad also was unsure if the site had an active permit.

Ms. Stump believed the owners were close to obtaining a new permit and proceeding with construction. Staff was working on that site through existing Code provisions. She could share the correspondence if the Council wished.

Council Member Klein inquired whether the Motion should be amended to direct the City Attorney's Office to explore tools regarding existing projects without active permits.

Ms. Stump reiterated that the City could utilize the General Nuisance Law. The standards for bringing an action were fairly rigorous. Staff notified the owner that a nuisance action was possible. Staff could take Council direction without a formal Motion and would be eager to identify additional helpful Ordinances for the Council.

Council Member Burt believed the Council should consider modifications to fencing requirements. The City did not have a mechanism to require constructions projects to install a fence that screened the project.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER** to also return with draft ordinance revisions to address improved fencing of stalled construction sites.

**MOTION PASSED:** 9-0

8. Colleague's Memo From Mayor Scharff, Vice Mayor Shepherd, and Council Member Price Regarding Electric Vehicles.

# MINUTES

Jim Barbera hoped the Council would streamline the permitting process, perhaps including online permitting, and require new construction to be prewired for Electric Vehicles (EV). Some percentage of onsite parking at multi-family units should be prepared for EVs. Charging stations should be available at workplaces and in public places.

Sven Thesen reported the four major electric auto associations requested the Council address parking lots, supported streamlining the permitting process and reducing permitting fees, and suggested the Council consider a pilot curbside residential program.

Jeb Eddy stated high-powered charging stations were scarce. The Unitarian Church installed a free public charging station, with the largest expense being the permit. Permitting fees should be reduced for homeowners and non-profit organizations.

Council Member Kniss inquired about donations to the church for use of the charging station.

Mr. Eddy indicated a sign next to the station requested donations be left at the church office.

Council Member Kniss asked if the church requested a specific amount of donation.

Mr. Thesen reported the church received one donation. He received donations from EV owners who utilized his personal charging station. The City of Berkeley talked with City Staff about installing charging stations. Charging stations shifted parking rather than creating parking problems.

Richard Cassel was shocked by the cost of a permit to install a charging station. The cost of a permit for installing a charging station should be the same as installing an electrical outlet within a home or building. He questioned the need for disconnect switches to be installed at commercial and non-profit sites. It was not a safety issue, because disconnect switches were not required for residences.

Arthur Keller noted the draft Transportation Element of the Comprehensive Plan contained language proposing that parking spaces for new construction be prewired. Commercial locations would be required to install chargers.

Eric Guldfeld wished to install two free curbside charging stations at his home for use by the public. If the electric cost of the station was high, then he might request donations.



# MINUTES

Craig Lewis, Clean Coalition Executive Director, encouraged the Council to support EV charging. By utilizing EVs, the City's carbon free achievement extended into the transportation sector. He urged the Council to consider ways to ensure EV chargers were included in commercial and public spaces.

Mayor Scharff noted one of the Council's core principles was environmental sustainability. Finding a charging station in Palo Alto was difficult. The Council needed to identify and remove the obstacles of charging and owning EVs. Charging stations should be convenient, easy and economical. The purpose of the Colleague's Memorandum was to review permitting and residential charging stations. The cost of wiring new construction single-family homes was \$100-\$150; whereas, the cost of retrofitting was considerably more expensive. The Council should require wiring for charging stations in new residential construction. The Policy and Services Committee should review a requirement for multi-family housing, because of the complexity of the issue.

**MOTION:** Mayor Scharff moved, seconded by Vice Mayor Shepherd to direct Staff to: 1) review the Electric Vehicle (EV) permit process, and procedures for station installations to streamline the process and ensure that it is customer friendly; 2) adopt code changes requiring that all new construction of single family housing install the necessary circuitry for EV chargers to come back to the Policy and Services Committee; 3) consider ways to encourage and support EV use in the City of Palo Alto and the Bay Area including the following concepts and return to the Policy and Services Committee with recommendations to ensure that Palo Alto is one of the most EV friendly Cities in America; 4) additional suggested recommendations might include: a) ensuring that all new Hotels are required to install EV charging stations and to the extent feasible that all existing hotels are required to install EV charging stations, b) that staff review the permitting fee structure for EV charging equipment to reduce costs, or develop cost incentives for the permits in such a way that it is streamlined and efficient; and 5) announce at the EV celebration to be hosted at Palo Alto City Hall on September 25, 2013, that Palo Alto will be a leader in the nation in the installation of EV stations by mandating that all new housing units be required to install the necessary rough in circuitry.

Vice Mayor Shepherd indicated the City's Ordinances did not provide incentives for these types of installations. Prewiring a home was inexpensive. The industry was discussing the loss of gas tax revenue due to EV use.

# MINUTES

Council Member Burt asked which items would be submitted to the Policy and Services Committee for review.

Mayor Scharff reported all points would be reviewed by the Policy and Services Committee. The Council would determine the policy to require wiring in new single-family homes.

Council Member Burt was unclear regarding that distinction.

Mayor Scharff explained that the Council would determine the policy for requiring prewiring in new single-family homes with the Policy and Services Committee determining the means for requiring prewiring.

Council Member Burt reiterated that the Policy and Services Committee would refine the requirements for prewiring rather than explore the concept. Since the City began its EV charging program, the use of EVs increased dramatically. The City did not have policies in place regarding EVs and charging stations.

**INCORPORATED INTO THE MOTION WITH CONSENT OF MAKER AND SECONDER** to: 1) direct Staff to return to the Policy and Services Committee and subsequently to Council with alternatives on a pilot residential curbside EV charging program; and 2) direct Staff to return to the Policy and Services Committee and subsequently Council with a draft program to bring about greater implementation of EV charging stations at commercial facilities, potentially including Utilities Department or City incentives.

Council Member Burt indicated the City had no tools to cause property owners or business owners to install charging stations. He was unsure of the best form for requiring retrofitting for charging stations. One challenge was structuring an Ordinance to respond to increasing demand over time.

Council Member Kniss asked if the City had a schedule for the permit fees.

Mr. Pirnejad stated the residential EV charging station permit included plan check and inspection for \$249. Permit fees for commercial locations depended on the type. Types 1 and 2 cost \$459 plus \$92 per charging station. Types 3 and 4 cost \$649 plus \$140 per charging station. The Council could direct Staff to review the basis for the permit fees.

Council Member Kniss suggested Staff review the basis for permit fees. The amount the Unitarian Church paid seemed high.

# MINUTES

**INCORPORATED INTO THE MOTION WITH CONSENT OF MAKER AND SECONDER** to change the Item Number Two in the Incorporation to read "direct Staff to return to the Policy and Services Committee and subsequently Council with a draft program to bring about greater implementation of EV charging stations and/or EV charging banks of stations at commercial facilities, potentially including Utilities Department or City incentives, and to ask staff to consider revising fee structure based on the number of stations at potential EV station banks."

Council Member Burt felt the Council should provide comments to Staff; however, he did not wish to be prescriptive.

Council Member Price expressed concern about the lack of preciseness in the language. The Council required an on-street EV charging station at the Lytton Gate development and two on-street charging stations at the Maybell Avenue affordable housing project.

Council Member Holman noted the language "all new housing units" in the Motion was inaccurate, because multi-family and mixed-use units were not included.

Mayor Scharff reiterated that the goal was for the Council to make a policy decision while the Policy and Services Committee would refine the details. The Motion should state single-family housing.

Council Member Holman inquired whether the language regarding charging stations at commercial facilities should include multi-family and mixed-use units.

Council Member Burt replied yes.

**INCORPORATED INTO THE MOTION WITH CONSENT OF MAKER AND SECONDER** to change Number 5 in the original motion to read "announce at the EV celebration to be hosted at Palo Alto City Hall on September 25, 2013, that Palo Alto will be a leader in the nation in the installation of EV stations by mandating that all new single family housing units be required to install the necessary rough in circuitry." And to change Item Number Two in the Incorporation to read "direct Staff to return to the Policy and Services Committee and subsequently Council with a draft program to bring about greater implementation of EV charging stations at commercial, multi-family and mixed use facilities, potentially including Utilities Department or City incentives."

# MINUTES

Council Member Schmid questioned whether the use of mandates would inhibit the growth of EV usage. The Policy and Services Committee should consider building a regional network of charging stations and providing incentives for installing charging stations. The Finance Committee was reviewing the Municipal Fee Schedule and the Cost of Service Study. He recommended the Finance Committee discuss permitting fees at its next meeting.

Lalo Perez, Chief Financial Officer, reported Staff had not presented building and development fees to the Finance Committee for discussion, but would do so.

Council Member Berman believed EV usage was growing, and the City should create infrastructure to support EV growth. Installing wiring for a charging station in new home construction cost approximately \$200, which was not a burden.

## **MOTION PASSED:** 9-0

Council Member Kniss reported the Council received a letter from the Bay Area Air Quality Management District Board regarding its Regional EV Readiness Plan. The Board would partner with the City on the issue.

9. Approval of Response to Grand Jury Report on Law Enforcement Public Complaint Procedures.

Lalo Perez, Director of Administrative Services, reported the Grand Jury Report provided two recommendations. As of June 26, 2013, Staff complied with both recommendations.

**MOTION:** Mayor Scharff moved, seconded by Vice Mayor Shepherd to approve the Staff recommended response, Attachment A of the Staff Report, to the 2012-2013 Santa Clara County Civil Grand Jury Report entitled, "Law Enforcement Public Complaint Procedures" ("Grand Jury Report").

## **MOTION PASSED:** 9-0

## COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Klein attended the meeting of the Environmental Natural Resources Committee of the National League of Cities in Pinecrest, Florida. Communities in Florida were ahead of other communities in considering adaption and resilience of the environment. The communities of south Florida faced far greater problems than Palo Alto.

# MINUTES

Vice Mayor Shepherd attended the League of Cities Annual Conference in Sacramento. The City of Palo Alto received awards for its OPower program and for reductions in greenhouse gas emissions. The City was well ahead of other cities in reducing greenhouse gas emissions. She attended a meeting where City Attorney Molly Stump spoke regarding the California Environmental Quality Act (CEQA). The League of Cities was concerned about local jurisdiction control. She was elected Secretary/Treasurer of the League of California Cities Peninsula Division.

Council Member Kniss also attended the League of Cities Annual Conference. The meetings were interesting and informative. These conferences provided opportunities to interact informally with colleagues from across the state.

Council Member Holman attended the League of Cities Annual Conference. CEQA reform was ongoing.

Mayor Scharff talked with the Mayor of East Palo Alto regarding building bridges between the two communities. A joint Study Session would be held, most likely in November. Council Member Questions, Comments and Announcements would be held earlier in Council meetings. He requested Council Members continue to keep their comments brief.

ADJOURNMENT: The meeting was adjourned at 9:10 P.M.