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April 29, 2014

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ADJOURNMENT: The meeting was adjourned at 12:37 A.M. ....552

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:05 P.M.

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

Absent: Kniss, Scharff

### STUDY SESSION

1. THIS ITEM WAS CANCELLED.

### SPECIAL ORDERS OF THE DAY

2. Presentation from Jim Lawson Regarding Valley Transportation Agency Transit and Road Projects.

Council Member Price reported the Santa Clara County Valley Transportation Authority (VTA) expanded its effort to reach out broadly and effectively to communities throughout Santa Clara County.

Jim Lawson, Santa Clara County Valley Transportation Authority, advised that the VTA met a few weeks previously to present various projects that would impact Palo Alto and the surrounding area. He introduced Ethan Winston, who would be VTA's representative to Palo Alto. The Bus Rapid Transit Project would improve trips and safety and make use of scarce land resources. A Draft Environmental Impact Report (DEIR) was scheduled for release on the El Camino Real segment with the public comment period extended to late summer and local preferred alternatives due in the fall of 2014. Operations were tentatively scheduled to begin in the fall of 2018. VTA was currently building the first phase of the Bay Area Rapid Transit (BART) extension to Silicon Valley, from Warm Springs to Berryessa. The Express Lane Project would convert existing carpool lanes into express lanes which single-occupant vehicles could utilize for a fee. VTA's plans to add a second track for light rail between the Mountain View and Whisman Stations would commence in 2017. Significant service and physical improvements would be made to transit to Levi's Stadium. VTA was working to improve real-time information regarding bus and light rail transit. Within three months, the Palo Alto Transit Center would be among the first to have live information.

# MINUTES

Council Member Burt recalled the Council's discussion regarding expansion of the local shuttle service and coordination with VTA service. There was an opportunity for both parties to collaborate on marketing services. He suggested VTA consider zoned fares for bus transit and additional gradations within the pricing structure for Eco Passes.

Mr. Lawson indicated VTA was reviewing the Eco Pass program to make it more appropriate, more affordable, and better able to serve the community. VTA regularly reviewed the structure of bus fares.

### 3. Palo Alto Advisory Committee on Early Care and Education - Partner Presentation.

Janice Shaul, Palo Alto Community Child Care Executive Director, reported the Palo Alto Advisory Committee on Early Care and Education (PAAECE) continued the legacy begun in the 1970s by a group of Palo Alto residents concerned about the care of Palo Alto's youngest citizens. PAAECE worked with the City to create a bold partnership to devote public funds to child care. In the 1980s, PAAECE created the Child Care Master Plan. Palo Alto was home to 62 licensed child care and early childhood education programs and 32 licensed family child care providers. PAAECE had three main goals: connect, support, and advocate.

Kim Nave indicated PAAECE created a training program that supported educators. Fifteen teachers and seven schools participated in the program. The idea was to help teachers take a deeper look at their work with young children and to build support for educators. A majority of participants gained deeper thinking about children and recommitted to the profession.

Rachel Samoff presented copies of *Places to Play* to the Council. The book represented a very rich learning process involving cooperative experiential research and discovery by preschoolers. Students represented their favorite places to play in drawings. An exhibit of all drawings would be held in June 2014 at the Art Center. PAAECE planned to distribute the book widely.

Mayor Shepherd inquired about young children's adept use of electronic devices.

Ms. Samoff suggested children approached devices as play.

4. Proclamation - Animal Services Founders Day.

Council Member Klein read the Proclamation into the record.

Bill Warrior, Palo Alto Animal Control Officer, remarked that the first Council 120 years previously created the Office of the Pound Master and shelter. The shelter wished to continue serving the community for the next 120 years.

Council Member Holman thanked Mr. Warrior for his extended service to the community.

CITY MANAGER COMMENTS

James Keene, City Manager, announced the City's Aquatics Program would begin its recreational swim season on May 10, 2014. City Staff was celebrating Building Safety Month with a number of events scheduled throughout May 2014. A celebration of youth creativity was ongoing at the Palo Alto Art Center. The Fiscal Year 2014-2024 General Fund Long Range Financial Forecast was available through an at-places memorandum. Fire Chief Eric Nickel participated in a panel discussion at the Tactical Fire Remote Sensing Advisory Committee meeting. Because of a full Agenda planned for the Council meeting on May 5, 2014, presentation of the Fiscal Year 2015 Proposed Budget was continued to the Finance Committee meeting on May 6, 2014. Staff proposed beginning the May 5, 2014 Council meeting at 5:00 P.M.

ORAL COMMUNICATIONS

Roger Smith requested the Council place on the November ballot a Charter Amendment to reduce the size of the Council from nine to seven. Putting the change on the ballot would save time, effort, and money.

Lois Salo hoped the Council would rescind the ban on sleeping in cars. That was an immoral decision and contrary to the Constitution. The Council should use increased tax revenues to build shelters and low-income housing in Palo Alto.

Cybele LoVuolo-Bhushan recalled a few Council Members attended a presentation about a Santa Barbara parking program for vehicle dwellers. The program was effective and long-running. She suggested the Council review the Santa Barbara program as a means of caring for vehicle dwellers.

# MINUTES

Stephanie Munoz remarked that the residents of Buena Vista Mobile Home Park, not the owners, voted to be annexed into Palo Alto. The Council was considering evicting those same residents. The Council should rezone the property as trailer park. Failing that, the Council should condemn and buy the property for low-income housing.

Blanca Fonseca asked the Council to remember Buena Vista Mobile Home Park. More than 100 families would be affected by the closing of Buena Vista. Hearings to decide the future of Buena Vista were scheduled for May 12-14, 2014. The public was invited to attend a rally in support of Buena Vista residents on May 12, 2014.

Council Member Holman inquired about the time and location of the hearings.

James Keene, City Manager, would provide information to the Council and advertise information.

Ms. Fonseca indicated the hearings would be held at 450 Avenidas Senior Center on May 12-14, 2014, from 6:30 P.M. to 9:30 P.M.

## APPROVAL OF MINUTES

**MOTION:** Council Member Berman moved, seconded by Council Member Klein to approve the minutes of March 17, 2014.

**MOTION PASSED:** 7-0 Kniss, Scharff absent

## CONSENT CALENDAR

Flora Dong spoke regarding Agenda Item number 5. A second-story window at the home proposed for 1737 University Avenue looked into her kitchen. She had requested the owner and/or architect locate the window parallel with the street or frost the window. The owner or architect rejected frosting the window. The window affected her family's privacy dramatically, while frosting the window would not affect the owner. She asked the Council to remove the item from the Consent Calendar.

Kelly Johnson, spoke regarding Agenda Item Number 7. She was the architect for the home located at 1737 University Avenue. She and the owner worked with City Staff to resolve Ms. Dong's privacy concerns. She urged the Council to deny the appeal and uphold the approval issued by the Planning Department.

Herb Borock spoke regarding Agenda Item Number 7. He advised that each step of the Google project was subject to environmental review; therefore, Staff could not claim one step was exempt. In a proposal to approve a private party's use of City-owned property, the Council and the public needed to know all alternatives for City-owned property. In regard to dark fiber, the Council and the public had to know those alternatives. The Resolution was being used to bar the Council and the public from reviewing information.

**MOTION:** Council Member Berman moved, seconded by Council Member Price to approve Agenda Item Numbers 5-10, including the following two application questions; 1) are you a resident of Palo Alto and 2) how many years have you been a resident, to be added to Agenda Item Number 10.

Council Member Schmid registered a no vote on Agenda Item Number 7.

5. Consideration of an Appeal of the Director's Individual Review Approval of a New Two-Story, Single Family Home Located at 1737 University Avenue.
6. Approval of Concept Plan Line and Implementation Schedule for the Matadero Avenue-Margarita Avenue Bicycle Boulevard Project.
7. Receive Update Concerning City Response to Google Fiber City Checklist and Ongoing Negotiation of Google Fiber Hut License Agreement to Cover Potential Location of Google Network Hut Equipment Facilities on City-Owned Properties; Resolution 9408 entitled "Resolution of the Council of the City of Palo Alto Prohibiting Disclosure of Certain Non-Public Utilities-Related Information Retained by the City that is Subject to California Public Records Act Exemptions."
8. Budget Amendment Ordinance 5243 entitled "Budget Amendment Ordinance of the Council of the City of Palo Alto in the Amount of \$250,000 in Expenses and \$140,000 in Revenue to Operate the Palo Alto Municipal Golf Course Through May and June of Fiscal Year 2014."



# MINUTES

9. Approval of Second Contract Amendment With the Riezbos Holzbaur Group LLC to Increase the Total Compensation by \$30,000 from \$121,212 to \$151,212 for Design Work for the Administrative Services Department.
10. Approval of the Updated Guidelines, Procedures and Selection Processes for the City of Palo Alto Cubberley Artists Studio Program (CASP, Formerly the Cubberley Visual Artists Studio Program) in Preparation for the Spring Release of a new Application and Selection Process.

**MOTION PASSED for Items 5-6, 8-10:** 7-0 Kniss, Scharff absent

**MOTION PASSED for Item 7:** 6-1 Schmid no, Kniss, Scharff absent

Council Member Schmid felt a public discussion regarding the relationship between the Google application in Palo Alto and Palo Alto fiber would be appropriate.

## ACTION ITEMS

11. Staff Requests Direction From Council on Pursuing the Four-Component Organics Facilities Plan for Food Scraps, Yard Trimmings, and Biosolids, Which Includes: Recommending No Near-Term Uses for the Measure E Site, Developing New Biosolids Facilities That May Also Process Food Scraps at the Palo Alto Regional Water Quality Control Plant, and Continuing With Off-Site Composting of Yard Trimmings in the Immediate Future, and Rejecting All Proposals in Response to the Energy Compost Facility or Export Option Request for Proposals.

Mayor Shepherd noted the Council had two items for review, the Staff Report and a memorandum.

James Keene, City Manager, indicated Staff provided a memorandum to the Council to respond to questions and concerns and to state Staff's perspective and position.

Mayor Shepherd reported the Staff Report was released the prior week to allow the community time to review it.

Council Member Klein felt receiving the memorandum earlier in the day affected the usual process.

**MOTION:** Council Member Klein moved, seconded by Council Member Berman that after hearing from Staff and the public to continue this item to May 2014.

Council Member Klein understood there was a great deal of community interest in the item. The Council made a commitment to allow community review of items prior to the Council taking action. Because of the release of the memorandum earlier in the day, the community could be unaware of the memorandum. The item should be heard as soon as possible.

Council Member Berman believed it was important for the Council to reach a decision using the proper methods. Given the important detail contained in the memorandum, the community did not have sufficient time to review it.

Mr. Keene commented that Staff was not seeking a Council decision during the current discussion. The Council was better served by receiving a written memorandum than by addressing issues within the discussion. The issue and alternatives were complex. If the Council and community would provide commentary and questions, then Staff could be prepared to respond at the next setting of the item, if the Motion passed.

Council Member Schmid asked if the Staff presentation would cover the Staff Report, the memorandum, or a combination of both.

Phil Bobel, Public Works Assistant Director, replied a combination of both.

**MOTION PASSED:** 7-0 Kniss, Scharff absent

Mr. Bobel reported the item was a follow-up discussion to the February 10, 2014 Study Session. Staff recommendations had not changed since the Study Session. The memorandum provided an alternative. The recommended Organics Facility Plan (OFP) combined features of the Biosolids Facility Plan with information gained from the Request for Proposal (RFP) process. Staff recommended rejecting proposals and issuing a new RFP. When issuing the original RFP, Staff anticipated proposals would be new technologies that would accept all three feed stocks and have one facility. Instead, proposals advanced tried and true technologies. Staff felt the City would be better served by issuing a new RFP. Staff would mention the 3.8-acre portion of the 10-acre Measure E site, which was located on the left side of the Measure E site and next to the Wastewater Treatment Plant.

# MINUTES

Staff narrowed proposals to three companies; Harvest Power, Synagrow, and We Generation/Cambi. The best technology available for processing biosolids and food was wet anaerobic digestion with a thermal hydrolysis process. Aerobic composting was the best process for yard trimmings. The biosolids facilities would be located at the Wastewater Treatment Plant. A short-term recommendation was to construct a dewatering facility and a truck off-haul facility to handle emergency situations and to terminate use of incinerators. A combined heat and power plant would produce energy and heat from methane gas, both of which could be used onsite or made available to the City's Utility. Once a dewatering and truck off-haul facility was constructed, Staff could shut down incinerators and haul material offsite. That would most likely be Staff's recommendation, but they were not asking the Council to make that decision at the current time. Wet anaerobic digestion along with thermal hydrolysis produced methane gas from biosolids and food scraps. The City could either design and build locally or utilize an offsite food preprocessor. One technology would not process yard trimmings along with other feed stocks in one unit. Currently the City utilized aerobic composting in the Gilroy area. Staff would perform additional analysis to determine whether to locate a composting facility on the Measure E site or outside Palo Alto. Alternative Recommendation Number One made the most changes; to cancel the current energy compost RFP and issue a new RFP for Components 2-4. Staff requested the Council give Staff the authority to proceed with a dewatering and truck off-haul facility, Component Number One. Use of the flat portion of the Measure E site for yard trimmings "shall be favored" was an important addition. It was important for the Council to direct the use of the 3.8-acre site for a yard trimmings facility; however, the Council could not select the site because no California Environmental Quality Act (CEQA) analysis had been performed. Recommendation Numbers 3 and 4 provided Staff with authority to apply for a State loan for and to initiate design of Component Number 1. Staff would provide an updated timeline for the OFP by December 2014. Staff would engage with partners to ensure partners would support the Biosolids Facility Plan. In July 2014, pricing of electricity would be presented to the Utilities Advisory Commission (UAC). Staff would select a program management firm to run these projects and other major Capital Improvement Programs (CIP) of the Wastewater Treatment Plant in September 2014. Staff expected to retire incinerators in 2018 and demolish them in 2019; to complete Component Number 2 in 2020-2022; and to complete Component Numbers 3 and 4 in same timeframe.

Bill Leikam studied the behavior of the gray fox at the Baylands over the past five years. Disturbing the wildlife corridor in the Baylands would initiate inbreeding in animal populations.

Mr. Scherzer recommended the Council vote against the RFP and cancel all items. Anaerobic digesters manufactured greenhouse gas (GHG). Other technologies could perform the same job while producing more power.

Council Member Burt inquired about the handout Mr. Scherzer provided.

Mr. Scherzer provided a 45-page report to the City Manager approximately two weeks previously for distribution to the Council.

Alice Smith believed many residents voted to construct a facility in order to stop transporting wastes. She was concerned that the 2022 completion date would exceed the ten-year period allowed by the grant. She hoped the Council could expedite a solution.

Layne Baroldi, Director of Regulatory and Legislative Affairs for Synagrow Technologies, complimented Staff on their procurement process. Staff was recognized within the State as experts of biosolids management. Authorities confirmed that Synagrow facilities could handle Palo Alto materials.

Cybele LoVuolo-Bhushan reported some members of the advisory committee commented that Staff had ignored their work. The Council should not take action.

Robert Moss felt the original Staff recommendation was probably the best option. He was uncomfortable with issuing a second RFP immediately, because bidders would revise their proposals to satisfy concerns rather than resolve the problem.

Walt Hays indicated 1,000 members of Palo Alto Green Energy (PAGE) were opposed to the original recommendation to reject proposals. The alternative recommendation located a composting facility in Palo Alto on the Measure E site. Without the alternative recommendations, PAGE strongly opposed the Staff recommendation. With alternative recommendations, PAGE supported it.

Jackie Kepke, East Bay Municipal Utility District, was interested in partnering with Palo Alto to process wastewater sludge and other organic materials into bioenergy using existing facilities.

# MINUTES

Paul Sellew, speaking on behalf of a group of five and Harvest Power, agreed with Staff's OFP plan with four caveats. Harvest Power could build the facility within two years of permitting and provided a lower risk. Harvest Power had the only facility that integrated all components and offered a lower cost. He supported the Motion to delay the item until May to allow for more discussion. Harvest Power was willing to incorporate a thermal hydrolysis process into its proposal.

Tom Bintz, We Generation, shared the City's vision for an organics management program. He did not believe any proposer would object to the City negotiating with any of the proposers. He wanted to ensure the City had all relevant information to make an informed decision. Separation of the three components provided certain risks that could prevent food scraps and yard trimmings recycling from being executed. Based on a review of the amended recommendation, many open items needed to be addressed. He provided questions for the Council to consider when reviewing proposals.

Craig Lewis, Clean Coalition Executive Director, focused on accelerating the transition to renewable energy and a modern grid. He encouraged the City to take advantage of the opportunity to site a biopower project along with a compost facility next to the Wastewater Treatment Plant.

Bob Wenzlau understood the drive behind Measure E was to bring local composting back to Palo Alto. Recommendations should include composting on the Measure E site.

Peter Drekmeier stated the alternative recommendation was not ideal but was acceptable in the spirit of compromise as it addressed the issue of Measure E. The Council should send a strong message to Staff that people voted to undedicate parkland for composting. He did not understand the timeline for completion of the facility. The Staff Report indicated Harvest Power was less expensive over the 20-year period and had a better environmental product.

Carolyn L. Curtis remarked that people wanted to retain composting in Palo Alto. If the Council chose to retain composting in Palo Alto and implement it expeditiously, it would have the support of a large majority of voters.

Emily Renzel supported the four-component OFP, but objected strongly to the substance and timing of the second report with alternative recommendations. The OFP identified no single process for all three organic streams. A yard trimmings facility would obliterate all existing landscaping in the habitat corridor. The Council should issue a separate RFP for a yard trimmings facility.

Mike Ferreira, Sierra Club, questioned whether the community should study the Staff Report as amended in order to provide comments. He requested more than 48-72 hours' notice regarding changes to the Staff Report. He appreciated the Motion to delay discussion of the item.

Shani Kleinhaus, Santa Clara Valley Audubon Society, supported the four-component OFP despite the fact that it would potentially sacrifice the 3.8-acre wildlife corridor. She expected the Audubon Society to oppose the alternative recommendations once it had an opportunity to review them.

Michael Muller, BIOGAS Equity 2, indicated much newer technologies would perform better than the Cambi process. Mixing food waste with sewer sludge provided slightly more energy. Separating the two would provide even more energy.

Karen Sundback liked the original Staff Report and the memorandum even more. Most residents believed the incinerator was a high priority, and it should be separate. Dedication of Byxbee Park appeared to be delayed to 2022 in the Staff Report; however, the memorandum seemed to indicate dedication would occur sooner.

Penny Barrett remarked that the memorandum corrected two major flaws in the first Staff recommendation. First, waste would remain in Palo Alto rather than being trucked elsewhere. Second, the memorandum provided a much more reasonable timeline. She hoped the Council would support the alternative Staff recommendation for the energy compost project.

Karen Harwell understood less than half of the Measure E site would be required for composting of yard trimmings and food scraps and a biosolids facility. She pleaded for the community to work together to make the park and composting occur.

Bret Anderson supported the latest Staff recommendations. He had no issues with those recommendations except for timing.

# MINUTES

Bruce Hodge, Carbon Free Palo Alto, supported the alternative recommendations. His main concern was whether the City wanted to own and operate the facility. Staff should focus on processing all three waste streams locally. Timelines appeared to be excessively long.

Jeb Eddy found the words "urgent" and "urgency" only once in the Staff Report. The project was urgent and needed to proceed expeditiously.

John Kelley agreed the project was urgent. Staff listened to community concerns in developing alternative recommendations. He could accept alternative recommendations as a reasonable compromise.

Jack Morton believed the Council should consider authorizing Staff to reissue the RFP for an organics facility. It was a small step towards the end product.

Stephanie Munoz Thought the Measure E site should continue to be considered for a homeless shelter. Staff should listen to recommendations made by private contractors.

Alex Cannara, Palo Alto Green Energy (PAGE), indicated a carbon tax was missing from the Staff Report. A carbon tax would clarify the real environmental cost of trucking. The price of electricity was irrelevant.

Penny believed turning the park into a compost facility would eliminate the animals' habitats. She provided a YouTube video.

Jon Foster disagreed with Staff's recommendations and alternative recommendations. Harvest Power submitted a proposal that met all requirements of the RFP. The City should proceed with the RFP and negotiate with vendors.

Cedric de La Beaujardiere suggested the Council accept the Harvest Power proposal and request changes to include thermal hydrolysis and City ownership. If that was not possible, he would support alternative recommendations with speedy implementation. The Council should direct Staff to ensure sufficient capacity for current and future food waste and to work aggressively to secure food scraps from partner agencies.

Peter Dehlinger supported the original Staff recommendation to uncouple anaerobic digestion and yard composting. Anaerobic digestion reduced GHG emissions and generated energy from biosolids. Aerobic composting released methane gas and odors.

Mr. Bobel reported Staff did not present the net present values and cost comparisons to save time. Staff spent a great deal of time reviewing the net present value for the OFP. Comments that Staff omitted certain costs were true. Recalculating the net present value would result in approximately the same number.

Mayor Shepherd inquired whether the Council should comment on a particular topic.

Mr. Keene answered no. The next discussion of the item would not occur at the May 5, 2014 meeting. The Council could have a productive meeting if it provided comments and questions.

Council Member Burt suggested Council Members limit their comments to questions rather than opinions.

Mayor Shepherd concurred.

Council Member Burt asked if a second RFP would seek proposals for all four components as a single process or were the four components decoupled.

Mr. Bobel intended to decouple them in the RFP and possibly issue separate RFPs. The components should be heavily compartmentalized. For example, Component 4 could easily be separated. Staff would expect to receive targeted responses for Component 4.

Council Member Burt asked if the composting of yard trimmings could include gasification or pyrolysis as alternatives.

Mr. Bobel advised that the OFP indicated aerobic composting; however, in the future other technologies such as gasification might be possible. The RFP would not rule out alternatives, but would direct proposals toward aerobic composting.

Council Member Burt inquired whether Staff would preclude anaerobic treatment of yard trimmings at the outset if there was a proposal that could do that timely.

Mr. Bobel wanted to word the RFP so that proposers understood that the analysis supported aerobic composting. Staff would not want the RFP to preclude other ideas.



# MINUTES

Council Member Burt noted the RFP would not contain the amount the City would pay for renewable power generated from the process, and asked if that was a concern.

Mr. Bobel explained that the current RFP utilized a base number. Staff could specify other energy prices for proposers to analyze.

Council Member Burt inquired whether the new RFP would solicit design/bid/build proposals or design/build proposals.

Mr. Bobel reported Component 1 did not need to be private-sector owned and operated. The same applied to wet anaerobic digestion. City owned and operated digesters were logical. Staff wanted to lead proposers to food scrap preprocessing, aerobic composting for yard trimmings, and possibly the power plant for methane gas. For those three elements, Staff would have to provide options. Staff definitely wanted to lead proposers in the direction of third-party owner/operator.

Council Member Burt asked if Component 1 would be needed if bids provided aggressive timelines.

Mr. Bobel believed Component 1 would always be needed, because the City would need backup. The City would need the dewatering facility regardless of which recommendation was approved.

Council Member Burt questioned the ability to truncate design and construction of Components 3 and 4 in a shorter period than needed for Component 2.

Mr. Bobel indicated those timeframes were rough estimates based on original recommendations. If alternative recommendations were used, then the RFP could be issued quickly. By December 2014 Staff would provide a better timeline.

Council Member Klein expressed concern about time constraints for Council discussion.

Mayor Shepherd expected the Council to complete the Agenda.

Council Member Klein inquired about the amount of time needed to complete the current item.

Mr. Keene reported Council procedures called for a checkin at 10:00 P.M. and discouraged the Council from taking up a new item after 10:30 P.M. Under Council procedures, Council Members had 35 minutes to complete their questions.

Mayor Shepherd asked if Council Member Klein was suggesting the Council not take up all items.

Council Member Klein answered no. He was suggesting Council Members limit their questions to 6 minutes per Council Member.

Mayor Shepherd asked if 6 minutes would include Staff's responses to questions.

Council Member Klein responded yes. He was concerned about the ranking of Synagrow. He did not find a reference to the achievement or problems with annual GHG. Page 262 stated that scoring was 50 percent cost and 50 percent technical. The six factors did not include GHG.

Mr. Bobel asked if Council Member Klein wanted to know why Staff did not include GHG as a factor.

Council Member Klein replied yes.

Matthew Krupp, Public Works, reported the GHG analysis was part of technical considerations, which was 25 percent of the technical score. Staff could rank it higher. The Council had the prerogative to reassign the weight for different factors.

Cara Silver, Senior Assistant City Attorney, advised that the Council could determine the weighting if a new RFP was issued. As to the existing RFP, the Council could not change the percentage of the criteria assigned in the RFP. The Council could re-score the proposers if it did not agree with the technical scoring.

Council Member Klein recalled several speakers mentioned the possibility of subverting the bid process by obtaining consent from the three proposers, and asked if Staff attempted that.

Ms. Silver answered no. There was still some legal vulnerability in that approach. If Staff negotiated a plan that was completely outside the scope of the existing RFP, there might be protests.

Council Member Klein requested Staff report on the City's liability if all three bidders consented to a different process.

# MINUTES

Ms. Silver clarified that the legal exposure could be from proposers who did not bid on the process.

Council Member Klein expressed concern about the numbers. The memorandum indicated the new estimate was likely to be 10 percent higher and would not change conclusions. In the presentation, Staff indicated the numbers would balance and not change.

Mr. Bobel explained that Staff's analysis had evolved over time. Staff wanted to spend more time reviewing the analysis before returning to the Council. The net present value for the OFP should have included labor costs.

Council Member Klein asked if Staff considered requesting a review by the City Auditor.

Mr. Keene reported Staff held some discussions with the City Auditor. An Auditor review of the numbers could delay issuing new RFPs. The market place would address the new numbers.

Council Member Klein heard criticism from the East Palo Alto Sanitary District and requested Staff comment.

Mr. Bobel indicated Staff had a great deal of contact with the East Palo Alto Sanitary District. Staff was told that Mr. Scherzer would represent himself rather than the Board. Staff felt the full East Palo Alto Sanitary District Board of Directors would support the recommendations.

Council Member Price understood Staff suggested that the City design/build/operate the first two components. There was some consideration of Components 3 and 4 being a hybrid. She inquired whether Staff was implying that the public-private partnership concept could be utilized in the realization of Components 3 and 4.

Mr. Bobel stated Components 3 and 4 were definitely good candidates for private-sector owner/operator. Before issuing the RFP, Staff would have to think through some parts of Component 2. The power plant in Component 2 could be a candidate for owner/operator as well. Component 4 and food scrap preprocessing were good candidates for owner/operator. Staff believed the City should own and operate the digesters. The thermal hydrolysis unit should be tied in with the digester and be City owner/operator. The power plant might be a candidate for private-sector owner/operator.

Council Member Price asked if a better understanding of partners for food scraps would be necessary for preliminary design work

Mr. Bobel replied yes. Participation by partners in the Wastewater Treatment Plant or other agencies would determine the size of the food scrap facility. Staff could need to issue the RFP before determining that information, in which case the successful bidder would have to adjust its proposal when Staff made a determination.

Council Member Price inquired whether Staff allowed sufficient time for CEQA review in the timeline. Mr. Bintz raised several questions related to bid/build, design/build, and a combination of scenarios. She inquired whether Staff would focus on any of those questions in the next recommendation.

Mr. Bobel was unsure if Staff would prepare a new recommendation. In the RFP, Staff would state as clearly as the available choices.

Council Member Schmid noted public comment regarding energy price. It was illegal for one utility to subsidize another utility on pricing. He inquired whether that was an issue in obtaining proposals.

Mr. Bobel did not know. Staff would work with the Utility Department to determine a number.

Ms. Silver reported Staff would structure it in a way that complied with Proposition 218.

Council Member Schmid understood aerobic composting needed either a large amount of land or an enclosed building. He inquired whether isolating aerobic composting on the 3.8 acres would be expensive.

Mr. Bobel agreed that in the existing RFP Staff specified aerobic composting would be housed in a building. A new RFP could indicate some components of aerobic composting did not need to be located in an enclosed container.

Council Member Schmid believed partners could question whether they were subsidizing local activity if the City combined Components 2-4 in a single RFP and judged the RFP on total cost. He requested Staff address that issue.

Mr. Bobel explained that Staff would issue multiple RFPs or a single heavily compartmentalized RFP so that the analysis was focused on individual components. Anything related to wastewater had to be separated from something related to food scraps and yard trimmings.

# MINUTES

Council Member Schmid asked if the City could accept proposals for individual components.

Mr. Bobel felt the City could accept different bidders for different components if the RFP was worded carefully.

Council Member Schmid asked if that was the original recommendation.

Mr. Bobel indicated the original recommendation was to stage components. The main difference was all components would occur at once and as quickly as possible.

Council Member Schmid inquired whether the original recommendation was to issue an RFP for Component 4 quickly.

Mr. Bobel did not envision an immediate RFP on Component 4. The alternative recommendations proposed issuing an RFP for Component 4 immediately.

Council Member Schmid reported the California Department of Resources, Recycling and Recovery (CalRecycle) began a series of hearings with dedicated science papers regarding the waste-to-energy issue. He inquired whether the City was involved or tracking the issue and whether information would be provided to the Council.

Mr. Krupp advised that Staff was following closely the activities of CalRecycle. CalRecycle recently announced a grant with the California Resources Board based on carbon exchange. Staff was reviewing opportunities to help fund and lower the cost of any waste energy product. CalRecycle incentivized and prioritized anaerobic digestion as the primary way to handle food scraps.

Council Member Schmid clarified that the hearings would review conversion technology.

Mr. Krupp explained that the timeline for Component 4 was further out because Staff was investigating and tracking conversion technologies. With respect to Council Member Klein's question regarding GHG, one of the main factors in evaluating options for yard trimmings was GHG benefit. Local composting did not provide a significant GHG benefit. Newer technologies could provide better benefits in the future.

Council Member Berman suggested Staff Reports provide a list of acronyms and terms in the beginning so the readers could more easily follow along. He asked if Staff would be supplying the information on how they arrived at the updated numbers when they return to Council.

Mr. Bobel responded yes. The only number that would change was the net present value for the OFP.

Council Member Berman asked if Staff would provide scoring criteria for any new RFP.

Mr. Bobel replied yes.

Council Member Berman recalled Measure E had a ten-year timeframe, and asked if that was an issue.

Ms. Silver reported the ten-year timeframe was a consideration. Measure E contained a specific reversion clause. If the property was not utilized for the purposes in Measure E, the property could revert. The Council would need to take action at that point.

Council Member Berman inquired whether potential breakthroughs in new technology regarding composting would be advantageous for the City.

Mr. Krupp indicated one of the chief purposes of the energy compost facility RFP was to gauge the marketplace for new technology. None of the proposals utilized dry anaerobic digestion or gasification pyrolysis. Staff was following movement in technology, but did not want to test new technology.

Mr. Bobel added that Staff would immediately release an RFP under alternative recommendations. He anticipated the final process would be aerobic composting.

Council Member Berman recalled public comment to create a new wildlife corridor and asked if that was possible.

Mr. Bobel advised it was possible to create a new corridor on the opposite side of the property. However, whether the animals would use the new corridor was unknown.

Council Member Holman inquired whether Staff was confident a City Auditor review was not needed.

Mr. Bobel did not believe a review by the City Auditor would add value. The net present value number would be approximately the same even with changes. Staff would provide background data for the net present value.

# MINUTES

Council Member Holman understood that GHG was embedded within Technical Approach Number 5. She requested Staff separate GHG benefits and inquired whether factors would be weighted differently if GHG had a higher weight.

Mr. Krupp could return with scoring criteria for Council comment.

Council Member Holman inquired about reasons for Staff to prepare alternative recommendations.

Mr. Keene stated a difference of opinion in the community was the reason. Staff felt it appropriate to provide a response in advance of the meeting.

Council Member Holman requested the City Attorney provide the language of Measure E.

Ms. Silver reported the first provision of Measure E removed the 10 acres from parkland. The 10 acres were removed from dedication for the purpose of building a biological conversion facility to handle yard trimmings, food waste and/or sewage sludge from the Regional Wastewater Treatment Plant. The second provision stated if the property was not utilized within ten years for the facility, then the Council could vote to rededicate it as parkland.

Council Member Holman thought the purpose of the ten-year period was to study the viability of a biosolids facility.

Ms. Silver agreed that was probably the intent behind the provisions and mentioned in the findings. It was not contained within the actual operative provisions of Measure E.

Council Member Holman inquired whether partner cities agreed to all issues.

Mr. Bobel replied no. The five partner agencies to the Regional Wastewater Treatment Plant would not take action until Palo Alto took action. With respect to the biosolids part of the plan, partner agencies would agree. With respect to Components 1 and 2, partner agencies understood they had to agree. The City Manager and Mayor sent communications to partner agencies regarding interest in partnering on Components 3 and 4. Staff had not received any response. Partner agencies would not want to renegotiate their contracts in the middle of contract periods.

Mayor Shepherd understood stakeholder groups disagreed about the use of Measure E property. She inquired whether there was any consensus from stakeholder groups regarding how the land was considered now that the City could utilize it for these facilities.

Mr. Bobel indicated there were several stakeholder groups, and he met with each individually.

Mayor Shepherd asked if stakeholder groups had come to terms with use of the 10 acres.

Mr. Bobel did not see consensus yet. Staff drafted the alternative recommendations when they realized there was no consensus. People opposed to use of Measure E land in any form were vehemently opposed to alternative recommendations. The Staff recommendation was the best chance for a compromise.

Mayor Shepherd asked if the Council should discuss that and provide direction to Staff.

Mr. Bobel did not have a suggestion for the Council.

Mr. Keene advised that the 10 acres was never a certainty. There seemed to be some agreement about not using the slope portion of the 10 acres. The current discussion seemed to focus on limiting the use of the 10 acres to the 3.8-acres portion.

Mr. Bobel noted the leadership of proponents stated that alternate recommendations were acceptable. He had seen progress on narrowing the use of the 10 acres.

Mayor Shepherd remarked that accepting proposals would determine the Council's view of the 10 acres.

Mr. Keene indicated Staff's practice had been to reclaim and return different portions of the 10 acres to the park. Staff would share an interest in defining boundaries as soon as possible in order to complete park components.

12. Approval of Staff Recommended Framework for Development of a Business Registry Certificate Ordinance & Fee Program as a Replacement/Enhancement of the City's Current Use Certificate Program to be Implemented by December 31, 2014.



# MINUTES

Thomas Fehrenbach, Economic Development Manager, reported the City lacked basic and essential data regarding businesses and employees. Such data could be utilized for transportation and land use planning, economic development planning, and emergency preparedness. The Council directed Staff to create a simple online registry to obtain data and to recover costs. A Use and Occupancy (U&O) Certificate was required for all businesses operating from a commercial space. Enforcement was limited to businesses that needed other permits from the Development Center or that needed random inspections. The objective for the Staff recommendation was to replace or enhance the current U&O Certificate to include the data component. Staff recommended a phased approach. Staff proposed delivering the registry by the end of 2014, enhancing enforcement later, and extending the business registry beyond businesses occupying commercial spaces. Staff would return to the Council in the fall of 2014 with a draft Ordinance and a plan for enforcing the Ordinance. Staff performed initial outreach with the business community and recommended additional outreach in the development and implementation stages.

Martin Bernstein, speaking as an individual, requested the Council clarify and specify that no fee would be required for any home-based business owner with no employees.

Hal Mickelson, Palo Alto Chamber of Commerce, indicated there was no need for a business registry within the business community. If a business registry was deemed necessary for efficient City administration, the Chamber believed it should be revenue neutral, simple, further simplified for small business, and exempt home businesses. He urged the Council and Staff to consider confidentiality, complicatedness, and enforcement.

Council Member Klein commented that virtually every other city in California had a business registry. Businesses in every community had grappled with the problems Mr. Mickelson mentioned.

Mr. Mickelson suggested the Council obtain advice from the City Attorney regarding actions taken by other cities with respect to confidentiality. Some companies might prefer to pay a fine rather than submit sensitive information.

Council Member Klein hoped the Chamber would provide ideas.

Mr. Mickelson would continue to work with the City.

Robert Moss felt a business registry would provide a great deal of important information, including an accurate number of jobs. Businesses should be required to report periodically. Businesses should report the number of sites they occupied and how many employees were located at each site. Eventually home offices should be included.

Dave Lanferman recalled the Colleague's Memorandum directed Staff to provide an exemption for home-based businesses. Yet, Staff recommended the City consider expanding the business registry to include businesses not occupying commercial spaces. Phase 2 would consider enhanced enforcement. It appeared Staff was asking businesses to pay for the red tape that would be used to further regulate and tax businesses. He was unsure whether calling the proposal a business registry circumvented the requirement for a ballot measure.

Lynn Chiapella referenced parking problems resulting from small business expansions. The City would never obtain a valid number of employees without a business registry.

Jon Kiya, Palo Alto Chamber of Commerce Board Chair, reported the Chamber recognized the value of collecting data. Enforcement on large corporations would be critical to obtaining valid data. Chamber members were concerned about the use of information, specifically that information not be used to assess further taxes or fees.

Mr. Fehrenbach advised that the Council's direction to Staff was clear that home-based businesses would be exempt. The language "businesses not occupying commercial space" was intended to explore transitory businesses. Staff would explore actions taken by other cities regarding confidentiality. The questionnaire was meant to provide a sense of the spectrum of interest from City Departments. A U&O Permit was required for each separate building. The business registry would address the number of workers located in each building. A registry with cost recovery only was not considered a tax. This was an opportunity for proactive outreach and to convert a paper process to an electronic process.

Council Member Holman recommended Staff revise the recommendation to reflect information provided in the presentation. Use Certificate and Occupancy Permits were used interchangeably, which could be confusing. She inquired about the SIC Code mentioned in the questionnaire.

Mr. Fehrenbach indicated SIC was an acronym for Standard Industry Code. It was a standard set of numeric codes that segregated types of businesses.

# MINUTES

James Keene, City Manager, added that the SIC separated businesses into categories.

Council Member Holman asked if the SIC identified specific types of commercial businesses.

Mr. Fehrenbach responded yes.

Council Member Holman noted the questionnaire asked about the number of workers onsite, but did not address whether employees were part-time or full-time. The Staff presentation addressed mode of transportation to reach work, but that was not in the sample questionnaire. The questionnaire asked about onsite employee parking, but it did not ask specific questions. She inquired whether the \$413 Use Fee was applied to businesses regardless of size.

Mr. Fehrenbach answered yes. The fee included components for zoning use compliance and building and fire inspections.

Council Member Holman understood the City could not charge more than the amount to process it, and questioned whether the \$413 fee was equitable for small and large businesses. The Staff Report indicated 3,000-5,000 businesses complied with U&O Certificate requirements. She inquired about methods to track businesses that complied with the business registry.

Mr. Fehrenbach reported electronic records extended back to 2004. Records prior to 2004 were paper-based and located in different places. Staff would need to review all current U&O Certificates and identify other databases to compile an initial outreach list of businesses located in commercial spaces. Staff intended to return to the Council in the fall of 2014 with refined data.

**MOTION:** Council Member Holman moved, seconded by Council Member Klein 1) approve the transfer of \$35,000 from the City Council Contingency Fund to the City Manager's budget for initial start-up costs including outreach, training, and program/technology development, and 2) to direct Staff to move forward with a two phase framework to implement a Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery through redesign of the use and occupancy certificate process including:

*Phase One*

1. A focus on businesses occupying or planning to occupy commercial spaces within Palo Alto.

2. Creating a new online-based BRC program through technology incorporated within the City's existing Permit Management System.
3. Developing/implementing an outreach and marketing plan including stakeholders from multiple types of businesses.
4. Return to Council for approval of BRC ordinance and program implementation and launch by 12/31/14, including plan for initial enforcement.
- 4a. Incorporate sample questions including: how employees get to work, where do employees not accommodated with onsite parking, park.

*Phase Two*

5. Options for enhanced enforcement, including fiscal impacts, for Council consideration.
6. An analysis of options to expand the BRC program to include businesses not occupying/planning to operate from commercial spaces within Palo Alto.

Council Member Holman felt it was important to utilize a business registry to the best intentions of the Colleague's Memorandum. The sample questionnaire should include the types of data the Council wanted. The business registry should not replace the U&O Certificate process.

Council Member Klein was surprised to read that as demand for commercial spaces increased, the density of commercial space also increased generally. He seemed to recall a study from the Planning Department indicated that information could not be verified. A business registry was different from a tax. Many business people's concerns were protected under Proposition 218. The \$413 fee needed review. It was illogical for a large employer to pay the same fee as a small employer. The number that 3,000-5,000 businesses had paid User Fees was nonsense. He hoped the business community would agree to work with the City to build a business registry. The questions Council Member Holman suggested for Item 4a would be onerous for many employers to answer.

**AMENDMENT:** Council Member Klein moved, seconded by Mayor Shepherd to eliminate the new 4a, "Incorporate sample questions including: how employees get to work, where do employees not accommodated with onsite parking, park."

Mayor Shepherd shared Council Member Klein's concerns. Those types of questions should be asked after a business registry was developed.

# MINUTES

**AMENDMENT PASSED:** 6-1 Holman no, Kniss, Scharff absent

Council Member Price inquired whether findings from transportation surveys had been useful in providing profiles of parking and commuting options.

Mr. Fehrenbach indicated the surveys provided a glimpse into parking options.

Council Member Price asked if survey results were tracked to a specific location.

Mr. Fehrenbach did not believe so.

Council Member Price recalled that much of the U&O Fee structure was based on cost recovery and fees in other communities. She asked if that remained an operating practice.

Peter Pirnejad, Development Services Director, reported Staff would perform a fee study and would determine if fees were cost neutral.

Council Member Price wondered whether a flat fee was common within the U&O arena.

Mr. Pirnejad indicated a business license tax was based on gross receipts, a sliding scale dependent upon the size and success of a business. A business registry fee should be based on some equivalent non-tax, total receipts based variable.

Council Member Price understood the current structure was a flat fee of \$413 regardless of the size of the operation. She asked if Staff believed utilization of a flat fee was common in other communities.

Mr. Pirnejad did not believe a flat fee was common for a business registry. A business license tax was typically a flat fee for most businesses. After a certain size or amount of gross receipts, then the business license tax utilized a sliding scale.

Council Member Schmid felt voluntary compliance was essential to obtaining data. He favored separating the business registry from the U&O Certificate process, having only a few questions, obtaining data annually, and utilizing a flat fee. Comparing City data with an external data source would be beneficial.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to restate the first paragraph in the Motion to: "to direct Staff to move forward with a two phase framework to implement an (annual) Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery."

Mr. Keene reported Staff wanted to have an integrated program linking different requirements in one place. Otherwise, enforcement of a voluntary business license program could be less effective.

Council Member Burt believed it was logical to have the two programs linked. However, the business registry would be constructed on what appeared to be a broken system. The Use Permit program had to be corrected first. He inquired if the Use Permit covered subtenants.

Mr. Fehrenbach advised that the business occupying the space was required to have a Use Permit.

Council Member Burt recalled another area of opposition in the previous business license election concerned sole proprietorships. He asked if Staff knew how many businesses held Use Permits.

Mr. Fehrenbach responded yes.

Council Member Burt asked if there was a method to handle expired Use Permits.

Mr. Pirnejad agreed the Use Permit program needed corrections.

Council Member Burt wanted to know the number of expired Use Permits.

Mr. Pirnejad indicated the number was difficult to determine because the Use Permit program was paper based.

Council Member Burt asked if anyone counted the number of businesses.

Mr. Pirnejad reported Staff had difficulty dealing with the paper-based system. Staff did not have a number.

Council Member Burt inquired whether Staff removed a business from the Use Permit list once it went out of business or left Palo Alto.

Mr. Pirnejad advised there was not a permit retention process to remove businesses. A new U&O process would replace the former process.

Council Member Burt asked if Google and Facebook remained listed as Palo Alto businesses according to Use Permits.

# MINUTES

Mr. Pirnejad answered yes.

Mr. Keene understood part of the system was automated.

Mr. Pirnejad explained that Staff's proposal was to completely automate the system.

Council Member Burt recognized that Staff was attempting to fix the process. He wanted to have an objective and realistic baseline for building a business registry.

**SUBSTITUTE MOTION:** Council Member Burt moved, seconded by Council Member XXX to direct Staff to return with this item with a revised structure to use permit so that the business registry can piggyback on the business registry structure.

## **SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND**

Mayor Shepherd understood a Use Permit was charged only once; yet, fire inspections occurred annually. She asked if the Motion was a different program from Staff's recommendation.

Mr. Fehrenbach believed the Motion created a business registry separate from the U&O Permit program. Businesses would be enticed to update their information for the business registry.

Mayor Shepherd wanted a business registry that was updated yearly. She inquired whether businesses obtained Use Permits only once.

Mr. Fehrenbach indicated businesses were required to obtain a new U&O Certificate when they refurbished a building or had a tenant improvement. A U&O Certificate was obtained only once. Staff proposed to continue the elements of the U&O Certificate and to add a questionnaire which had to be updated regularly.

Mayor Shepherd inquired whether the proposal was for businesses to complete a questionnaire annually and to remit a fee.

Mr. Fehrenbach reported that was the Staff recommendation.

Mayor Shepherd did not find a recommendation for an annual questionnaire and fee. She asked if Staff would propose those items in phase two.

Mr. Fehrenbach understood Staff's recommendation combined the one-time U&O Certificate with the annual business registry. Staff would automate the U&O component as well as the questionnaire component.

Mayor Shepherd asked if there was an annual fee.

Mr. Fehrenbach answered yes. It would be an annual, nominal fee in the range of \$35 to \$75.

Mayor Shepherd inquired whether the problem was sorting through paper files to determine which businesses should receive notice of an annual registry.

Mr. Fehrenbach indicated Staff needed to focus on adding businesses with and without existing U&O Permits and new businesses to the new online system. Staff would need to build outreach systems and a backend to support each of those different types of businesses. Once businesses were in the system, then the process would be simpler with automatic renewal notices.

Mayor Shepherd did not see an annual fee or an annual update of business information in the Motion.

Mr. Fehrenbach stated Staff's intent was to receive Council direction and build that into the Ordinance.

Mayor Shepherd reiterated that that was not contained in the Motion. She asked how Staff would handle the Motion.

Mr. Fehrenbach would take direction from the Council to explore a separate system and attempt to create tools to entice/enforce businesses to update information annually.

Council Member Klein noted the Staff Report referred to the Business Registry Certificate (BRC) as being updated annually. It was clear Staff intended an annual update of information. Perhaps the interaction between the U&O Certificate and the BRC should be reversed from Staff's proposal. Staff should build backward from the business registry to the U&O Certificate. There would be no benefit to building a business registry from the U&O Certificate process. Somehow Staff needed to notify landlords and others that a new business had to apply for a Certificate of Occupancy. If compliance with a business registry was easy, then the City would receive needed data. The City could waive the fee for the first year to entice businesses to provide information.



# MINUTES

Council Member Price thought the Staff recommendation of associating the two systems was logical. She inquired whether improving U&O data was part of the work plan.

Mr. Pirnejad reported the work plan was to clean up the U&O process as part of the business registry effort. This was an opportunity to combine all efforts, streamline the U&O process, and create an automated system.

Council Member Price felt setting a new baseline would be valuable. She asked if costs reported in the Staff Report remained applicable given the elements of the Motion.

Mr. Fehrenbach preferred to perform some calculations before answering.

Council Member Holman did not understand the actions Staff proposed with respect to notifying the business community about the business registry. She asked if notification could occur by address.

Mr. Fehrenbach would need to look at a number of sources including address and suite number, tax records, and Santa Clara County records to determine the number of businesses and their locations. Staff needed to build a solid outreach plan to drive businesses to the web site tool.

Council Member Holman suggested any new U&O Permit require completion of a business registry form. The Council was not discouraging work on the U&O process; rather, the Council was decoupling the two efforts.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to restate the first paragraph in the Motion to: "to direct Staff to move forward with a two phase framework to implement an annual Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery."

Mayor Shepherd wanted Staff to launch the business registry while revising U&O Permits.

Mr. Keene noted the Motion did not define phase one and phase two with respect to time. The Council wanted to implement the business registry component with the understanding that work on the U&O component would continue. Ultimately the two processes could be merged.

Mayor Shepherd felt incorporating that into a recommendation after Staff worked on the U&O system would be useful. She inquired whether the Council needed to provide specific direction to Staff.

Mr. Keene indicated the Council could give Staff general direction without a particular timeframe. Staff would have to work on the outreach process. At a later time, Staff could provide specific recommendations.

**MOTION AS AMENDED PASSED:** 7-0 Kniss, Scharff absent

13. Public Hearing - Council Adoption of an Ordinance Modifying: (1) Chapter 18.16 of the Palo Alto Municipal Code (PAMC) to: (a) Address Sidewalk Width and Building Setbacks (Setback and "Build-to" Line Standards, and Context Based Design Criteria) Along El Camino Real, and (b) Reduce the Allowable Floor Area Ratio on CN Zoned Sites Where Dwelling Units are Permitted at 20 Units Per Acre; and (2) PAMC Chapter 18.04 to Adjust the Definition of Lot Area and Add a Definition for "Effective Sidewalk". Environmental Assessment: Exempt from the provisions of CEQA per Section 15305 (Minor Alterations in Land Use Limitations) (THIS ITEM WAS CONTINUED BY COUNCIL MOTION ON APRIL 21, 2014 TO JUNE 2, 2014)

#### INTER-GOVERNMENTAL LEGISLATIVE AFFAIRS

14. Discussion and Direction to City Manager Regarding City of Palo Alto Response to the FAA Draft Environmental Assessment (EA) Regarding the Northern California Optimization of Airspace and Procedures in the Metroplex (NorCal OAPM).

James Keene, City Manager, reported Staff wanted to share the issue with the Council in case the Council wished to submit a letter to the Federal Aviation Administration (FAA).

Andrew Swanson, Airport Manager, indicated comments were limited to the Metroplex Environmental Assessment (EA). Staff questioned the lack of altitudes in the EA. The FAA felt extra information was not necessary and the document met requirements. The impacts of the report were difficult to understand because altitudes were missing and noise contours resembled flight paths. The FAA modeled noise impacts under conditions of tower staff handling aircraft.

Mr. Keene advised the EA was unrelated to the Surf Air issue. Apparently airports around the country were attempting to move more airplanes in and out of airports more efficiently. Flight paths did not appear to be changing in ways that would be problematic for Palo Alto.

# MINUTES

Because there was no altitude data, Staff could not determine if planes would fly lower and presumably be more noisy. Staff requested altitude data, but had been unable to obtain it.

Steve Katzman believed the report was misleading. Planes deviated from paths in order to save time and fuel, to land safely, and to be more easily controlled. Planes merged original flight paths into a single flight path, which was easier for controllers to monitor and handle. The FAA was proposing the single path be the official path. The single flight path resulted in hours during the day without a break in noise. The FAA modeled airplane sound, but did not measure sound on the ground in Palo Alto.

Council Member Burt asked if Mr. Katzman had reference materials regarding the merging of flight paths.

Mr. Katzman answered yes.

Council Member Burt requested Mr. Katzman provide those materials to Staff.

Mr. Keene clarified that Staff did not have altitude information that could help Staff interpret the problem. The speaker seemed to say airplanes had not been following the existing patterns, and the FAA was attempting to formalize the new patterns.

Stewart Carl noticed a dramatic increase in jet noise over Palo Alto in the fall of 2013. He attended two FAA workshops to gain information. The FAA was not changing air routes, but changing maps to match the air routes already changed. The FAA moved air routes south over Palo Alto. The FAA was requesting comment on whether it should adjust formal maps to match the changes.

Council Member Burt suggested Mr. Carl provide written comments.

Mr. Keene requested written public comments be provided quickly as the submission deadline was May 4, 2014. He assumed the Council would support a letter to the FAA including comments from Mr. Katzman and Mr. Carl.

Mr. Carl reported the FAA stated off-the-record that it did not shift noise at the staff level. At a higher level, the FAA shifted routes south under pressure from residents of San Mateo County.

Mayor Shepherd requested an explanation of the lines on the graphic.

Mr. Carl explained that the graphic demonstrated one day of flights over Palo Alto. All flights intersected over Palo Alto. The minimum altitude over a portion of Palo Alto was 2,500 feet. Airlines dropped to lower altitudes in order to save money.

Doria Summa stated the noise level over her home had changed dramatically. She supported Mr. Carl's comments.

Council Member Price believed Congresswoman Eshoo could have been part of a decision-making process that helped push the rerouting. The fact that the City was not given adequate information or timely notice was not stated strongly enough. She inquired whether the City had any recourse.

Mr. Keene advised that the City did not receive a formal notice about the changes. Congresswoman Eshoo's office contacted the City about the EA. Staff proposed sending a strongly worded letter and requested further direction from the Council.

Council Member Price asked if a letter to the Secretary of the Department of Transportation would be beneficial.

Mr. Keene could do that. Congresswoman Eshoo's letter and the Mayor's letter requesting an extension were directed to Secretary Foxx at the Department of Transportation.

Cara Silver, Senior Assistant City Attorney, reported Staff discovered the San Francisco Airport Community Roundtable (Roundtable) when researching the issue. Historically the Roundtable consisted of San Mateo cities. Palo Alto did not have a representative to the Roundtable; however, Mr. Swanson invited himself to that group.

Council Member Berman was shocked that the FAA merged routes into one and then requested comments on changing the maps to match the route. He wondered whether the FAA had to submit to a process before changing the route and if it did so. If the FAA did not follow the process and did not provide proper notice, then the City could have some recourse.

Council Member Burt suspected Congresswoman Eshoo had not seen the map. Staff should send the map to her as soon as possible prior to the deadline so she could act on it. Staff should consider sending information to Palo Alto's Senators and Representative Speier.

# MINUTES

Council Member Schmid believed there should be records of planes flying lower than the minimum altitude. The City received a notice of complaints in December 2013, and no complaints were submitted from Palo Alto. He asked if data for Palo Alto was missing or if residents did not complain.

Mr. Carl indicated people had given up on the Roundtable because it did nothing.

Council Member Holman encouraged Staff to continue collecting data. Noise was a nuisance and a health issue. That should be prominent in comments.

Council Member Klein suggested Staff talk to the City's Federal lobbyist and send a copy of letters to Congress Members Honda and Logfren.

Bert Ganoung, San Francisco Aircraft Noise Abatement Office Manager, reported the San Francisco International Airport (SFO) would not comment on the draft EA. One of the routes from the south was a direct overlay according to the FAA. Changes to the route occurred over Monterey Bay to provide fewer emissions, utilize less fuel, and create less noise. The FAA was changing existing profiles and arrivals. Most of those changes were 20 miles and more from airports.

Mayor Shepherd asked if Mr. Ganoung meant Palo Alto residents were not experiencing more airplane noise.

Mr. Ganoung could not say people were not experiencing something different.

Mayor Shepherd asked if Mr. Ganoung could describe what residents experienced.

Mr. Ganoung would have to interview residents individually to do that.

Mayor Shepherd inquired whether technically nothing had changed.

Mr. Ganoung responded yes. On a good day, the noise teardrop was closer to the airport; on a bad day it would extend further south. That was a fact of sequencing airplanes.

Mayor Shepherd inquired whether the City should have received notice of issues.

Mr. Ganoung could not comment as he did not work for the Federal government. The document contained a notice list, which included most libraries in the area.

Mayor Shepherd inquired whether there was a means for Palo Alto to be placed on the list.

Mr. Ganoung noted the Metroplex affected four airports in the area: Oakland, San Jose, San Francisco, and Sacramento.

Council Member Burt asked if Mr. Ganoung meant the graphic was not representative of Palo Alto's typical experience.

Mr. Ganoung explained the pattern was typical for that given day. Patterns varied each day.

Council Member Burt asked if patterns varied daily.

Mr. Ganoung replied yes.

Council Member Burt understood patterns were not static; however, on almost all days Palo Alto was directly affected.

Mr. Ganoung explained that Palo Alto was located directly under Big Sur arrivals from the south and arrivals on the teardrop pattern from the north. San Jose arrivals and general aviation traffic were missing from the graphic. SFO was most likely the cause of noise in that particular graphic.

Council Member Burt inquired whether SFO was aware that Palo Alto experienced this concentration of traffic.

Mr. Ganoung responded yes.

Council Member Burt asked why SFO was not notifying Palo Alto of the traffic situation.

Mr. Ganoung reported SFO was not responsible for providing any notice, because the document did not belong to SFO and SFO procedures were not being changed. SFO received information just as Palo Alto did.

Council Member Burt noted the Roundtable was comprised of communities that traditionally experienced a great deal of noise. This information should have caused a deliberate engagement with Palo Alto.

# MINUTES

Mr. Ganoung called Mr. Swanson on the matter three or four days after the document was published and recommended Mr. Swanson review the document.

Council Member Burt recommended Staff discuss the matter with the City Attorney.

Mr. Keene reported the City Attorney had been an integral part of the conversation.

Mayor Shepherd asked when Staff learned of the EA.

Mr. Swanson advised that he contacted SFO after learning about the EA from Congresswoman Eshoo.

Mayor Shepherd felt the teardrop pattern would have looked the same a year ago; however, the Council began hearing complaints in the fall of 2013.

Mr. Ganoung indicated the teardrop pattern was an existing arrival pattern. The noise would have occurred over the past 10 or even 20 years. He invited Council Members and Staff to SFO to discuss the document and patterns.

Council Member Klein inquired about the authority under which the Roundtable operated.

Mr. Ganoung stated the Roundtable was an independent entity comprised of elected officials from San Mateo and San Francisco Counties.

Council Member Klein asked if it operated under some law.

Mr. Ganoung advised that the Roundtable operated under the Brown Act and had its own Charter.

Council Member Klein wanted Palo Alto to be a member of the Roundtable and did not understand why Palo Alto was excluded.

Mr. Ganoung reported the City was welcome to make that request at a Roundtable meeting.

Mr. Keene stated he would begin efforts for the City to join the Roundtable.

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Burt suggested the Council provide written comments to the Santa Clara Valley Transportation Authority (VTA) letter regarding level of service and California Environmental Quality Act (CEQA) evaluation. He attended the event for the ten finalists in the Apps Challenge. Perhaps the Council could consider supplementing the monetary awards for the Apps Challenge as each app would provide a significant community benefit if successful.

ADJOURNMENT: The meeting was adjourned at 12:37 A.M.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.