

Regular Meeting
November 22, 2005

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- ADJOURNMENT: Meeting adjourned at 7:25 p.m.....6

Chairperson Freeman called the meeting to order at 7:00 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

PRESENT: Beecham, Cordell, Freeman (arrived at 7:10 p.m.), Kleinberg

1. Oral Communications

None.

2. Recommendation Regarding Appointment and Duties of Emergency Standby Council Members

Assistant to the City Manager Chris Mogensen reported in June 2005, staff brought a process before the Policy and Services (P&S) Committee to look at the method to select members of the Emergency Standby Council. The P&S Committee had asked staff to return with a policy and procedure. Staff proposed a policy in July 2005, at which time the P&S Committee had additional questions and concerns. The City Attorney's office researched the California Government Code and prepared a draft ordinance.

City Attorney Gary Baum reported the ordinance was written based upon the P&S Committee's questions and requests from the July 12, 2005, meeting. With regard to the question, "Who makes the appointments to the Emergency Standby Council," the City Council made the appointment in January. The criteria was that the member had to be a former Council member, living in Palo Alto. With regard to the question as to the number of members, staff received a clear directive that the P&S Committee wanted seven members. The Code appeared to specify nine members because there were nine Council Members; however, because Palo Alto was a charter city, staff felt it was within the jurisdiction to go with seven members. The Emergency Standby Council would be activated by a declared emergency combined with unavailability of City Council members. An emergency was defined as a national, state, or local emergency. "Unavailable" was defined in the Government Code as "dead or missing," but staff believed the definition could be stretched to "out of town and cannot get back in time." The Emergency Standby Council members served only until a Council Member returned or was available. In an absolute catastrophic event, an Emergency Standby Council member served as required by law, which generally meant until the next election. Mandatory training was required for Emergency Standby Council members.

Council Member Cordell asked when Emergency Standby Council members took their oath of office.

Mr. Baum said the Emergency Standby Council members took their oath of office after they were appointed which, theoretically, was late January or February. Emergency Standby Council members served for only one term.

Council Member Cordell clarified Emergency Standby Council members were sworn in when appointed or when actually an active member.

Mr. Baum said Emergency Standby Council members were sworn-in when they served.

Council Member Cordell referred to Attachment 1 of the staff report (CMR:432:05), Section 2(b), "to remain informed of the duties of City Council members and the business and affairs of the City," and asked how that was accomplished.

Mr. Baum said he discussed the issue with Assistant City Manager Emily Harrison but the issue had not been resolved at the staff level.

Council Member Cordell suggested sending the Emergency Standby Council minutes of City Council meetings.

Mr. Baum said that was a possibility.

Council Member Beecham said the history was that Emergency Standby Council members had not been called up. If they were called up, they would deal with catastrophic issues.

Mr. Mogensen said staff could send minutes to the Emergency Standby Council members.

Council Member Beecham clarified staff would bring a list of potential candidates to the City Council, who would appoint members to the Emergency Standby Council in the same manner as appointment to Boards and Commissions.

Mr. Mogensen said staff felt the list would consist of the seven most recent Council Members who met the criteria of living within the community.

Mr. Baum asked whether the P&S Committee wanted staff to bring a list of the most recent seven.

Vice Mayor Kleinberg said her preference was to have a list of the most recent seven Council Members. The City Council would approve rather than select. Clarification was requested in the event a City Council member was unavailable

for a number of days and whether a member of the Emergency Standby Council would be appointed.

Mr. Baum said if there were a dire need and no quorum, then an Emergency Standby Council would be appointed.

Mr. Mogensen said staff discussed the need for five City Council Members to be present. If the number of City Council Members dropped below five, an Emergency Standby Council member would be called up.

Mr. Baum agreed with the number five in the event of a declared state of emergency.

Council Member Freeman asked whether the seven Emergency Standby Council members were in a specific order.

Mr. Baum recommended adding wording to the ordinance, "less than five available" in order to have a clearer trigger.

Vice Mayor Kleinberg asked how the City Council selected which of the seven Emergency Standby Council members would vote.

Mr. Baum suggested including that the selection of the Emergency Standby Council members was the Council Member who most recently left the City Council.

Council Member Cordell said there were cases where three members left the Council at the same time. The suggestion was that a coin be flipped to see which Council Member would be appointed to the Emergency Standby Council.

Council Member Beecham suggested that the Emergency Standby Council was the first one that was contacted.

Council Member Freeman said the process needed to be clear. The City Attorney might be the person who "drew the straw."

Mr. Baum said the P&S Committee needed to determine whether it wanted to codify or adopt a policy that overlaid the action. The suggestion was that all the available standby members were contacted for availability and then straws would be drawn.

Vice Mayor Kleinberg suggested wording, "first available, randomly chosen."

Mr. Baum said the order would be seniority and then first available.

Council Member Freeman asked for clarification of "random choice."

Vice Mayor Kleinberg suggested one of the elected officials should make the choice rather than staff.

Council Member Cordell asked that the policy explain how the Emergency Standby Council members were kept informed of business, such as having minutes sent to the members.

Council Member Freeman wanted the policy clear to avoid any controversy during an emergency. Requirements for training needed to be spelled out.

Mr. Baum said the emergency could be state, local, or national. A state of emergency was declared by the City Council or City Manager and was subject to ratification by the City Council in a short period of time after the declaration of a state of emergency. A state of emergency had to be ratified periodically by the City Council.

Vice Mayor Kleinberg said the selection would be made first by the Mayor, then Vice Mayor, and then seniority of Council Members.

Council Member Beecham said there needed to be a clear line of authority if the Emergency Standby Council members were to take action and make commitments.

Mr. Baum said the ordinance would go to the City Council for adoption, and the policy would be included.

Vice Mayor Kleinberg said she preferred that the City Attorney send the policy to the P&S Committee to look at and provide feedback.

Mr. Baum said he would send the policy to the P&S Committee members and added it was important the members not copy each other on their comments back to him. A change to the ordinance included, "less than five City Council Members available would activate the Emergency Standby Council." Changes to the policy included how to replace, calling members, drawing straws, last in-first out, sending minutes, swearing-in, training, and a list of the most recent Council Members.

MOTION: Chairperson Freeman moved, seconded by Beecham, to accept suggestions for policy changes and make a change to the Ordinance. Further, that the Policy and Services Committee recommend to the Council to introduce the

Ordinance amending the Palo Alto Municipal Code Chapter 2.12.090 regarding Emergency Standby Council.

MOTION PASSED 4-0.

Mr. Mogensen said the item would go on the Consent Calendar.

3. Discussion for Future Meeting Schedules and Agendas

Assistant to the City Manager Chris Mogensen confirmed there would be no meetings in December.

ADJOURNMENT: Meeting adjourned at 7:25 p.m.

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