

Regular Meeting
March 14, 2006

Chairperson Cordell called the meeting to order at 7:08 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Barton, Cordell, Drekmeier, Morton

1. Oral Communications

None.

2. Council Retreat Follow Up

- Discussion of protocol for items returning to Council from Committee

Assistant City Manager Emily Harrison said the issue was whether the Council should defer to Committee an item to be re-agendized after it had already been discussed by Committee and agendized for Council. There were many full Council discussions on items previously discussed by a Committee. As part of the streamlining recommendations, staff established a protocol that items would not be deferred back to the Committee wherever possible. When there was a split vote at the Committee level, the item went to Council for a decision.

Council Member Morton said when he came on the Council the policy was that if a Committee reviewed a budget amendment and agreed with it, the issue would return to Council on the Consent Calendar. In some cases, the issue was debated again at the full Council.

Ms. Harrison said sometimes there were full discussions when the members, who did not serve on the Committee, wanted to discuss the issue.

Chairperson Cordell said she could not find the issue in the Council Protocols.

Ms. Harrison referred to page 6 of the Council Protocols, "Respect the work of the Council standing committees. The purpose of the Council standing committees is to have focused, in-depth discussion of issues. Council should

respect the work of the committees and commit to its policy of keeping unanimous votes of the Committees on the Consent Calendar.”

Chairperson Cordell asked whether there was a concern that the protocol needed to be changed.

Council Member Morton said the protocol should be reinforced.

Ms. Harrison said the commitment might need to be reaffirmed.

Council Member Barton asked whether the protocols were policy.

Ms. Harrison said the Council adopted the protocols, but there was no enforcement mechanism.

Council Member Barton said the issue could go back to the Council to reaffirm or be brought back as a policy.

Chairperson Cordell suggested that there should be a recommitment if there was a current council that did not comply with the protocols.

Council Member Morton said a memo might be prepared to remind colleagues of the protocol.

Ms. Harrison said the staff liaison to the Committees was supposed to ask the committees, after a vote, whether the item should go back to the Council on Consent.

- Review Consent Calendar Policy

Chairperson Cordell referred to the City Council Procedures Handbook, pages II-3 through II-6, and asked what the issue was.

Ms. Harrison said the issue started with the number of votes required to pull an item from Consent.

Chairperson Cordell said the current policy was that any Council Member could request an item be removed from Consent as long as that Council Member got a seconder to the request. The item was then taken off Consent for discussion.

Ms. Harrison said it was the discretion of the Mayor as to whether discussion occurred immediately or later on the agenda.

Council Member Morton said the explanation of a no vote should be done under Council Comments and not during the Consent Calendar. The City Attorney had explained the purpose of the Consent Calendar was that there is no discussion on any of the items. If there were discussion, the item should be pulled and agendaized. He said discussion during the Consent Calendar, obviated the whole point of the Consent Calendar.

Ms. Harrison said there was a difference between making a statement about why a Council Member voted no and attempting to engage colleagues in a reconsideration of their vote.

Chairperson Cordell said there was a problem when a Council Member tried to change a vote.

Council Member Morton said if discussion were not permitted, a three minute explanation was not in the spirit of the discussion.

Chairperson Cordell said her perception was that nothing was held up if the person were held to three minutes.

Council Member Barton said the challenge was that rules were great when people controlled themselves. Stricter rules were necessary when people did not control themselves. The Council should not engage in a discussion about changing the policy because there was no issue.

Chairperson Cordell did not want the Council to come back and say it needed a recommitment because no one had violated the protocol.

Ms. Harrison said another issue had to do with the Council request to remove an item. Staff had asked to be advised in writing or by phone of a request for removal of a Consent Calendar item in order to give staff time to prepare.

Chairperson Cordell asked whether staff was getting the notice to pull an item.

Ms. Harrison said staff had not received the courtesy notice for quite awhile.

Council Member Drekmeier asked for a summary of how items were placed on the Consent Calendar.

Ms. Harrison said the Council had debated at some length what it felt would be appropriate. Policy issues, funding requests, and grants should not be introduced on the Consent Calendar.

Chairperson Cordell said the Council needed a reminder to let staff know in advance if the Council Member wanted to pull an item off Consent.

Ms. Harrison said another issue was whether two votes were sufficient to pull an item from Consent. The original discussion was that four votes were needed, but the final decision was for two votes.

Chairperson Cordell asked whether there had been a problem with two votes.

Council Member Barton said he liked the idea of two votes but might consider three votes.

Ms. Harrison said there had been concerns about seconding for the purpose of discussion.

Council Member Barton said seconding for the purpose of discussion had some value.

Chairperson Cordell said the rules seemed to work, and the Council needed to be reminded of the policies.

Ms. Harrison said she heard the Council wanted to review and reaffirm.

- Review Council gift policy

Ms. Harrison referred to page 8 of the Council Protocols, "Gifts and Favors. Members commit to follow the laws that apply to accepting any gifts or favors as a public official." Much discussion occurred about whether the wording was appropriate or should be more stringent.

Chairperson Cordell said the current rule was that the Council complied with the State requirements, which permitted public officials to receive gifts up to a certain amount.

Mr. Baum said the Council was subject to the Fair Political Practices Commission (FPPC) rules. The FPPC rules were \$50/\$350, which meant no reporting of gifts under \$50 and the member was conflicted from any gift over \$350. All gifts must be reported. Council Members were forbidden to take an honorarium for a speech.

Chairperson Cordell clarified if she were to give a speech that had nothing to do with City business, she was unable to accept an honorarium.

Mr. Baum said that was correct. If a Council Member were to give a speech as part of a job, an honorarium was acceptable.

Council Member Barton asked whether a Council Member had to pay for a dinner where the Council Member was asked to speak and dinner was included.

Mr. Baum said the Council Member should pay for the dinner.

Chairperson Cordell said it was in the interest of integrity that public officials take the lead and not accept gifts. The size or value of a gift should have no bearing. The gift was given to public officials because they were public officials. Perception of government integrity was a concern. She favored a rule that said, "No gifts."

Council Member Barton asked whether something could be written that the Council gift value shall be zero dollars.

Mr. Baum said the wording was, "It is contrary to the City of Palo Alto's ethical standards and merit system for any City employee to accept gifts and gratuities from any individual, business, or organization doing business or seeking to do business with the City or who is seeking permits or other entitlements from the City."

Ms. Harrison said when people brought consumable goods to the office during the holidays, there was no issue as long as the consumable goods were left out for the entire office. No discounts were to be accepted by employees.

Council Member Drekmeier said his personal policy was to say he could not accept gifts and he could not give gifts.

Chairperson Cordell said the gift policy was an issue she was passionate about because it reflected the Council's integrity. The Council could decide to leave things the way they were or bring the issue back to Council for further discussion. The Council should have the same standard as staff.

Council Member Barton questioned what other cities had in the way of a staff or council rules relative to a zero gift policy.

Ms. Harrison said the City of Mountain View had a discussion with the Shoreline Theatre providing tickets and maintained its current policy to allow receiving the tickets.

Chairperson Cordell asked for a consensus as to continuing the discussion before the Council.

Council Member Drekmeier proposed bringing the issue to the Council on a light agenda night.

Mr. Mogensen said the Council could use the wording used by staff. The policy would need a legal definition of gift. The policy for staff had been in existence for 11 years and worked well.

MOTION: Council Member Cordell moved, seconded by Barton, to recommend adopting a no gift standard for Council which would be identical to staff's.

MOTION PASSED 3-1, Morton "no."

Council Member Morton left the meeting at 7:47 p.m.

Chairperson Cordell said staff would bring back the policy to the Council and include a paragraph stating the staff policy had been in effect for 11 years. Staff was asked to find out if other cities had a "no gift" policy.

- Feasibility of Council and staff revolving door policy

Mr. Baum said his memo to the Council was not as clear as he had hoped. The State passed a bill, SB8, effective July 1, 2006, which was a revolving door statute. The law required that a person could not appear as a lobbyist or on behalf of an agent or attorney for one year after leaving Council.

Council Member Barton said that was a huge problem for him because SB8 would not allow him to apply for a building permit for his clients for one year.

Mr. Baum said the bill was new and was rushed through. The bill would not allow Mr. Barton to come to the City as an attorney or agent for any type of permit or development.

Council Member Barton said the fact that he was unable to go to the Planning Department on behalf of his client for one year was unreasonable.

Chairperson Cordell questioned whether Council should lobby to get the bill changed. During her campaigning in 2003, people in the community said they resented it when people who worked in the Planning Department left to represent developers and then came back to lobby the City. One year was too short.

Mr. Baum said he received questions as to whether SB8 prohibited Council Member Ojakian from leading the Police Building Blue Ribbon Task Force. Council Member Ojakian did not get paid.

Chairperson Cordell asked what Council Member Barton felt about the bill.

Council Member Barton said he did not recall any senior employees coming back and lobbying directly.

Council Member Drekmeier said Ken Schreiber and Carol Jansen left the City to represent clients who had projects with the City.

Council Member Barton asked whether the Council had the ability to write the rule.

Mr. Baum said SB8 left a pass for cities to have their own rules, as long as it was stricter than what was written. Other cities had versions of the revolving door policy.

Chairperson Cordell suggested additional discussion and review of other cities' policies.

Council Member Drekmeier said Council Member Barton's background and experience offered a lot to the Council. The rules needed to enable Council Member Barton to do his job.

Council Member Barton said SB8 restricted people interested in public office.

Council Member Drekmeier said some people might not be as ethical as Council Member Barton.

Chairperson Cordell wanted to see what other cities did. Palo Alto needed to have the highest standard without jeopardizing individuals such as Council Member Barton.

Ms. Harrison said she recalled a dozen instances where the City contracted with former City staff because they might have a skill the City had been unable to find elsewhere. The City used contract planners who were former employees.

Council Member Barton wanted lobbying to be defined in a reasonable, appropriate way.

- Codify Colleagues Memo rule

Ms. Harrison said when City Manager Benest first came to the City, staff spent approximately six months talking about how to streamline the agenda and meeting process. One thing that was agreed on was that a Colleague's memo should have at least two signators. During the prior year, the procedure was challenged by one Council Member who wanted the procedure in writing.

Chairperson Cordell asked whether anyone had a problem with the rule being uncodified. She said staff would codify the Colleagues Memo rule and bring it back to the Policy and Services Committee.

Council Member Barton asked whether anything besides the motion and second should be codified.

Council Member Drekmeier asked whether there was a suggested format.

Ms. Harrison said the City Clerk's office put the memo into a standard format.

Council Member Barton asked whether the policy refers to the memo being reviewed by staff prior to going into the Council packet.

Ms. Harrison said it would be helpful for staff to look at the memo.

City Clerk Donna Rogers said memos are required to be in the City Clerk's Office by noon on the Thursday.

Council Member Cordell said language should be required that the memo needs two signatures and must go to staff no later than a specific time.

Ms. Harrison said the language would come back to the P&S Committee.

- Review Council Liaison Policy

Chairperson Cordell referred to page 5 of the Council Protocols which referred to liaisons.

Ms. Harrison said the bulk of the Council packet included minutes and staff reports. There was an ongoing project between the City Manager's Office and the City Attorney's Office regarding various liaisons to codify the policy. Discussion included the role of the Council liaison, the role of the staff liaison, the role of the Chair of a board or commission, and Brown Act requirements for boards or commissions. Staff wanted all the information in one place.

Chairperson Cordell asked whether staff would bring something back to the P&S Committee that included all the information as to roles and requirements.

Ms. Harrison said staff would bring the information back to the P&S Committee.

Chairperson Cordell said she was the liaison to the Human Relations Commission for three years, and took the approach for the current year that she would look at the agenda and attend the meeting if there were something important on the agenda that she could provide guidance on.

Ms. Harrison said staff tried to be clear that the Council liaison was not at a commission meeting to be a member of the commission.

Chairperson Cordell said the Human Relations Commission questioned whether she abandoned the Commission when she did not attend all the meetings.

Council Member Barton said his intent was to attend all Library Advisory Committee (LAC) meetings because the LAC was doing what the Council asked them to do. His attendance at the Historic Resources Board (HRC) depended on what was on the agenda. Council Members were not members of the commissions.

Mr. Baum said the commissions and boards were advisory bodies to the Council. The liaison would assist by providing information but did not need to attend every meeting.

Council Member Drekmeier said the Council did not want commissions or boards going in a direction that the Council would not approve. The liaison could tell the commissions or boards that they had an interesting idea that should go to the Council first.

Council Member Cordell clarified Council Liaison policy would go back to the P&S Committee.

Ms. Harrison said that was correct.

Council Member Morton returned at 8:14 p.m.

3. Discussion for Future Meeting Schedules and Agendas

Chairperson Cordell said she recalled reading something in the Council packet that talked about compensation, and she noted that three commissions or

board that got paid. The HRC received \$50 each, the Planning and Transportation Commission members received \$120 or \$150 each, and the ARB members received \$120 or \$150 each over a period of time.

Ms. Harrison said boards and commissions were compensated prior to AB 1234. The boards and commissions were currently on complete reimbursement.

City Attorney Gary Baum said the Council approved the compensation to the three boards/commissions and they received a 1099 or W2.

Chairperson Cordell said if there were boards or commissions being compensated, she requested that item to be included on an agenda as a discussion item.

Mr. Baum said in trying to comply with AB1234 it was discovered at the staff level that checks for expenses were issued quarterly.

Council Member Cordell asked whether the date for the next meeting could be changed because she had a conflict.

Assistant to the City Manager Chris Mogensen said he would contact the members by email for another date.

Council Member Barton said he also had a conflict.

Chairperson Cordell asked whether there were items to include on the next P&S agenda.

Ms. Harrison said there was a referral from the prior evening's Council meeting where Council Member Kishimoto brought up a concern about numerous miscellaneous expenses and payments.

Mr. Mogensen said another item was language for the Emergency Standby Council.

Chairperson Cordell said the revolving door and colleagues memo discussions would be brought back.

Council Member Barton said there was confusion about when Council Members became Council Members and when they no longer were Council Members, using the example of the flood that almost happened on January 1, 2006.

Ms. Harrison said that would be covered under the emergency standby council.

Chairperson Cordell asked that staff research the law in this area.

ADJOURNMENT: Meeting adjourned at 8:19 p.m.

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