

Regular Meeting
November 14, 2006

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ADJOURNMENT: Meeting adjourned at 8:00 p.m..... 7

Chairperson Cordell called the meeting to order at 7:01 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Barton, Cordell, Drekmeier, Morton

1. Oral Communications

None.

2. Revolving Door Ordinance

City Attorney Gary Baum said the Policy and Services (P&S) Committee directed the Attorney's Office to prepare a "revolving door" ordinance. The draft ordinance was based on existing State Law, which was currently limited to Council Members and the City Manager, and he applied the law to senior staff such as Department Directors and individuals appointed by the Council. The draft ordinance limited the ability for any of the individuals, after they left the employment of the City, to appear before the City on behalf of any third party for a one-year period.

Chairperson Cordell clarified the Government Code Section had the one year prohibition for City Managers and Council Members, and the draft ordinance would include department heads and Council appointed officers.

Mr. Baum said that was correct. The draft ordinance needed to be corrected to include the Assistant City Manager. Members of staff reviewed the ordinance and supported it.

Council Member Barton asked whether an individual affected by the ordinance could have a contract to do work on a pro bono basis.

Chairperson Cordell referred to page 2 of the draft ordinance which used the word, "retained." Retained did not necessarily mean compensated for the work.

Mr. Baum said the Council was subject to state law. The ordinance was consistent with the spirit of the law but could be modified to say "retain."

Chairperson Cordell said the ordinance applied to an individual who advocated for someone seeking a variance. The ordinance would apply even if the individual were not compensated.

Mr. Baum said the draft ordinance mirrored the State Law.

Council Member Morton clarified if the Planning Director were to take a job with Stanford, it would mean he would be unable to represent Stanford's interest for one year.

Mr. Baum said that was correct.

Council Member Morton questioned whether there had been abuses that necessitated prohibiting employment opportunities for one year that impacted City decisions.

Mr. Baum said he was unaware of any incidents but had heard a story of a former Planning Director who appeared before the Council.

Chairperson Cordell said the ordinance was necessary because state law said the City had to do it.

Council Member Drekmeier questioned whether there was a current ordinance that applied to the City Manager, City Auditor, City Clerk or Assistant City Clerk.

Mr. Baum said no. The state law went into effect in January 2006 that only applied to the City Council and City Manager. Staff mirrored that law to include other members.

MOTION: Council Member Barton moved, seconded by Drekmeier, that the Policy and Services Committee recommends to the City Council adoption of the Revolving Door Ordinance.

MOTION PASSED 4-0.

3. No Gift Policy for City Council

City Attorney Gary Baum said a gift policy was difficult to write because it was impossible to include everything. Staff originally drafted the policy by taking the one that applied to current employees. The Fair Political Practice Commission (FPPC) guidelines were included with some changes. The policy was meant to be practical, understandable, and usable. The P&S Committee was encouraged to make changes, reject the policy, or accept it as written.

Chairperson Cordell said the issue came up at the Council retreat. She was vocal about advocating for a no gift policy.

Assistant City Manager Emily Harrison said anything received by staff that was perishable was put out for everyone rather than sending the gift back. Anything else was sent back or donated to charity. Discounts were not allowed.

Chairperson Cordell asked whether "discounts" were addressed somewhere.

Mr. Baum said the FPPC guidelines were used to help explain and clarify issues.

Chairperson Cordell questioned whether the first two paragraphs of the Council Protocols were sufficient.

Council Member Morton clarified that under the FPPC guidelines, items below a certain monetary amount were not considered gifts.

Mr. Baum said that was correct. The FPPC was more concerned with reporting. The FPPC did not have a gift policy. The guidelines explained what and how to report.

Ms. Harrison said the Council's ethics addendum to its protocols cited FPPC requirements in terms of gifts.

Council Member Morton said the activity was demeaned when things were ridiculously strict. Unenforceable limits were not reasonable. The FPPC threshold was more enforceable and reasonable.

Council Member Drekmeier said one of the convincing arguments for the policy was that staff currently followed the same policy. The question was why there had been a different policy for staff versus Council Members.

Ms. Harrison said there was considerable discussion when the Council adopted its protocols and ethical standards. The argument was the practicality argument. There was concern the Council was asked to participate in many social functions at some expense and potentially some Council members could afford to accept all the invitations which were economically burdensome to others. The discussion was four or five years prior and it was a difficult discussion.

Council Member Drekmeier said with the policy, the Council Members would be able to accept birthday and wedding gifts, but in some cases the gifts had to be reported.

Mr. Baum said the protocols had no reporting requirements. The FPPC had reporting requirements for every gift over \$50, and every gift over \$360 in the

course of the year resulted in the disqualification of participating in any involvement with that individual or entity.

Council Member Drekmeier clarified that Council Members sent the FPPC a list of gifts they had been given during the prior year.

Mr. Baum said that was correct.

Chairperson Cordell said she wanted to see Palo Alto in the forefront on the issue and set the standard. The law defined City Council Members as City employees for purposes of benefits. The Council should have the same standards as other City employees.

Mr. Harrison said from time to time delegations from Sister Cities visited Palo Alto and it was an appropriate diplomatic gesture to bring a gift. In that case, the gift was accepted on behalf of the City and given to the Mayor's Office.

Council Member Morton said he did not think the standard, other than the FPPC requirements, would be necessary to give the community the feeling the City had ethical Council Members.

Chairperson Cordell said it was critical the Council Members did not accept gifts from people who seek to do business with the City.

Council Member Drekmeier said knowing the procedure about the gifts allowed was helpful.

Mr. Baum said he made a few changes to the FPPC to make the list more understandable. The Council might want to add wording about gifts of hospitality from businesses or nonprofits.

Council Member Morton said he would not vote for the protocol unless there was a reasonable threshold. His suggestion was to state, "The following are not considered gifts but may be required to be reported under the FPPC regulations."

Council Member Barton said he would not support the policy without seeing the definition of what were not considered gifts. His understanding was he would not be able to take any gifts from anyone who had a business in Palo Alto. The concern was he would not be able to have dinner with his sister because her husband worked for Roche.

Chairperson Cordell said the protocols specified individuals seeking permits or other entitlements from the City.

Council Member Drekmeier said he preferred the first three paragraphs under Council Protocols and the list of what are not considered gifts.

Mr. Baum said item 4 "Gifts approximately equal in value exchanged between the Council Member and another individual on holidays, birthdays, or similar occasions" did not belong under procedures.

Council Member Morton said item 4 would be part of the preamble.

Council Member Barton said the third paragraph under Council Protocols was unnecessary.

Council Member Drekmeier said he had no objection to including or excluding the third paragraph.

Council Member Morton said he did not support the inclusion of the third paragraph.

Council Member Barton asked what would happen if a motion to support the Protocol failed on a 1-3 vote.

Ms. Harrison said the item would go to the Council without a recommendation from the P&S Committee.

Council Member Drekmeier said he supported Council Member Morton's recommendations to take out the third paragraph, move item 4, and modify item 10.

Council Member Barton said his preference was to not include the third paragraph.

Council Member Drekmeier said he would suggest leaving the third paragraph in the protocols for Council discussion.

Mr. Baum suggested changing the third paragraph, "It is impossible to list every situation and fact pattern, so it anticipates that Council Members will exercise their good judgment in ~~deciding~~ determining whether ~~to accept or not accept a gift~~ this is a gift or not."

Ms. Harrison recommended adding wording related to gifts from Sister Cities under item 5 in the list of what are not considered gifts.

Council Member Drekmeier suggested adding wording to item 3 "Gifts of hospitality involving food, drink, ~~or occasional lodging~~ that a Council Member receives in an individual's home or at another location when conducting City business."

MOTION: Council Member Drekmeier moved, seconded by Barton, that the Policy and Services Committee recommends to the City Council to adopt Council Protocols, Gifts and Favors, first three paragraphs, adding a fourth paragraph from item 4 in the procedure section and all of remaining "The following are not considered gifts," as modified.

MOTION PASSED 3-1, Morton, no.

4. Discussion for Future Meeting Schedules and Agendas

Assistant City Manager Emily Harrison said the Public/Private Partnership Policy would be agendized for the first Council business meeting in January. Discussion of the Utilities Advisory Commission (UAC) role would be on the December 12, 2006 P&S Committee agenda.

Chairperson Cordell asked whether the P&S Committee would discuss the compensation for the various commission and committee members.

Ms. Harrison said that was tentatively agendized on December 12, 2006.

ADJOURNMENT: Meeting adjourned at 8:00 p.m.

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