



POLICY AND SERVICES COMMITTEE

Special Meeting
December 17, 2009

Chairperson Espinosa called the meeting to order at 6:04 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Espinosa (Chair), Barton, Kishimoto
Absent: Yeh

Chair Espinosa indicated that the City Auditor had requested Item Number 3 be discussed first to accommodate another meeting she had to attend. He said there was general agreement among the Committee to move the item forward on the agenda.

1. Oral Communications

None

3. Follow Up Information From November 30, 2009 Policy and Services Committee Meeting and Recommendation for Council Confirmation of Independent Police Auditor Contract Management Structure.

John K. Abraham, 736 Ellsworth Place, discussed his concerns about the Police demographic data process. He said that an experienced statistician should be involved.

Herb Borock, PO Box 632, discussed his concerns about the meeting beginning at 6:00 p.m. and the agenda being moved around as well as the timing of the reports. He believed the Charter gave the Council the authority to assign duties including the Police Auditor Contract.

City Manager James Keene said the Staff Report had been reviewed by the City Attorneys office as it relates to the City Manager duties, the Charter, and the Penal Code. He said that if the issue was who should give the information to the Council, the City Clerk would be appropriate. He would still need a copy of the report in order to follow up with the Police Chief on issues of concern.

City Auditor Lynda Brouchoud agreed that the City Clerks office could serve the function. The most recent amendment to the contract did address the issue. This contract serves as another Council Appointed Officer (CAO).

Mr. Keene said the existence of one CAO did not eliminate the responsibilities of other CAO's and did not create immunity. He quoted Article 3, Section 6 of the Charter to explain the duties of the City Manager in relation to contracts.

Council Member Kishimoto was happy there was consensus. She suggested a change to Staff's recommendation to reflect that Council should approve contract management and that receipt and distribution of the Police Auditor Report will be done through the City Clerks Office.

Mr. Keene said that the Independent Police Auditor will supply the City Clerk with their report and the City Clerk will immediately distribute it to the Council.

MOTION: Council Member Kishimoto moved, seconded by Council Member Barton that the Police Auditor will provide their reports to the City Clerk to immediately distribute to the City Council.

Chair Espinosa said that the Committee requested that Staff debate the pros and cons of this process. He said Staff provided a very strongly worded report on the one side of the argument. He didn't feel they had received information on both sides of the issue.

MOTION PASSED: 3-0, Yeh absent

Council Member Kishimoto asked for clarification regarding the Police Auditor's role in the racial profiling issue.

Assistant to the City Manager, Kelly Morariu said the contract amendment stated that the Police Auditor would audit policy, training and practices, and some demographic data collection. They would not perform additional demographic data analysis.

Council Member Kishimoto said the Council should consider requesting the Police Auditor add that to the contract.

Chair Espinosa said that could be discussed in 2010.

Council Member Kishimoto that level of data analysis would require a resource with specific skills.

No Motion Required.

2. Policy and Services Committee Recommendation that City Council Direct Staff to Perform a Study Evaluating the Impact of Prevailing Wage on City Capital Construction Projects

Assistant Public Works Director Mike Sartor gave a presentation summarizing Staff's response on the proposal to apply prevailing wage requirements for City capital projects. Staff recommended a two-part study. Part one would include selecting a few capital projects in Utilities, and the General Fund, where projects could be separated into two contracts, one with prevailing wage and one without, e.g. sidewalk repair. Part two would be a survey to send out to bidders on all construction projects to study the work environment and the type of benefits offered.

Neil Struthers, 2108 Almaden Road, said the prevailing wage survey was not based on empirical data. He encouraged the questionnaire to remain simple.

Nicole Goehring, 4577 Las Positas Road, Livermore, representing Associated Builders and Contractors, asked that the prevailing wage process remain open and fair from the beginning.

Council Member Barton said that the 5% cost didn't feel right. He said the survey questions need to be revised based on what needs to be learned. It will be important to learn what benefits contractors offer. He said that all the sub-contractors should have to answer the questions. He suggested that Staff break the projects down into more similar sizes. He said he would lean toward the line of questions presented by Mr. Struthers rather than the one Staff offered. He would add "type of retirement." He asked what market recovery and job targeting are.

Mr. Sartor said that some contractor's bids are subsidized by building trade funds, allowing them to be lower than other contractors.

Council Member Barton asked if the questionnaire would go out as part of the bid process.

Mr. Sartor said the City Attorney advised that sending the

questionnaire out at that time would jeopardize the process. Staff would take the list of bidding contractors and send the questions out to contractors following the contractor selection.

Council Member Barton said that needs to be reviewed again by the Attorney.

Mr. Sartor said they suggested a sealed package to be opened by contractors after the bid was awarded, but the City Attorney did not approve the process.

Council Member Kishimoto said this was cost versus benefits. She asked how the packets would be evaluated in terms of the numbers of bidders. She said they should measure quality.

Mr. Sartor said that was more of a qualitative question. The questions being proposed would shed light on the quality of construction.

Council Member Kishimoto questioned the accuracy of determining the quality of the construction work by the questions.

Mr. Sartor said if they have worked Palo Alto before, they would be aware of Palo Alto's standards.

Council Member Barton added that Staff would want to know if they've worked in Palo Alto before to gauge an increase in the size of the bidding pool.

Council Member Kishimoto asked if there was a way to look at total compensation to the workers.

Mr. Sartor said with the prevailing wage requirement they would be bidding on the worker pay scale. The question about which benefits are provided will allow Staff to evaluate additional compensation.

Council Member Kishimoto said the level of expertise should be defined.

Mr. Sartor said contractors who are familiar with Palo Alto standards for construction will have that quality already.

Council Member Kishimoto said the contractor can bid whether or not they've had experience in Palo Alto.

Mr. Sartor agreed and said Staff had to ensure contractors followed standards.

Council Member Kishimoto asked if Palo Alto standards were different from other municipalities.

Mr. Sartor said they were typical for the Bay Area, though higher than municipalities outside the Bay Area.

Chair Espinosa asked what buckets Council Member Kishimoto wanted to organize the questions in.

Council Member Kishimoto defined them as benefits to workers, cost to the City, and quality of work.

Chair Espinosa said Council will be concerned about the cost to do the study.

Council Member Barton said it was similar to Council's vote to study the externality costs of environmental issues.

Chair Espinosa said the wording was that it could be 5%-10% higher; implying that there were resource costs not yet understood.

Council Member Kishimoto said Council will request that Staff leave out that 5%.

Chair Espinosa the goal of the study was to solve these logistical issues and that there were arguments on both sides. He said the survey needs to be looked at in terms of process and what needs to be learned.

Council Member Kishimoto asked if wording should be added requiring sub-contractors complete the surveys.

Mr. Sartor said the prime contractor was required to list their subs, so the survey would go out to both.

Council Member Kishimoto asked if prevailing wage applies to the sub-contractors.

Mr. Keene asked about the total change orders and additional costs at close out. He asked if they could be added.

Council Member Yeh arrived at 6:48.

Mr. Sartor indicated that Mr. Struthers made that suggestion as a mechanism for evaluating quality.

Mr. Keene asked if they could be added.

Mr. Sartor said they wouldn't be part of the questionnaire but they could be included at some point.

Mr. Keene asked if patterns regarding pay scale and other social concerns such as minority representation should be addressed in the survey.

Chair Espinosa clarified that these measurement suggestions should be included in a follow-up Staff Report.

MOTION: Council Member Barton moved, seconded by Council Member Yeh that the Policy and Services Committee recommend that Council direct Staff to perform a pilot study of potential prevailing wage impacts on selected Capital Improvement Projects to determine whether the prevailing wage requirement impacts the number of bids, project costs, change orders and other factors.

Council Member Barton moved, seconded by Council Member Kishimoto that the Policy and Services Committee recommend the Council accept the staff recommendations with the following additional requests: 1) Staff should reevaluate the survey questions to explore the core issues of wages and the nature of benefits; 2) a post study evaluation of completed work for quality cost and schedule control should be included; 3) sub-contractors should be included in the survey; 4) the City Manager should reconvene with the City Attorney to determine how the survey can be distributed at bid time; and 5) training should also be included.

Chair Espinosa requested that the measures discussed here should be incorporated into the next Staff Report, the impact should be studied and the 5% should be removed.

MOTION PASSED: 3-0, Yeh Abstained

4. Recommendation for Council Approval of the City's 2010 Federal and State Legislative Priorities and Overall Legislative Action Program Structure

Assistant to the City Manager Kelly Morariu said the overall Legislative Program structure had been refined. Staff requested the Committee's comments on the legislative process. A few minor changes had been outlined in Attachment D. Staff had taken input from the City's Federal legislative advocacy firm, the Executive Team and other Staff Members who have been involved in the process, and put together some Federal legislative priorities which were included in the Staff Report. With the Committee's approval, Staff was planning to bring the program before Council in January in conjunction with the Utilities Department legislative program.

Council Member Barton commented on the different relationships between the federal program and state program. He commented on broadband-cable-telephone-wireless issues as they related to the tax base. He questioned how competition should be addressed at the federal level. He also stated that the San Francisquito Creek issue should be addressed more specifically as part of the appropriations request.

City Manager James Keene said they were guiding principles.

Council Member Kishimoto said that Staff should look at liberal communities and climate change. Smart Grid straddles broadband, and should be considered. Positioning Palo Alto as a model city should be mentioned.

Council Member Barton suggested finding a way to build innovation in, and to leverage the brand.

Mr. Keene agreed with the suggestions. He added that the Federal lobbyists made the same point in relation to competing for Federal funds.

Council Member Barton suggested working with private industries to accomplish the goal.

Ms. Morariu said that was something the Council would like as an overall principal.

Council Member Kishimoto agreed they should add the public-private partnerships to the procedure.

Chair Espinosa commented that progress was being made in this

program. He said it's important to clarify the role the Council will play, and it's being mentioned more, but it should be thought through more than it has.

Council Member Kishimoto said that guidelines for High Speed Rail have been developed and the role of the legislature is to respond quickly.

Chair Espinosa said creating a flow chart would be a good idea. Community engagement should also be added. There should be triggers that instigate community involvement. He asked about the next steps for understanding what the lobbyist's work plans were.

Ms. Morariu asked for suggestions on what that would look like.

Mr. Keene asked for timing suggestions. He said that every year there should be a work plan with priorities defined.

Chair Espinosa said the most important priority should be identified.

Ms. Morariu said Council will help define that in January.

Chair Espinosa said that community partners could help reach legislators with certain appropriations requests.

Ms. Morariu said the Federal lobbyist had recommended a trip to Washington in early February.

Chair Espinosa said it should be up to the new Council, but they will have to have the conversation quickly. It's incumbent on the lobbyists to inform Staff soon about issues that are important to give them time to prepare a response for when Palo Alto visits them.

Council Member Kishimoto asked if Palo Alto had a State Lobbyist.

Mr. Keene said the City does not.

Council Member Kishimoto suggested the City prioritize their goals with the Cities Association. High Speed Rail could be prioritized to have more of an impact.

Council Member Barton suggested creating an organization of Cities that shared Palo Alto's view, such as a coalition of green California Cities. A small group of Cities with a relatively small amount of money

can accomplish much with the nimble nature of such a group.

Chair Espinosa agreed with Council Member Barton's suggestion, with the exception that they were competing with some of those cities for much of the project funds. He also discussed the process for determining when Palo Alto will connect with other organizations to join forces to leverage lobbying resources.

Council Member Kishimoto said that under Guiding Principles they should add "proactive advocating on behalf of the City, taking a proactive role in working with Federal and State legislatures, League of Cities, and CPA or other partners."

Council Member Yeh said another area with dollars available was the Low Carbon Cities Initiative between China and the U.S. The other Bay Area Cities participating in the program were Oakland and Berkeley. He talked about the importance of familiarizing Staff with that process, without taking too much of their time.

MOTION: Council Member Kishimoto moved, seconded by Council Member Barton that the Policy and Services Committee recommend approval of the 2010 State and Federal legislative Priorities with changes recommended by Staff, and the additional bullet under Overall Guiding Principles, and promoting Palo Alto's role as a leader.

Chair Espinosa said the three bullets were; 1) positioning and branding ourselves as an innovation leader to lead on certain policies, 2) taking a proactive step to building a coalition of cities to leverage resources, and 3) thinking about broader community engagement. He said that, if Staff understood the three bullets, the motion was fine.

Council Member Kishimoto added that Smart Grid needed to be added under Federal, and asked about High Speed Rail.

Mr. Keene said he wanted to define how proactive the City should be.

Chair Espinosa said it would be good to call that out in a Staff Report. There will be an evaluation of the committee assignments in the following year. The State approach needs to be driven through the League; we would like to see them be decisive.

Ms. Morariu suggested that should be called out under the role of Council in the program manual.

Chair Espinosa agreed but added the principals will already have been assigned at that time. The Mayor will need to recognize the impact this will have in the overall strategy.

Mr. Keene added that the overall guiding principles don't have this detail. It may be beneficial to recognize the state was broken and determine the importance of advocacy for State reform.

MOTION PASSED: 4-0

5. Discussion and Recommendation to Council of a Structure for Policy and Services Committee to Provide Feedback on Prioritizing Major Issues

City Manager James Keene said the role the Committee should play can help structure the Council Agenda. The smaller forum of the Policy & Services Committee would be ideal to have discussions about priorities.

Assistant to the City Manager Kelly Morariu said that ultimately the City's job was to create public value. The context of that was the Staff and Council's capacity, another component was the authorizing environment, and how does the organization and Council find that spot where all the pieces come together. The authorizing environment creates added processes and a greater need for additional capacity. The City needs to find a balance and understand how that environment impacts Staff's time.

Mr. Keene said the Council Agenda process was the collection of things Staff and Council were trying to do to create or protect public value. There is no systematic vehicle for matching the capacity to deliver those items.

Ms. Morariu used the California Avenue Tree Incident as an example to show the number of Staff that were needed to work on a situation. She noted how all of the Staff that had to work on this still had their original workload to accomplish in addition to this new project. She said that the impacts can be seen around the organization. She said it has been difficult for Staff to communicate these impacts to Council and the community, and Staff would like some suggestions. Staff would also like to discuss how projects are prioritized as they come up, and how to evaluate the accomplishments from the previous year.

Mr. Keene added that it's not very effective to have this conversation

at the Council Meetings. The smaller scale of this committee created a different type of conversation.

Chair Espinosa said the Policy & Services Retreat will help move this forward. This conversation was about how to help Staff in their work and how to help the City operate better. He said the Committee can't dictate action to Staff without the approval of full Council. He said the broader objective was to have a sounding board for priorities and how they compete. He wasn't sure how that could happen with Policy & Services. He said that was something they needed to figure out, if it was the goal.

Mr. Keene said there was a process to create new projects or direct new work. But there was no process to take anything away.

Chair Espinosa said he understood that was what Staff was asking for, but he voiced concern about whether or not Policy & Services would be able to help. He felt that the full Council should be the mechanism for taking priorities away.

Mr. Keene said that perhaps the role of Policy & Services needed to be redefined. Perhaps Policy & Services should deal with delivering the services that are being financed by the Finance Committee. He said that often new tasks didn't get prioritized at all or they move up to a high priority and other items fall to the bottom of the list. The Policy & Services Committee could be in a position to communicate to Staff what the priorities are.

Council Member Barton said that Policy & Services was underutilized. He said Council had learned to trust the Finance Committee to digest the budget. They could learn to trust Policy & Services with this type of work as well. It would be helpful for Staff if Policy & Services looked at overarching work plans each month. They would not change Council priorities, but they could discuss goals and capacity. The policy on colleague's memos had not been followed. There was no analysis behind them for Council to discuss around. He suggested that Policy & Services could be more involved with that. The Policy & Services Committee can also serve in a "policy scheduling executive committee" role. He encouraged Staff to be more forward with their vision of what Policy & Services could be and how they could help Staff.

Council Member Yeh suggested that crisis response pulls immediate resources which are different than procedures for normal priorities. To

have clarity as it relates to resource impact was very important. The See It site had many projects in it, and could be utilized more.

Ms. Morariu said there was an internal See It site available that was more of a work load management tool but Staff hasn't taken advantage of that feature yet.

Council Member Yeh said it should be used more. The Policy and Services Committee should deal with some high-stakes issues much like the Finance Committee does. Delegated authority, such as annual prioritizing in January, could be beneficial for Staff.

Council Member Kishimoto said the Finance Committee was the holder of the budget. We are the holder of public value. Regular presentations can help highlight the See It site. The SEA report could be used more. Using these tools that we already have in place would help prioritize. The climate plan was already on See It. See It could be used like a dashboard for the Policy and Services Committee.

Mr. Keene said that it's an interesting idea. There weren't policy discussions on the organization. Services that Council would want to be protected should be discussed. The whole communications plan and capacity for connecting with the community regarding our goals, is an area that needs work. If the City doesn't have effective communications vehicles, we won't have the support and trust.

Council Member Kishimoto said the City Clerk maintains a ten-week agenda that could be used as a tool. Council had been frustrated because some of the topics aren't seen by the Council. She suggested a mechanism for the entire Council to vote on priorities, perhaps by using that ten-week agenda.

Council Member Barton spoke regarding the work plan document saying it had value to the public. When a new idea comes from Staff or Council, where it fits in is critical to know.

Mr. Keene said the building of departmental work plans was critical. It was appropriate to have a vehicle to discuss that with the Council. He said that transparency wasn't just openness; it was meaningful openness. They need to explore the City's proposal for High Speed Rail as well as how Staff can deliver without harming other projects.

Chair Espinosa said it will take a shift in the way Council thinks of this Committee's role. He suggested that Staff continue to develop their

idea of the role Policy & Services should have.

Council Member Kishimoto reminded everyone that they should refer to the Charter.

Espinosa said a clear plan should be put together for Council.

Council Member Barton said a retreat would be a great place to start the process.

6. Review of 2009 Policy & Services Items

Assistant to the City Manager Kelly Morariu discussed the agenda items that came before the Policy and Services Committee in 2009. She said the Committee reviewed the Council Procedure Changes. The work plan had one item that did not get back to Committee, the Social Networking policy, which was drafted. However, there were some legal issues which needed to be resolved first before it came back to the Committee.

7. Discussion of Upcoming Meetings and Topics.

Council Member Barton said that Google Wave should be looked at during the social networking conversation.

Council Member Kishimoto said Open City Hall should be continued and used for the social networking.

Mr. Keene suggested it might be a good survey tool for advanced input on budget issues.

Ms. Morariu said Open City Hall was linked on the City website now.

Council Member Kishimoto asked if there was a process for distribution of emails on this topic.

Mr. Keene said there was no constituent relationship management system.

Council Member Yeh said that the list of neighborhood associations should be plugged into this somehow to help issues from specific neighborhoods come up in a constructive manner.

Ms. Morariu said that having a more formal process to bring

neighborhoods into the City process was on the work plan.

Chair Espinosa said that issues like packet distribution, and liaison relationships with the community will need to be looked at.

Council Member Kishimoto asked for packets one or two days earlier. She also suggested a formal council liaison for PAN.

Adjourned at 8:29.