



PLANNING & TRANSPORTATION COMMISSION MINUTES

=====MEETINGS ARE CABLECAST LIVE ON GOVERNMENT ACCESS CHANNEL 26=====

Meeting of Wednesday, September 9, 2009 at 7:00 PM
Council Chambers, Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

ROLL CALL: 7:06 PM

Commissioners:

Daniel Garber - Chair
Samir Tuma – V-Chair
Susan Fineberg
Karen Holman
Arthur Keller
Lee I. Lippert
Eduardo Martinez

Staff:

Curtis Williams, Planning Director
Julie Caporgno, Chief Planning and Transp. Official
Donald Larkin, Assistant City Attorney
Zariah Betten, Admin. Associate

AGENDIZED ITEMS:

1. Discussion of Colleagues' Memo on Conversations in connection with Quasi Judicial Matters and Planned Community applications.
 2. Discussion of Draft PTC Annual Report to Council
- APPROVAL OF MINUTES:** Minutes of August 12, 2009

Chair Garber: Welcome to the Wednesday, September 9, 2009 Planning and Transportation Commission meeting. Would the Secretary care to call roll? Thank you.

This would be the time that members from the public that would like to speak to the Commission on items not on our agenda may come forward. I take it we have no cards? We have no cards.

ORAL COMMUNICATIONS. Members of the public may speak to any item not on the agenda with a limitation of three (3) minutes per speaker. Those who desire to speak must complete a speaker request card available from the secretary of the Commission. The Planning and Transportation Commission reserves the right to limit the oral communications period to 15 minutes.

AGENDA CHANGES, ADDITIONS AND DELETIONS. The agenda may have additional items added to it up until 72 hours prior to meeting time.

Chair Garber: We will move immediately to item number one, which is the Colleagues' Memo to the Members of the Palo Alto Planning and Transportation Commission from Samir Tuma, Dan Garber, and Lee Lippert regarding conversations in connection with quasi-judicial matters and Planned Community applications.

1 **Other Items:**
2

- 3 1. Discussion of Colleagues' Memo on Conversations in connection with Quasi Judicial
4 Matters and Planned Community applications.
5

6 Chair Garber: Commissioners, we will have a brief, well actually I think we will probably just
7 go directly to discussion and we will have Commissioner Tuma start off. What I would like to
8 suggest we do this evening with this and we will go down the line here is for each of you to
9 describe your reasons that you might support this and reasons that you would not support this
10 and see if we can get through a round where we can discuss the issues before beginning to take
11 positions on it. With that we also have one person from the public that would like to speak to
12 this topic, which we were not quite prepared for. Perhaps we should do that right now. Mr.
13 Balin would you care to speak? It looks like we may have two people. Mr. Balin followed by
14 Herb Borock, you will have three minutes.
15

16 Mr. Fred Balin, Palo Alto: Thank you. What will be gained when one or more Commissioners
17 communicate in private with applicants and/or selected interested parties over having these
18 communications in public? And what will be lost in transparency and the perception of how the
19 Commission conducts business?
20

21 Several years ago City Attorney Ariel Colonne stepped forward and recommended to his bosses
22 that the Council adopt a policy to stop ex parte communications on quasi-judicial matters. Over
23 three years ago, to this Commission's credit, you adopted such a policy and extended it to PC
24 applications. It is no coincidence that this protocol is a critical foundation for the high level of
25 support the Commission's work has earned within the community. Opinions on your
26 recommendations may vary but the public knows their item of interest will be thoroughly vetted
27 and within a completely transparent process.
28

29 In April 2007 five of you were present at a Joint Meeting with the City Council when you
30 encouraged the Council to consider a similar policy and two months later via Council
31 Colleagues' Memo it was discussed. On a four-four vote with one member having to leave early
32 due to illness the item failed to be referred to the Policies and Services Committee. Among the
33 new Council members elected later that year at least one currently adheres to your protocol. You
34 have had an impact. Do not tinker with this policy. There is no valid reason to change it.
35

36 In support of dropping the ex parte protocol tonight's Colleagues' Memo cites a general
37 unsubstantiated belief of handicaps in the current decision-making process. Kindly state clearly
38 what they are, when they occur, and how they impact matters. Then discuss why any valid point
39 cannot be handled in a way that does not reduce transparency and public confidence.
40

41 The memo also suggests guidelines. It is commendable to hope that these suggested procedures
42 would fully inform and protect the public but it is illusory. It will not happen. Will you take
43 copious notes at your outside meetings or how much will you recall after the fact to be able to
44 fully inform the public? If materials are provided to you after packet release how will the public
45 receive them?
46

47 The public also knows that some applicants flatly misstate the facts. If unsubstantiated
48 statements are made they are not available to the rest of the Commission and the public who will

1 act as correction? Who will you choose to and choose not to meet with from the community?
2 Certainly once it is known that applicants can speak with you members of the public will want to
3 as well, maybe many. Respect and value the important processes and protocols that you have
4 instituted and the informed rich body of work that you have developed. Explore options for any
5 needed adjustments in your procedures without changing this cornerstone policy on non-public
6 communications. Thank you.

7
8 Chair Garber: Thank you. Mr. Borock.

9
10 Mr. Herb Borock, Palo Alto: Good evening Chair Garber and Commissioners. I agree with the
11 previous speaker that this proposal should be rejected by the Commission. I don't see any need
12 for it. The purpose of the proceedings that you have for quasi-judicial proceedings are to provide
13 all interested parties an opportunity to see the evidence and arguments that anyone else makes
14 and to respond to them.

15
16 The previous speaker alluded to the fact of the lack of evidence given for the reasons behind this
17 proposal. Perhaps there is such evidence but after the two of us have spoken we won't have an
18 opportunity to respond to that, which is an example of what happens but at least it is an open
19 meeting so we will know that it has happened, and there are verbatim minutes, and it is on
20 streaming video, or it is on live cable now. In private meetings with either an applicant or
21 members of the public the only people who really know what was going on there are the people
22 who are at the meeting. There is no outside party as there is with the people observing the
23 meeting this evening as a check and balance to see that those conversations are accurately
24 reported.

25
26 There is really no need for this because all applicants already have a process that they can take
27 advantage of which is in Chapter 18.79 of the Municipal Code on the development project
28 preliminary review procedures. There is an opportunity for those who want it to come before
29 either the Commission, or the Council, or both the Commission and the Council, the choice
30 being made by the Council as to which bodies to present their views and to hear the public. I
31 believe that better decisions are made when all information is in public and where everyone has
32 an opportunity to respond. Outside of a verbatim or taped private meeting there is no way for
33 people who are not at those meetings to know fully what happened since there will always be a
34 filter of the person reporting what happened. Even site visits, previous Commissions and
35 applicants have had publicly noticed site visits so that Commissioners, and the public, and Staff
36 can attend at the same time. I believe that those procedures should be continued. Thank you.

37
38 Chair Garber: Thank you. Let's go to our discussion. Commissioner Tuma.

39
40 Vice-Chair Tuma: Thanks, and thanks to all the Commissioners for taking up this matter. I
41 think it is an extremely important one and I think it has important ramifications about how we do
42 business and what the impact that we as a Commission have on projects and the process.

43
44 Currently, as you all know we have a policy that strongly discourages any communications
45 between any members of this body and members of the public or applicants on quasi-judicial and
46 PC matters. There is an important benefit behind that and that primary benefit for that is one of
47 transparency and openness to the public, things that the two speakers have just spoken about. So

1 it is not lightly that I enter into this discussion and put forth this memo. I believe the
2 transparency is important and I think there are ways under the proposal to insure transparency.

3
4 Unfortunately, there are some significant down sides to the way the current policy reads and
5 works. First of all, I believe that it significantly handicaps the Commission's ability to do our
6 work. It puts us at a disadvantage when you look at what City Council is able to do, what the
7 ARB is able to do, what applicants are able to do with respect to meeting with members of the
8 public and vise-versa. So the public can meet with the applicants, applicants can meet with the
9 public, all these bodies can discuss matters before hand however we have adopted a policy in the
10 past that doesn't allow us to do that. I think the result of that is we come into meetings not as
11 well informed as we should or could be on the details of some of the projects.

12
13 It is also difficult for engaged members of the public to get across their concerns in the context of
14 a complex matter when their sole opportunity to do that is three minutes in front of us. Yes, that
15 is an opportunity to convey what they are talking about but as one of the speakers just indicated
16 there really isn't an opportunity for dialogue. It is kind of a one-way here are my thoughts. So
17 we don't have the opportunity to dialogue with the public and really understand concerns. So I
18 think that is a significant handicap to the process.

19
20 Also, our meetings are longer and in some ways less effective as a result. What I mean by that,
21 without getting into specific projects from the past, there are a plenty of instances where we
22 spend a large majority of an item learning about the details of the project, learning about how
23 things fit together, just sort of the factual aspects of the project. So we may spend a couple of
24 hours on that part of an item and not have as much time as we should to dissect, discuss, and
25 struggle with the difficult issues. Does it work from a zoning perspective? Does it work from a
26 Comprehensive Plan perspective? So we spend of a lot of our cycles and energy in the public
27 meeting sort of learning the details and I think that is a lost opportunity.

28
29 The other thing is that I believe that the Palo Alto process, as people call it, is exacerbated by our
30 current policy in that because we do spend hours and hours going through the details about
31 projects and learning things that could be learned, just facts about things, we wind up sometimes
32 having an extra meeting, and delaying things, and not getting them driven to resolution. I think
33 that exacerbates a problem.

34
35 So what are the benefits of a changed policy? One is that I believe we would go into meeting
36 better prepared, better prepared in the sense of understanding the factual details about a project
37 prior to the meeting, and be able to spend the bulk of our time struggling with zoning,
38 Comprehensive Plan, and sort of appropriateness issues of a particular project. I also think that
39 the members of the public would gain better access by having the opportunity to have the
40 dialogue with us, better access to us, and to give us their input. Also, this would make our
41 actions consistent with what the ARB and City Council do.

42
43 Additionally, we could streamline our process and capture opportunities to improve the city in
44 significant ways by making our meetings more efficient, more direct, and more to the point.

45
46 That said there are clearly some risks or downsides to making this change. I want to
47 acknowledge those and I want to talk about them. I think that is some of the meat of the
48 discussion here. One is you run the risk that Commissioners will sort of tip their hand in these

1 discussions and give applicants a sense of where they are prior to coming to the public meeting.
2 I think that is something that has to be dealt with and I will talk in a minute about how I think we
3 can deal with some of these risks. Another potential risk, theoretical risk is sort of backroom
4 deals that could be made. I don't foresee that as a real event occurring with this Commission but
5 it is possible. It is theoretical and something we should be aware of.

6
7 Also, finally the last risk that I see is that the public would not be privy to all the details of those
8 discussions. Again, I think that has to be addressed.

9
10 So how do we address these? I think in putting together the Colleagues' Memo one of the ways
11 that we certainly attempted to address some of these risks are vis-à-vis the guidelines. Sort of the
12 highlights of the guidelines are that the Commissioners would avoid giving their position on a
13 matter, that we would avoid coming to a decision as a result of these discussions and wait for the
14 debate and the opportunity to have public hearings. If there are any pertinent details that are
15 given to us in those meetings despite our best efforts to not have applicants or the public do that
16 we would go through what I call a meaningful disclosure process where we would take notes and
17 we would disclose to the public any information whether it is given to us verbally or in writing
18 so the requirement to bring that information forward, share it with the other Commissioners as
19 well as sharing it with the public, and making all that information part of the public record. So
20 the guidelines I think are key, critical, and I am hopeful that we can have some good discussion
21 about what the guidelines should look like.

22
23 On another important way to deal with making sure that people are kind of adhering to what we
24 envision would be training. That training, I don't know exactly what form that training would
25 take, we should talk about that. Certainly when new Commissioners come on it could and
26 should be a part of their initial orientation but I could also see it being an annual part of a Retreat
27 or something like that where we have a refresher kind of to keep people on track, and then again,
28 finally, the meaningful disclosures. This isn't just yes I met with members of the public and I
29 didn't learn anything. It is really be thinking as you are going through these discussions what is
30 it that should come out of those discussions and be a part of the public record.

31
32 Finally, and this is extremely important, is that if we were to adopt this policy with guidelines
33 and such I think it would be important that all members of the Commission feel and are
34 supported around not having to have these meetings if they choose not to if a Commissioner feels
35 that they don't want to engage in the meetings for whatever reason. The intent here is not to
36 compel anybody to have those meetings but rather to give the opportunity for those that do. So if
37 someone did not want to have the meeting, did not feel it was appropriate for whatever reason,
38 maybe on one project or maybe as a policy that Commissioner I think that would need to be
39 supported by other members of the Commission so that people wouldn't feel that was somehow
40 making them an outcast or somehow making them not part of the process. People should feel
41 free and supported around not having those discussions and meetings if that is what they choose
42 to do.

43
44 So that is sort of my thoughts on the pros and cons of the current situation, the pros and cons of
45 changing our policy. I am looking forward to the discussion.

46
47 Chair Garber: Thank you. I have a light from Commissioner Holman.

1 Commissioner Holman: Thank you. I appreciate the discussion and I am sure it will surprise no
2 one what my position on this is. Having high regard for the authors I still am not persuaded. I
3 will give a couple/three reasons why I am not persuaded and then a couple/three reasons why I
4 will try to or how I will try to persuade other Commissioners not to make this change.
5

6 As the initiator of this policy back in whatever year it was it was the very basis for bringing this
7 forward for Commission recommendation and consideration was because when I joined the
8 Commission eight years ago I participated in a handful of these meetings with applicants. I
9 would never go alone. I always went with another Commissioner just to try to keep it that much
10 more above board. What I witnessed was, and I am assuming all unintentional, but what I
11 witnessed was very subtle indications that just happen. You get around a table and things get
12 familiar and people make comments that give indication of direction or ask what might
13 sometimes seem like an innocent question but actually give indication of an impression and a
14 position, or at least an influencing point at that time. I grew more and more uncomfortable so I
15 brought this proposition to the Commission. Some Commissioners were hesitant at the time and
16 grew to favor it because of its transparency and the lack of pressure that can be imposed by
17 participating in these meetings.
18

19 The disadvantages that are indicated both in the Colleagues' Memo and in the presentation are
20 not clear to me. Is it a disadvantage because we don't meet and other bodies do? That in itself is
21 not a disadvantage. If there is pertinent information or relevant information that can be gathered
22 from a private meeting with applicants or members of the public that information should have
23 been gathered by the Staff and then presented in the Staff Report.
24

25 There is a problem here too in that if the meeting happens after the Staff Report is released, then
26 information is gathered that is pertinent or would need to be disclosed or would be helpful as I
27 am presuming the intention of this is to gather pertinent information, then that Commissioner has
28 that information, it is not in the Staff Report, it is not in the public realm, perhaps Staff does or
29 doesn't have that information. So that means that the meeting would have to happen prior to the
30 Staff Report being released so that information could then be relayed to the Staff to be included
31 in the Staff Report for it to be in the public realm, which means that the Commissioner who is
32 meeting wouldn't have the advantage of the Staff Report and not have an indication of what the
33 project description even is. So for there to be transparency it is very, very problematic from my
34 perspective.
35

36 When this was put into place what was proposed has not been followed on by the City. What
37 was supposed to happen was that study sessions were to be frequent and upon request of the
38 Commission and upon request and recommendation of the City Staff. That would be the
39 opportunity to have back and forth with both the public and with the applicant. That is our back
40 and forth. We sometimes have study sessions but that is our opportunity for such dialogue. It
41 also was supposed to be accompanied by recommendations from Staff to have on larger projects,
42 more complicated projects where the applicant or the community so desired to sponsor a meeting
43 and invite members of the Commission. That way there can be a further vetting of the project.
44 Commissioners obviously do not participate in that meeting you are merely witnesses to hear
45 back and forth and the questions. That promotion of those meetings has not occurred to my
46 knowledge. Applicants have meeting with neighbors. Neighbors have meetings with applicants,
47 but they are not community meetings where we are invited. That is a lacking.
48

1 The other thing that we have been rather hamstrung on is that it was supposed to also be
2 accompanied by site visits, the opportunity for site visits that would be publicly noticed. We
3 used to have them, they are incredibly informative, and they are helpful. Sometimes you get no
4 better indication than you do with a site visit whether it is with Staff, an applicant, or members of
5 the public. Also, we have not been having those. Those are the ways that I think we can
6 improve our process.

7
8 Previously there was a Colleagues' Memo written by Chair, Vice-Chair, and myself having to do
9 with how we could improve our processes. One of those was the things that we want to see
10 included in Staff Reports. We have talked at our Retreat about how our meetings go longer
11 because we don't have all the pertinent, all of the information that is relevant to making an
12 informed decision. We don't need all the details. What we do need though is all of the
13 information that informs our recommendation. That information should be in the Staff Report
14 and should be gathered as a matter of Staff's work with an applicant, members of the public, or
15 these other avenues that were recommended to be followed as a part of this recommendation.

16
17 I have other things to say but I have taken enough time right now.

18
19 Chair Garber: Actually, just before you end your turn, are there any circumstances that you can
20 imagine that a policy of this sort would be a benefit or under any conditions that it could be a
21 benefit? Are there any positives to it?

22
23 Commissioner Holman: Frankly, since I read this for the meeting prior I have tried to come up
24 with an example of when it would be beneficial and frankly I have not come up with an example
25 for the reasons I have just stated. I will say also the disadvantage that is stated that we are in as
26 compared to the ARB I have found in watching what happens at ARB either by watching a
27 meeting, hearing comments, or what comes to the Planning Commission, I have found that
28 applicants have been just as, pardon the word, but obstinate with ARB Members who meet with
29 applicants to try to resolve some of the issues or to listen and get a better description of the
30 projects. I have seen on the more complicated and difficult projects that the City has addressed
31 in the last two or three years that applicants who want what they want feel just as free to ignore
32 the ARB as they do the Commission. So I don't see an advantage to those meetings having been
33 evidenced as a result of those meetings.

34
35 Chair Garber: If I may, a couple of other questions. I would think that it would be natural and
36 particularly hard to avoid in the scenario that you described where some number of
37 Commissioners, or Commissioner was having a conversation of this sort with an applicant or
38 with a community group or a group of neighbors or something of that sort, for them to be
39 perfectly noncommittal. I would also think that the Commissioners that are participating in that
40 would have to also recognize that they are not simply making a decision based on their personal
41 preference or the way that they are being treated by whoever is speaking to them. Clearly part of
42 the training would have to be that the way in which they should be making their decisions is
43 based against some of the requirements that we have like Comprehensive Plan, zoning, City
44 policies that might affect that, and/or direction by Council. Certainly judgment comes into play
45 but it seems to me that recognizing that there is a job that they have to do as opposed to just
46 simply being impressed or whatever would certainly mitigate. Any applicant would have to
47 understand going into a meeting of that sort that they may completely wow a Commissioner but
48 the Commissioner has a job to make the right decision not just the one that they happen to like.

1
2 Commissioner Holman: I appreciate the comment and it leads to a couple of others. I appreciate
3 this back and forth very much. You touch on two of the issues having to do with this process.
4 Yes, Commissioner's job is to see that and make recommendations based on a project's
5 conformance with Comprehensive Plan, zoning rules, and if there are exceptions then findings
6 for the exceptions, on and on and on. There is however the danger because we are all human, I
7 will call it a danger, that there can be subliminal influence, especially if one gets terribly, terribly
8 friendly with a presenter. Presenters can be very, very persuasive either members of the public
9 or an applicant. We need to be able to be objective, that's one. I think this could potentially
10 interfere with that.

11
12 The other thing is yes, our job is to recommend on whether a job is confirming to our
13 Comprehensive Plan, zoning rules, etc. as I said. If you look at the projects that have come to us
14 that have been the most challenging, the most complicated, the most difficult they are projects
15 that indeed do not from my perspective conform. Our Palo Alto process does not have the
16 reputation it does because of the lack of Commissioners meeting, and I am being extreme here.
17 It does not have that reputation because of Commissioners not meeting with applicants and
18 members of the public get all the salient details. In my opinion it has that reputation because we
19 do too much case-by-case negotiation, have too many projects that come along the pike that are
20 not conforming. So we are trying to battle, negotiate, compromise, get to a point where a project
21 is satisfiable if not compliant. So I think we settle. If we would just set the standard to where
22 projects need to conform, and where there are exceptions that are valid and warranted then we
23 entertain exceptions. If it is a Planned Community zone project then as you know some of us
24 have been working on revising that process, then it should not be that the public benefit is just
25 the little mouse's tail hooked on. So that is where we get into problems and I don't see how this
26 change is going to benefit any of those issues or concerns.

27
28 Chair Garber: Let me push just a little bit further. I am not sure this is an appropriate example
29 and I am certainly not a part of this particular world but in law it is not unusual for instance for
30 attorneys from both sides to meet outside of the courtroom, so to speak. And even for judges to
31 meet outside of the courtroom with both sides to better understand and bring to bear the right
32 ways of pursuing particular decisions. There I think the one thing that you could say
33 immediately is that they are probably better trained than we are to work to the letter of the law or
34 in our case where we might be better trained to work to the letter of the Comprehensive Plan or
35 the zoning plan, etc. My suspicion is here that one should not attempt to try and take the subtlety
36 or the influencers out of the conversation because I think that is impossible, but I do think
37 ramping up the responsibility that the participants would have is the point, or is the way that you
38 deal with that. It is not uncommon in any number of different sorts of legal as well as
39 governmental bodies for that to occur. Just one more thought there.

40
41 Commissioner Holman: Well, with one exception, not in this role. We are not attorneys nor are
42 we judges and the transparency that is lost I think is not worth to me again un-described benefits.

43
44 Chair Garber: Since I see no more lights if you don't mind, suddenly there are some lights. Let
45 me just add one more thing here. Isn't there an opportunity or a benefit to creating opportunity
46 channel for the Commission to have outreach into the community to better understand the issues
47 of the community by allowing this sort of conversation to occur? It does not presumably, you
48 had mentioned you never went alone, and I think that is an excellent rule, if you will, that at the

1 very least you would not go alone or no Commissioner would be allowed to go alone. You
2 obviously would have to put some guidelines around that of taking minutes or recording the
3 session or what have you, but it seems to me that there is a great opportunity that the
4 Commission could have for that sort of outreach that it does not have now.

5
6 Commissioner Holman: I think that opportunity does exist. It doesn't have to happen around
7 quasi-judicial and PC projects. It can happen around the Comprehensive Plan Update. It can
8 happen around the G-Combining District. There are any number of ways that that dialogue
9 could and actually frankly should be happening. I think the Commission, and I would actually
10 bring this up a little bit later, the Commission should be having a more active role. The more
11 and more I think about it should be having a more active role in the Comprehensive Plan Update,
12 the two area studies. That is an excellent opportunity to have better dialogue and feedback from
13 the public and potentially any developers who are interested, and the property owners as well.
14 That is the opportunity not when we have specific projects that come down the pike that are
15 quasi-judicial and PCs.

16
17 Chair Garber: Sorry I had not sort of recognized where you were going until just then but for the
18 projects that are not quasi-judicial is having these sorts of meetings then in your mind could
19 happen under certain circumstances.

20
21 Commissioner Holman: We are only talking about quasi-judicial and PC projects where we
22 don't meet with applicants and members of the public.

23
24 Chair Garber: Okay.

25
26 Commissioner Holman: Other zoning considerations like Comprehensive Plan Update, area
27 plans, all of that we have full freedom and access, and that is appropriate I think and a ripe
28 opportunity.

29
30 Chair Garber: Okay. Commissioner Keller and then Fineberg.

31
32 Commissioner Keller: First let me address a comment that was made by the Chair about
33 attorneys in a meeting. Attorneys meeting in this specific situation we effectively operate as the
34 judge in this process. Attorneys meeting is essentially like the applicant meeting with the public.
35 There is nothing wrong with that. As the Chair mentioned the judge meets with both attorneys
36 present. The judge is not allowed to meet with one attorney separate from the other attorney. By
37 that example then the Planning Commission Members should only meet with the members of the
38 public and the applicant at the same time and not with either separately. So I think that the
39 Chair's example here is actually to the contrary of what the Chair actually means. So the
40 example doesn't actually hold with the situation.

41
42 I think that we have a different role with respect to projects, in particular PCs and quasi-judicial
43 matters, than we have in terms of zoning matters and Comprehensive Plan and things of the like.
44 There is for example I am presuming that a number of members of the Commission may have
45 met with people with respect to Oregon Expressway but there isn't in particular for Oregon
46 Expressway an interest of the County in saying we are going to force this on the City or whatever
47 and the residents are opposed to it in some sense. We are trying to reach for a situation that is
48 best for everybody. In a particular project the applicant has a particular point of view that they

1 are trying to build a project and members of the public have an interest in that, and our job is to
2 try to make sure that it satisfies the zoning and the Comprehensive Plan and such. In that case,
3 in some sense it could be considered somewhat of a mechanical process for us to take the facts of
4 the case and apply it to the Comprehensive Plan, apply it to the Zoning Ordinance, and see the
5 extent to which the facts of the case apply and understand that.

6
7 What this gets to the point of is that if we are to learn the facts of the case, as Vice-Chair Tuma
8 mentioned, if we are going to learn the facts of the case in private meetings then the facts of the
9 case are obviously then not completely available to the public because we did not get those facts
10 of the case at a public meeting. Thereby we are making our decisions based on information that
11 was not adequately disclosed to the public. Now it is true that Vice-Chair Tuma talked about
12 meaningful disclosure process. However, that is if you will an interpreted disclosure process. It
13 is summarized by the Commissioner from what the Commissioner is interpreting of what was
14 said by the applicant or the public as opposed to what was said directly by the applicant or the
15 public. That interpretation means that it loses something in the transparency.

16
17 In terms of avoiding tipping hand, being a computer scientist one of the things I have studied is
18 computer security. In computer security one of the things that there is a notion of is if you will
19 layered security. You might have a situation where information can get into a higher security
20 level but isn't supposed to percolate out, in some sense that analogy fits here. What the
21 proponents of this proposal have is the idea that information can be absorbed by the
22 Commissioner but that positions and things like that of the Commissioner shouldn't leak out to
23 the applicant or members of the public. Well, what is interesting about this is that things leak out
24 in different ways. For example, the very questions that one asks causes information to leak out.
25 The nature of the questions you are asking, if questions are allowed, essentially creates a
26 situation where the applicant or the public is tipped off to what is the concern of the
27 Commissioner by virtue of those questions. A weird example of this is there are all these top-
28 secret meetings that happen in Washington, D.C. but you can tell exactly when there is a
29 dangerous world situation happening, and it is called the pizza index. When pizza deliveries are
30 up to various state department and military offices it means people are staying up late in their
31 offices to work on a dangerous situation. So that is in some sense a leakage of information that
32 is inadvertent because of the aggregation of all these pizza delivery calls. So that indicates a
33 concern about this kind of leakage of information.

34
35 Let me finally close with the idea of the Palo Alto process. To me the Palo Alto process is not a
36 result of our willingness or unwillingness to meet with applicants or the public in PCs or quasi-
37 judicial matters. To me the Palo Alto process comes from a porous, flexible zoning and decision
38 process. The idea, which I believe is misguided, that we are unwilling to say no to a project up
39 front unless it is done right. We say we will kick the can down the road and fix it later. Then
40 what happens is at the ninth or tenth or eleventh hour the public is aware of what is wrong and
41 complains about it, and then the process is derailed at that point after the applicant has spent lots
42 of money on that design and work. The process is better served by more information coming out
43 up front in a public process at the beginning and the Commission and the Council being willing
44 to say no that is not what we want there, that is not the appropriate thing, come back with X or Y.
45 Part of the process from my point of view is that the Commission has hither to only said no to a
46 project. We have not had a process for saying well, we would like X, or we would like Y. For
47 example, if you look at what happened in terms of College Terrace Center we said no to the
48 project but our processes didn't allow us to have straw votes saying whether we were in favor of

1 so many BMR units or achieving some sort of straw poll, not binding consensus that could be
2 guiding to the applicant. So what happened is we basically had a wasted session and the
3 applicant had an opportunity to complain about the Commission being all over the map and not
4 being consistent and having a bunch of different points of view, when straw polls in that process
5 could have been very good in indicating that we had a consensus, maybe there were some
6 outliers to parts of that consensus, but consensus could have been achieved and we could have
7 had a clear message to the applicant.

8
9 So it seems to me that if we can have a mechanism where we can say no effectively and say what
10 it is we don't like that would be much more effective than meeting with the applicant and
11 gathering information that is not necessarily public.

12
13 Chair Garber: I would like to try and get through this in ten or 15 minutes here so we can get
14 onto our next topic. Commissioner Fineberg and then Martinez.

15
16 Commissioner Fineberg: I want to start my section of the discussion with a couple of questions
17 for the City Attorney about the language in our current policy. I saw a nod. I recognize that it is
18 a policy it is not something with the standing of law. I am looking at the wording where it says
19 that, "Direct conversations or correspondence with an applicant and applicant's agent or other
20 interested parties about a pending application outside of the public meeting are strongly
21 discouraged." Focus on the words 'interested parties.' Is the definition of interested parties in
22 this context the same as the legal definition of a conflict of interest where you have a financial
23 interest or is it just anyone who is interested casually in the matter.

24
25 Mr. Donald Larkin, Assistant City Attorney: It is anyone who has an interest in the outcome of
26 the hearing. So it was intended to capture, and this was subject to some discussion when the
27 policy was being drafted. It was actually drafted by the Commission itself. The discussion was
28 capturing people who are project applicants, clear project opponents, and then neighborhood
29 groups who have an interest and other individuals who have an interest in the outcome but
30 maybe are not clearly opposed or in favor of the project. So basically anybody who wants to
31 influence the outcome of the Commission hearing.

32
33 Commissioner Fineberg: So that is as broad as if you are breathing and have an opinion you are
34 interested?

35
36 Mr. Larkin: Generally, or if you are talking to your cousin on the east coast who is interested
37 because it is an interesting subject but doesn't really care that would not be an interested party.
38 It is in terms of talking to somebody who has a clear interest in the outcome.

39
40 Commissioner Fineberg: Okay, because that would be a very different interpretation than if it
41 was just the financial interest.

42
43 The second question I have on that is the last two words of that are that the meetings are strongly
44 discouraged. In a policy matter where something is strongly discouraged does that rise to a
45 prohibition or simply an indication for disclosure if one breaches that strong discouragement?

46
47 Mr. Larkin: That was another subject of a lot of discussion when the rule was drafted. I believe
48 the word strongly came from Commissioner Holman. The idea was that it is not an outright

1 prohibition and the reason that the Commission didn't want an outright prohibition is that often
2 times you all live in the community and people will come up to you in the grocery store and say,
3 hey, I really don't like this project. Well, that is an ex parte communication. You didn't initiate
4 it. You didn't ask for it. But it happened. We don't want somebody then accusing you of a
5 policy violation over a conversation that you couldn't even control.

6
7 Commissioner Fineberg: So if there were a situation where, and I will point to myself so as not
8 to implicate any of my fellow Commissioners. If there were a situation where I felt so strongly
9 that it was so important for me to have an ex parte meeting I could as long as I disclosed it. So is
10 there any benefit from outright allowing it versus keeping it on an exception basis with
11 disclosure?

12
13 Mr. Larkin: The first part of your question is yes, if you felt strongly that you needed to meet
14 with an applicant or a project opponent it is not outright prohibited. As to the second part of
15 your question that is really a policy decision and I will leave that to the Commission.

16
17 Commissioner Fineberg: Okay, those were my sort of technical questions about it. Let me make
18 some comments about how I am thinking about this. The Planning Commission is viewed in the
19 community and I think the City Charter and state law empower us to be the keeper of the Zoning
20 Ordinance and the Comprehensive Plan. Our purview is not to look at budget matters. It is not
21 to look at political expediency. It is not to look at the success or failure of people's careers or
22 developments or issues that are private matters. We represent the public and make
23 recommendations to Council about Zoning Ordinances and the Comprehensive Plan. Being able
24 to do that with independence, without being subjected to political pressures, to financial
25 pressures, to other things I think it is critically important, critical to the quality of our
26 recommendations. I think the policy protects us from even subtly or unconsciously being
27 pressured. There is something called the Stockholm Syndrome, and no one is holding us hostage
28 and dragging us off to projects, but when one develops long-term working relationships, when
29 one gets to know good people, decent people who are working very hard on complicated tasks
30 one begins to chew on the facts of what they are working on, and the more exposure, the more
31 understanding of the complex issues, the more likely it is to start thinking through the process
32 from their eyes. It is just impossible for the human mind not to go there. So I think the risks of
33 having our decision processes co-opted are greater than what the Colleagues' Memo portends. I
34 would agree that the removal of the policy would burden Commissioners with the demands of
35 additional time meeting with the public, meeting with applicants to some extent. I am sure there
36 are some who view that as a responsibility but if a particular Commissioner refuses to, and I
37 appreciate Commissioner Tuma's comment that there would be support that people not do that, it
38 could be used as a weapon against some that they are either being selective in who they are
39 meeting with or not fulfilling their duties by not meeting. It can be something that we are no
40 longer shielded even if the policy says we will receive support to not have to meet. We have to
41 be able to maintain our independence and we have to be protected from accusations that we are
42 not fulfilling our duty. We have to be kept out of harms way on that.

43
44 I am not convinced, and maybe I can be persuaded, that there is anything that an applicant can
45 inform a Commissioner of that Staff can't provide in a competently prepared Staff Report. If it
46 isn't in the Staff Report it shouldn't be significant. If it is something that an applicant, or an
47 appellant, or an opponent is disclosing to a particular Commissioner by definition you have a
48 release of significant information that isn't in the public eye. It is impossible to remember

1 everything you have learned and be able to disclose every detail that informs a decision. So I
2 don't think it is realistic to say those disclosures could be made and that would address it.

3
4 I don't know that it would necessarily lead to shorter meetings. The only way I could see that
5 the disclosure in applicant or community meetings would reduce the meeting time would be if
6 one accepts that there are significant disclosures in those meetings and then that shouldn't be
7 happening. So again I come back to I don't see that it would shorten or make our meetings more
8 productive. Maybe you can change my mind on that but that is where my current thinking is.

9
10 Chair Garber: Thank you. Commissioner Martinez and then Lippert.

11
12 Commissioner Martinez: I believe Commissioner Tuma made some very compelling arguments
13 for why these meetings with the public and the applicant could reveal some substantial insight
14 into projects that we heretofore don't always have. I appreciate that his sentiment is to make us
15 more enlightened about the decisions that we are about to make. I feel though that
16 Commissioner Fineberg hit on some of the human frailties in having these private meetings that
17 really go to the heart of why the process that we have in place now works, although with a bit of
18 extra work by the Planning Staff, and Commission, and even the public.

19
20 It has been my experience that applicants have an advantage to private meetings. They have a
21 host of architects and other consultants that are experienced in this kind of persuasion that bring
22 attractive color drawings and diagrams and point out the benefits of their work. I believe that we
23 as human beings have this natural tendency to want to accept their word. I know me as an
24 architect I have a great camaraderie for other architects. I know how hard it is to design
25 something, to make it fit on a site, to address cost and structural and other issues of the building,
26 and to try to please different constituencies. I have a lot of respect for what we do. I believe it is
27 one of my frailties to want to support that work and to take the words, the arguments, the
28 direction of these proposals to mean exactly what they say. Although the Palo Alto community I
29 think is very vocal and articulate I don't believe it is a level playing field when it comes to their
30 participation in these public meetings. I believe their participation is more personal, focused on
31 really what is happening to their neighborhood, not looking at citywide issues as we often have
32 to do, and it makes the argument not as compelling because we are looking at it in different
33 ways. When these arguments are made here and when there are 30 or 50 people standing up
34 opposing something that makes a substantial impact on how we sort of process what we are
35 hearing. Certainly the applicant needs us to reserve our judgment but when it is done in an open
36 forum, when they can hear what the neighborhood has to say, when the neighborhood hears how
37 hard the applicant is working to try to work through this I think it makes for a better public
38 process. I think it is, not to take a moral stand, but I think it is distinguished and the high road
39 for us to refrain from private meetings and to carry on the policy that we have had to this date.
40 Thank you.

41
42 Chair Garber: Thank you. Commissioner Lippert and then Holman, Tuma, and Keller.

43
44 Commissioner Lippert: Well, first of all to answer Commissioner Holman's question of how
45 long we have had this policy in place it has been about six years. I happened shortly after I
46 joined the Planning and Transportation Commission. At the time I was not a big proponent of
47 the policy and I went along with the policy and I have aired that I think every time it has come

1 up for review, that I have not been a proponent. That is one of the reasons why I added my name
2 to the Colleagues' Memo.

3
4 I fit in it in a couple of different ranges. When it comes to quasi-judicial matters I am not as
5 **plussed** by this policy. I think that it works just fine. It is really in the Planned Community zone
6 proceedings that I get sort of bollixed up and I have some real concerns about it. Where that
7 stems from is that what I believe the lack of ex parte communications does is actually dumbs
8 down the Palo Alto process. By that what I mean are a couple of things. Number one, it doesn't
9 allow us to delve in and really get to the heart or a deeper understanding of an applicant's
10 process. It doesn't allow us to understand some of the underlying concerns of a community.
11 What happens generally in parte communication a lot of it is not so much a selling or lobbying of
12 a project but more one of education. I use that word in the strictest sense not education as in
13 drug company lobbyists coming into to tell you how this drug is going to cure mankind. What it
14 is number one is that a lot of applicants frankly I don't think have an understanding of Palo Alto
15 and the Zoning Ordinance or the policies that we have in place. Often times in these meetings it
16 is an opportunity for a Commissioner to actually come in and say this doesn't meet with some of
17 our Comprehensive Plan policies, it doesn't meet the development regulations. How is it going
18 to meet the rules and regulations we have here? In that, what sometimes comes to light is that
19 we have something similar within our own Comprehensive Plan that might work, within our own
20 Zoning Ordinance that might work. I am reluctant to give examples but one example that I think
21 came forward before us recently was the Ming's site where it came in as a PC and I think we said
22 we have a hotel overlay zone why can't you use that and develop what you want to do out on that
23 site? The applicant was thrilled. But that probably could have come out in a more intimate
24 setting than to spend an hour and a half in a public hearing and a waste of our time to then have
25 them go back to the drawing board.

26
27 The second part of it is that often times we do get something on a preliminary basis and we see
28 something and we all get to react to it. The applicant or the public is reacting to it and actually
29 trying to make changes to their project and there is no ability to get any reading or feedback.
30 What that does is makes us as a body seem completely disjointed and yet I sit up here and I don't
31 feel disjointed. I feel empathetic and understanding of a lot of my colleagues' positions here and
32 would love to see our thoughts incorporated and used better by applicants. The only way to be
33 able to do that is to be able to then go back and say did you hear what Commissioner Holman
34 had to say about that? What was your objection to that or why didn't you incorporate that? So
35 again I use that as just a way in which this can facilitate the process and I think maybe get us a
36 better product.

37
38 The most frustrating thing I think is to see a project come through here, get turned down, get sent
39 away, particularly in the PC process, it comes back years later in a different iteration, and the
40 community is even more up in arms, and they are going back to what was originally proposed
41 and could have been approved, and could have been built, and in some ways it is buyer's
42 remorse. That is a real detriment to this community in that we have delayed something that the
43 community really wanted, they wanted it built, but in some ways that opportunity was an
44 opportunity lost.

45
46 Just in closing I want to say that it is written in the Constitutional that the citizens have the right
47 to lobby their government. Particularly I think it is Congress but they do have the right to lobby
48 their government. In these ways I think it puts us on a pedestal, it makes us inaccessible, in some

1 ways we come off as being arrogant and better knowing that members of the public when we are
2 inaccessible. It insulates us from the public as well as applicants. We are all adults here, we
3 have rules that we have to follow in terms of the Brown Act, and we have fair political practices
4 that we have to follow. I have no reason at all to ever question the motivations of my colleagues
5 here. I think we are an exemplary group. I have no reason to call into question the qualifications
6 or the motivations of any of our City Council Members or elected officials in Palo Alto. I think
7 it just treats us like we are children and we can't be trusted. So I am in support of the
8 Colleagues' Memo as it is written.
9

10 Chair Garber: Thank you. Commissioner Holman and then Tuma.

11
12 Commissioner Holman: Well I appreciate the discussion. I guess I have yet to hear a specific
13 example of what kind of information could be gathered from one of these meetings that
14 shouldn't be provided in a Staff Report. There is a judgment involved, not to pick on any
15 Commissioner, but it is a judgment. The examples that were just provided or an example that
16 was just provided was to give feedback to an applicant, say did you hear what Commissioner
17 Holman said? That is giving feedback to an applicant. That information has been provided in a
18 public forum. The applicant will either listen or not. The Staff will either stick with various
19 comments or not. I view that as giving direction outside a public meeting. That is my judgment.
20 It would not necessarily be somebody else's that is one of the difficulties of having these kinds
21 of meetings. What would be giving direction to one person, honest, well-intended people what
22 would be giving direction to one person would not be giving direction to another.
23

24 I appreciate and I had made a note here about evening the playing field and Eduardo mentioned
25 that but I think it is so important that I am going to say it again. I think that having the process
26 we have in place does even the playing field. What I hear from the community a lot over time is
27 that applicants have paid staff and it is their full time job to promote a project. Members of the
28 public are on their free time, on their spare time involved to the extent that they can be. What we
29 can do by holding the same practice for applicants, members of the public, interested parties is to
30 help level that playing field. No one has more access than anyone else.
31

32 There is another danger of having these meetings is very quickly and very innocently **seriata**
33 meetings happen. It happened in one of the meetings that I was in, maybe even two of them, but
34 I know specifically one meeting that I was in which is another reason why I brought this forward
35 to begin with. One member of a meeting party says so-and-so and so-and-so have indicated that
36 they like this. Whether that is true or not we have no idea but it does give indication of what
37 other members of a body either think or don't think. It is a **seriata** meeting. Whether it is true or
38 not is a whole other issue but it is a **seriata** meeting.
39

40 Also I find that, and I did look at these very carefully, the guidelines I find to not cover the issues
41 that come up in regard to these meetings should they happen. If you want I can go into them if
42 we decide to change this but I find them lacking in a number of ways. One of them that I
43 indicated earlier is like if something is learned, when does that meeting happen, when is it
44 presented to the rest of the Commission, to the Staff, to the public? I could go on but won't. I
45 really implore the Commission to keep the practice that we have. I think it is a transparent, clear,
46 fair process, and again the bottom line for me is if there is anything that relevant to our making a
47 recommendation it should be found in the Staff Report. We should not be reliant on private
48 meetings to learn critical information about a project.

1
2 Chair Garber: Thank you. Commissioner Tuma. So I want to address a few points that have
3 been raised. One is I think the fundamental roadblock that the current process puts in place is
4 that there really isn't an opportunity for true dialogue. I believe that in this forum there is
5 information presented, sometimes there is a little bit of discussion back and forth. This is a very
6 valuable forum. This is the forum in which we do our business but having these meetings and
7 have true dialogue with members of the public, with applicants will produce a level of
8 understanding that can inform the process.
9

10 Some things have been talked about this evening, theoretical opportunities to do these, there are
11 a lot of theoretical things that should be in the Staff Report, things maybe we should have these
12 other meetings. The problem is I have been on this Commission for three years and I have sort
13 of gone along with this policy and I don't see those things happening. I think that there are some
14 inherent difficulties and possibly they are not going to happen. So I see this as an opportunity to
15 supplement the process so we can better understand projects, inform each other and the public
16 about what we learned, but incorporate that information into our ongoing discussions.
17

18 The other thing that I find interesting is some comments have been made this evening about well
19 it is okay to have these types of conversations in other types of environments not related to
20 quasi-judicial or PC. Well, if the transparency argument is really what we are talking about how
21 can be okay to have these other discussions? Shouldn't all of that information....because we
22 make recommendation all the time. Recommendations about zoning and the Comprehensive
23 Plan that have far more reaching impacts on the long-term vision and the long-term
24 implementation of those plans. So if we are going to talk about transparency then shouldn't all
25 of those discussions also not happen? I understand that there is a difference between quasi-
26 judicial PCs on the one hand and other types of discussions but if the issue really is transparency
27 then we are deciding in my view much more heady and impactful issues in the context of Zoning
28 Ordinance Updates and Comprehensive Plan Updates and all those types of things. So that
29 argument to me doesn't really jive.
30

31 To me this is a balancing act. Is it perfect to have these types of meetings and discussions? No,
32 absolutely not. There are opportunities and pitfalls. My problem is where I come down after
33 three years on the Commission is that the current system isn't working as well as it should be. I
34 don't want to get into specific projects, because I know we are not supposed to do that, but time
35 and time again to me we spend an inordinate amount of time, meetings, entire meetings talking
36 about facts. Things that we could discover and get to by way of dialogue in these types of
37 meetings and I think the process suffers. When I talked about the Palo Alto process, and I think
38 Commissioner Keller made the comment that the Palo Alto process is not the result of us not
39 meeting with applicants. I agree with that. That's not it. But my point is I think we exacerbate
40 the Palo Alto process. We extend things. We push projects down the road and they don't get
41 resolved because we spend too much time in our meetings trying to understand what the project
42 is about as opposed to understanding whether the project fits or doesn't fit with the
43 Comprehensive Plan or the zoning. So it is a balancing act. There is obviously a difference of
44 opinion among some of us as to how we come down on that balance but where I come down is I
45 don't think that the current process is working very well. I think that we exacerbate the problems
46 of whatever you want to call it, the Palo Alto process, and I think this is an opportunity to try a
47 different way and see what the results are. We have been doing this for as long as I have been on
48 the Commission, maybe it has been six years. I don't hear the same things in the community

1 about how awful it is that the City Council has these meetings or how awful it is that the ARB
2 has these meetings. In fact, from talking to people on those bodies I understand these meetings
3 to be productive and helpful and insightful.
4

5 Some of us will disagree as to where you come down on the balance. I am not portending at all
6 that this is a perfect solution but where I come down is this is a better solution or at least
7 something worth trying versus where we currently are.
8

9 Chair Garber: I have Commissioner Keller. I would like to get to a motion as well.
10 Commissioner Keller and then Holman and I hear Commissioner Tuma is ready with a motion
11 when we are through with your two comments. Commissioner Keller.
12

13 Commissioner Keller: In contrast to what Vice-Chair Tuma's comment that he has not heard
14 about issues about the City Council meetings and such I have heard from a number of people that
15 they are dissatisfied with the City Council's nature of having these meetings and that they have
16 gone to City Council meetings and they know decisions have been made based on information
17 that they did not have access to, which gets to my real appreciation for Commissioner Martinez
18 indicating the level playing field. The way I put this is if the applicant discloses things in private
19 then essentially there is effectively the inability of the public to rebut those disclosures. That to
20 me is very problematic.
21

22 Applicants can avail themselves of public forum. I have gone to some of those. For example I
23 went to one on Edgewood Plaza that was interesting and it was an opportunity to learn about
24 that. Certainly by listening and not saying anything and not asking questions and making
25 comments it is clear that I am not giving away any information.
26

27 I am troubled by the comment about education and having a Commissioner say that this does not
28 meet with Comprehensive Plan policies because that is in fact against the guideline here. It says
29 PTC members are strongly encouraged to adhere to the following guidelines in connection with
30 these discussions. a. Commissioners shall listen to information, but avoid giving their position
31 on the matter. It doesn't meet with Comprehensive Plan policy seems to be a position on the
32 matter so I am concerned about that. The comment that says that there should be the reading of
33 the Commission or feedback that can be done at a public meeting that is, from my point of view,
34 best done at as a public meeting by having straw polls where they can hear all of us and
35 everybody has access to the information. I certainly have no problem with anybody lobbying the
36 government and we are part of the government being on the Commission but such lobbying
37 should be done in public. Everybody should have access to the lobbying and I think that our
38 distrust of Congress is because the lobbying is done in fact in private by "special interests."
39

40 Let me finally address the comment that was brought by Vice-Chair Tuma with respect to the
41 distinction between quasi-judicial and legislative. That is the reason that I believe that there is a
42 distinction between quasi-judicial and legislative. In a quasi-judicial matter the rights of a
43 landowner are at stake. That landowner has to have due process. That due process is best served
44 by all the information being in the public and for the Commission making its decisions by things
45 that are on the public record. Now I realize that Vice-Chair Tuma's comment about disclosure is
46 a way to get that information on the public record but it is not clear that the public has the
47 opportunity to listen to and rebut that information. They get it quite late if it is given out at the
48 meeting.

1
2 In contrast the legislative matter does not in general involve the rights of an individual
3 landowner. In general it involves policy issues in terms of zoning and the Comprehensive Plan.
4 In that particular situation the Commission has a much broader purview in terms of the decisions
5 it can make. Thereby because no individual landowner's decision is at stake we don't have the
6 same kind of due process that has to apply here and so the Commission has the opportunity to
7 talk to various members of the public and anybody who is interested in the topic to tell us
8 information. I believe it is incumbent upon the individual Commissioners when that comes to a
9 matter up for public discussion for us to indicate the reasons why we are making various
10 decisions and lay those out. That is much harder to do in a quasi-judicial matter just because of
11 the due process issue. So I think it does make sense to meet with anybody that we wish to in
12 terms of legislative matters and still not meet with people in quasi-judicial matters. I understand
13 the concern about not meeting with members of the public but I am concerned that the proposed
14 recommendations are not really workable and considering some of the explanations on how it
15 would improve that seem to be quite problematic to me, quite troublesome to me I am really
16 even more concerned about going this way than I was before I came into the meeting.
17

18 Chair Garber: Commissioner Holman.

19
20 Commissioner Holman: Sorry to belabor this but I think it is just a really, really important topic.
21 I will certainly acknowledge, and I have said this a number of times, the process we have now is
22 not perfect neither would the other be, and there is no perfection. So neither is perfect. There is
23 no perfect solution to this but I do fall on the side of leveling the playing field again and for
24 transparency, and everybody having all of the same information at the same time. I think that is
25 just critical to having a believable, credible body that serves the public.
26

27 I should respond to one comment that was made earlier that applicants don't know or are not
28 familiar with Palo Alto's Comprehensive Plan and zoning. It is not our role to educate an
29 applicant. The applicant works with Staff to get informed, educates themselves, hires a
30 consultant. There are a number of ways that applicants get informed. So that is certainly not our
31 role to do that. I would be concerned about what might come out in a process that was that kind
32 of education of an applicant.
33

34 The fact that it has been awhile since we have asked for, and the problem persists that we don't
35 get the information that is relevant, the salient information that we need to make informed
36 decisions. The information that is going to be critical in our recommendations that we don't get
37 that in our Staff Reports is not a reason to compromise transparency. This discussion from my
38 perspective should be about asking, demanding, doing everything we can to support Staff in
39 getting that information. I empathize with Staff that they get information very late. I would
40 support Staff and Council in requiring that all information be provided by a drop-dead time or
41 the item either gets continued or it doesn't get included in the Staff Report and thus the item gets
42 continued. But there is a drop-dead time so that Staff isn't under the pressure to try to include
43 things at the last minute. That as an example but that again is not a reason for me to compromise
44 the transparency.
45

46 Again, should this get a favorable vote, I can go down the line with difficulties I see with the
47 guidelines, but I think they are numerous. So that is it I believe. I would say one last thing
48 which is I have yet to hear a specific example of the kind of information that could be garnered

1 in one of these meetings that would help inform our decision that shouldn't also be in a Staff
2 Report so that everybody has that same information.

3
4 Chair Garber: Commissioner Tuma.

5
6 Vice-Chair Tuma: So let me just address that last point. The Staff Reports by definition are
7 prepared by the Staff. We are seven bright people who are engaged and informed. So we bring
8 additional points of view and additional concerns and additional questions to the table that no
9 matter how hard Staff tries, and I believe that they try very hard and they do a great job, but they
10 are not going to anticipate all of the questions that we have. In fact, this makes my point for me,
11 that we as individuals, and engaged individuals, who are interested in this will ask questions and
12 uncover information that Staff won't. Theoretically Staff would anticipate every question, would
13 overturn every rock, and would come up with every bit of information. It is never going to
14 happen. It simply won't. I think the benefit of us having the opportunity to have that dialogue
15 and engage in that discussion will uncover things that no matter how hard Staff tries they won't.
16 So this is sort of the essence and the very reason why I think this is important. That will never
17 happen. Staff will never get it 100 percent right. They will never anticipate all the questions that
18 we have and no one should expect that they would. So I think that that is sort of the very reason
19 for these discussions.

20
21 Chair Garber: If I may interrupt, Commissioner Lippert, I would like to follow up on that. I
22 think the reason that I support this is because we are imperfect, because Staff is imperfect,
23 because the community and the applicants are imperfect. The greater the opportunity we have to
24 participate and engage the greater the opportunity is for us get it right. I don't think that the
25 attempt here or I think what has happened to date is that it is a search for perfection that has
26 caused this to not work as well as it should. That perfection is that we will get absolute
27 information, we only will respond to the information that we have, and we spend a tremendous
28 amount of time in our meetings trying to understand what the nature of the projects are. We
29 should be empathetic to both applicants as well as to the impacts to those that are impacted by
30 projects, as well as to Staff, as well as to ourselves. It is because we are imperfect and we allow
31 ourselves to be empathetic and understand these positions that we also have to recognize that we
32 have a responsibility, a unique and individual responsibility as Commissioners to make decisions
33 in spite of all of that. I think it is harder to do that when you do not engage and when you set
34 yourself apart from the community that you are trying to support. Commissioner Lippert.

35
36 Commissioner Lippert: I want to respond to a couple of things here. Specifically Commissioner
37 Holman had broached the subject and Commissioner Keller about education and sharing of
38 information. I think that you will find that within any bureaucracy, bureaucracies are built on
39 rules and regulations. They are not based upon providing answers. The most frustrating thing I
40 find, and I am not going to use the Planning Department as an example, is when I go into the
41 Building Department and I go through and I get a set of drawings back and the building tech
42 basically says this isn't going to work, and the reason it is not going to work is this section of the
43 code, and this section of the code, and this section of the code, and this section. However, they
44 are very reluctant to provide answers as to what that specific code is all about. Embodied in that
45 section of code is the intent or the rationale behind why something doesn't comply in the way of
46 the drawings. Now it is very much the same thing with Planning. The Zoning Ordinance in the
47 Municipal Code is written by attorneys, it is written by lawyers, it is written verbiage. But what
48 it seeks to do is describe a range of three-dimensional characteristics. It doesn't do it in a

1 particularly forthcoming way because it is legalese. There are subtleties and nuances of ifs and
2 may, and shall, which are very subtle distinctions. What I believe the benefit of meeting with
3 applicants and members of the public is it allows for education and open interpretation of what
4 some of those subtle distinctions are. Now I am not saying that answering a question of an
5 applicant is saying you are taking a position but what it does is it illuminates a certain amount of
6 meaning that isn't necessarily able to be forthcoming from a member of the Staff. I think that is
7 very helpful in terms of perhaps being able to arrive at alternatives if not justification for
8 someone's approach whether it be an applicant or a member of the public.
9

10 I also think that the strength of this Board doesn't rely in any one individual. It really relies in
11 the strength of the seven members that sit here and being able to persuade each other of what is
12 appropriate. So even though what we are looking for is a relaxation of being able to meet with
13 an applicant it is not what we take from those applicants or people individually it is the way we
14 are able to present that information amongst ourselves.
15

16 This has been somber enough I just have to add a little humor to this if you might indulge me just
17 a moment here. I remember being approached by a named City Council Member who said to me
18 on a PC project, nudge-nudge, I hope you will do the right thing, but never gave me any
19 indication as to which way to vote.
20

21 Chair Garber: Commissioner Fineberg and then let's get to a motion with Commissioner Tuma.
22

23 Commissioner Fineberg: So I would like to just reiterate that the current policy does give
24 Commissioners discretion when to make exceptions with the disclosure requirement. So we are
25 not completely hamstrung from availing ourselves of the benefits of these ex parte meetings even
26 leaving this policy standing.
27

28 Just as my final comment, I would also like to put myself in the shoes of a developer or a
29 member of the public or an interested party on the discussion we are having tonight. I know
30 right now there are three people who are probably having an opinion on this and all they need is
31 one more person. If I were an interested party I would work on those four other people. If I had
32 a financial interest, not as a Commissioner but thinking as an interested party, if I had a financial
33 interest in an outcome of a decision there would be no reason not to lobby the other four
34 individuals. It just would create nightmarish conditions for the other Commissioners who are
35 attempting to not dialogue, not educate, not design projects with applicants or opponents. I just
36 don't see how changing this policy could protect the members of this Commission from those
37 pressures. Thanks.
38

39 Chair Garber: Commissioner Tuma.
40

41 MOTION

42

43 Vice-Chair Tuma: With that I would like to make a motion that the Planning and Transportation
44 Commission modify its procedural rules with respect to conversations and correspondence with
45 members of the public, applicants, or other interested parties by deleting Section IV.B.2 of the
46 Planning and Transportation Commission's Procedural Rules and replace that Section with the
47 following: with respect to quasi-judicial matters and Planned Community zoning applications
48 the Planning and Transportation Commission Members are permitted to engage in discussions

1 and correspondence with any concerned party including members of the public and applicants
2 subject to the following: 1) during orientation for new members and annually Planning and
3 Transportation Commissioners receive appropriate training; and 2) subject to the guidelines as
4 outlined in the Colleagues' Memo that is before us this evening.

5
6 **SECOND**

7
8 Chair Garber: I will second it. Would the maker like to speak to his motion?

9
10 Vice-Chair Tuma: I think I have spoken enough.

11
12 Chair Garber: The second has as well. Is there discussion? Commissioner Holman.

13
14 Commissioner Holman: A couple of things here. One is I agree with comments that the strength
15 of this body is not in any one Commissioner it is the strength of the group. I also think Vice-
16 Chair Tuma made an excellent point when he said that Staff will never think of all of the issues.
17 If Staff could think of everything then basically you wouldn't need a Commission. There is
18 however what we have identified in the past and one of the reasons for the previous Colleagues'
19 Memo was that there were some basic lackings in some of the Staff Reports that we get that
20 cause protracted discussion. I think we are about to resolve one of those issues which is that we
21 will get our answers to questions prior to the meeting and not have to digest them at the meeting.
22 I think we resolved a way to do that is my understanding.

23
24 Mr. Larkin: At the Retreat Staff agreed that they would provide them as long as they are in by
25 noon the day preceding the meeting. So that has already been in process.

26
27 Chair Garber: May I interrupt? Is this germane specific to this motion or is this just an
28 example?

29
30 Commissioner Holman: It is an example. I hate to go through all these conditions here and I
31 won't. I will point out just a couple of things here though like (e). It says if a Commissioner
32 receives any written materials in connection with these types of discussions, a copy of those
33 materials should be made a part of the public record. When would they be accepted? Right
34 before the meeting? Then they are in the public record but no one has had time to review them,
35 no other Commissioners, no members of the public. I go through these guidelines and I find that
36 kind of flaw in almost every one of them. They are just not spelled out enough to provide
37 comfort or any kind of reason for transparency in I think what is intended. I don't think these
38 accomplish that. I absolutely trust that is what is intended but this isn't accomplished in these
39 guidelines. So I will not be supporting the motion for all the reasons I have stated previously.

40
41 Chair Garber: Commissioner Tuma.

42
43 Vice-Chair Tuma: Let me just address that last point. These guidelines were intended to be
44 really sort of the initial thoughts, and I envisioned that if there was sort of an indication among
45 Commissioners that we were open as a body to making this change that we would spend more
46 time talking about the individual guidelines and tweaking them and making them better. So I
47 would acknowledge that there are some things that we would maybe want to do to the guidelines

1 to make them a little bit better and possibly even add some to it. I am not sure that exercise is
2 fruitful at this point.

3
4 **MOTION FAILED** (3-4-0-0, Commissioners Holman, Martinez, Keller, and Fineberg opposed)

5
6 Chair Garber: Commissioners, let's go to the question. All those in favor of the motion as stated
7 say aye. (ayes) All those opposed? (nays) The motion fails with three Commissioners, Garber,
8 Tuma, and Lippert voting for the motion and Commissioners Holman, Martinez, Keller, and
9 Fineberg voting against.

10
11 Let's take a five-minute break and then return for the second item.

12
13 Mr. Larkin: Right before you go on break I notice something that Commissioner Fineberg has
14 asked that I do and I got this too late to do it. This came from me, this Institute for Local
15 Government article that appeared in the Western Cities magazine on due process and adjudicated
16 matters. I gave it to in the event that this motion passed but I still think it is worth looking at. It
17 has a section on ex parte communication but it also has some other interesting issues it addresses
18 so I think it is still worth looking at.

19
20 Chair Garber: Thank you. Five minutes.

21
22 Let me thank all of the Commissioners for a very good discussion on the previous item. I
23 thought that was fun.

24
25 Item number two is Discussion of the Draft PTC Annual Report to Council. I apologize for
26 some of the confusion of various copies that have been moving around here. I think we have all
27 got the right things now.

28
29 Commissioner Keller: I had sent out to the Commission my edits to the version that Chair
30 Garber had sent out. He had printed the first few pages but there were changes further out. In
31 particular there was a change to Exhibit 3 or 4 I think it was that didn't go out so I am going to
32 send that out.

33
34 Chair Garber: Please don't only because I have already handed out yours as well as the other
35 reports so we should be all fine.

36
37 Commissioner Keller: With all due respect, the thing you handed out did not include the change
38 to Exhibit 3 in the back.

39
40 Chair Garber: You are right, okay, got it. We will add to the potential of....

41
42 Commissioner Keller: Sorry about that.

43
44 Chair Garber: Thank you for the correction.

45
46 2. Discussion of Draft PTC Annual Report to Council
47

1 Chair Garber: Before we get into this let me ask a more global question here. it has been
2 brought to my attention that even though the Commission has spoken about its desire to issue a
3 report for the year 2007-2008 that the topics herein are significantly far away from the attention
4 of not only ourselves but potentially the Council Members as well. I just wanted to hear from
5 the Commissioners if they still feel that this is an exercise that we should do or we should roll
6 into a report that does in fact address this past year, which would then allow it to address such
7 things as Stanford, the current state of the economy, Comprehensive Plan, etc. There are some
8 variations in there as well. We could simply issue this report as is and not distribute it with the
9 expectation that we would then, which we have already started to do, prepare the next year's
10 report immediately thereafter. I have lights from Fineberg and Tuma, Commissioner Fineberg.

11
12 Commissioner Fineberg: You hit on one of my comments on that concept when you said that the
13 report be prepared but not distributed. I would concur that the purpose of this report is to be a
14 recap of the past year's activities but it is also to be an early warning sentinel about emerging
15 trends. Because this is by definition two years ago it can't serve that second purpose of being the
16 emerging trends. I was wondering what Council would think if this came before them for
17 discussion at a Joint Session and I believe it would be very difficult to say but we are not going
18 to talk about the things that are current because this was only focusing on two years ago, and we
19 will be back. So is there a way that the report can be given to them so that they can review it but
20 maybe it not be the focus of a Joint Session and then with all due haste we get this year's report
21 and that be the focus of the conversation with Council?

22
23 Chair Garber: Or that they are issued together. Commissioner Tuma.

24
25 Vice-Chair Tuma: I think I would concur with Commissioner Fineberg on that. One thought on
26 a way to do it is that we do spend a little bit of time this evening kind of making sure that
27 everything is here, try to put this to bed, and simply have it as an attachment to the subsequent
28 report and submit it simultaneously. Just more by way of information and if there is anything
29 that comes out of this that needs to be brought forward into the current year that would go into
30 the current year's report. The focus of the meeting and discussions that we have with Council be
31 on the next year's report but simply attach this one as by way of information and then again carry
32 anything forward that is pertinent in the recently past year.

33
34 Chair Garber: Commissioner Lippert and then Keller.

35
36 Commissioner Lippert: I think the report as it is is particularly important in that what it does is
37 captures an institutional memory that goes far beyond any of us. So what it serves to be is a
38 snapshot. I think it is particularly important by itself. What I am deeply troubled by is that we
39 are in arrears and really need to begin to formulate the plan for 2008-2009 Report to Council.
40 When we say Report to Council it is prepared for the benefit of the Council but really what it is
41 doing is letting both Council and the community know what we saw as trends and issues. If you
42 will bear in mind for a moment that this particular report captures the spirit of those Council
43 Members that were coming into office at the time. So in terms of many of those Council
44 Members reacting to certain development and changes happening within Palo Alto I think it is
45 particularly important that it is distinct and stands on its own.

46
47 Chair Garber: Thank you. Commissioner Keller.

48

1 Commissioner Keller: I am of two minds here. The thing is that I understand the merits of
2 having a more timely report for 2008-09 and in some sense potentially not wasting the Council's
3 time on data that is I wouldn't say two years old, the newest data on there is about 15 months
4 old. Basically it ends in June 2008, which was about 15 months ago.

5
6 The problem is that judging by past action it is not clear how much faster we will do in terms of
7 incorporating the 2008-09 data. In particular I do not think we have gotten a CD of the 2008-09
8 data and I am not sure how long it will take to get that 2008-09 data. Then we have to meet and
9 put that together. So I would guess that from the time it takes to get that data to the time to
10 incorporate it and produce a report, assuming we were to be more efficient than we were in the
11 last year, I would assume that is a six months process. That means that if we were starting today
12 to get all that we would probably do a report to Council some time next March and we would
13 lose all the timeliness of some of the stuff here. To me the issue that I am most concerned with
14 is in particular in the bullet that I added to the Synopsis, the fifth bullet and the first bullet that I
15 edited. These have some time specific notions to them that I am concerned that a delay would
16 cause a problem to.

17
18 Part of the issue actually comes out to the difference between Chair Garber's wording of the first
19 bullet and my wording of the first bullet. What is interesting is Chair Garber's wording of the
20 first bullet has to do with the **GEM II** residential development, whether that is a good or a bad
21 idea, which in some sense has been what's happening and some people in the public are
22 concerned that that is a foregone conclusion. While my wording says what is the amount of LM
23 and GM land that we need, how much do we actually need, what is its purpose, how much of it
24 do we need, and how much do we preserve that amount, which looks there from the point of
25 view of that zone and its current uses. In particular I think that is a particularly, if you think
26 about the Don Whedon, *Winds of Change*, that is a particularly bad place to put housing. It is not
27 near any amenities and we probably should not encourage that area any further.

28
29 In particular the last bullet that I have in terms of Synopsis in terms of including school capacity
30 considerations in the Housing Element and I have heard precious little in terms of school
31 capacity considerations in the Housing Element. From what I read in the last Housing Element
32 there was very little there either and there was emphasis on family oriented housing.

33
34 Also one of the interesting things is if you look at the version of it that I edited there is an
35 interesting change and I direct people to Exhibit 3 where I essentially did a synopsis, basically an
36 analysis of the key part of the **Lapkoff and Gobille** report from last fall of 2008. It essentially
37 indicates the enrollment as the result of stuff that happened prior. So even though it is slightly
38 after the period of time it seems like it is the most relevant to that, going back an earlier year. It
39 actually had an excellent analysis of the new housing construction which I believe was given to
40 the Commission, that nine page extract was given to the Commission by the Staff. So I think this
41 analysis, which also includes my having read the rest of the report and found things and put them
42 together, is actually quite useful. I apologize for not having given that to the rest of the
43 committee earlier so that can be incorporated and given to the Commission.

44
45 I think that these two issues are of urgent and paramount concern and deserve focus of an early
46 meeting with the Council.

1 Chair Garber: If you will forgive me, Commissioner Holman let me just ask Julie. I believe it is
2 this time of year that Roland begins to assemble this data. Do we have any sense?
3

4 Ms. Julie Caporgno, Chief Planning and Transportation Official: That is correct. I think you
5 received it last year in October. I checked with him before the meeting tonight just because I
6 knew that question was going to come up. He confirmed that yes he is compiling this
7 information for the VTA, which I believe is the basis for information and it is going to be
8 prepared some time in October. So I think probably mid to late October it will be available to
9 you.
10

11 Chair Garber: Currently we have scheduled a meeting or tentatively scheduled a Joint Session
12 with the Council in November?
13

14 Mr. Curtis Williams, Planning Director: We are trying to get a November date. We have not
15 gotten any confirmation yet from the Clerk's Office.
16

17 Chair Garber: So then the only question would be could the Commissioners actually produce the
18 report between the time that we could get the data from Staff and we would have the meeting
19 with the Council. Planning Director.
20

21 Mr. Williams: I don't know if you could do that. If you take the data that Roland would give
22 you and try to reconfigure that or whatever. I would just try to make maybe one suggestion that
23 just looking at the report as it is constituted now, if you look at the Synopsis, the Trends,
24 everything until you get to basically item three of Actual Permits Issued, etc. all of those items
25 which are what I think the Council is interested in hearing from the Commission are not based on
26 Roland's data. They are based on the projects that you review, the sense you have as
27 Commissioners of the activity and the community issues, and those kinds of things. So I am
28 wondering how you useful that raw data is to you in terms of the issues that you are defining.
29 Really what you are looking at is what have been looking at, what are the key issues that have
30 risen up to us, where do we think the Council and the Commission should put priorities, and
31 Staff should put priorities for the next year or in some cases longer than a year, and that. So I am
32 wondering if you couldn't do this just with basically the list of projects that were considered in
33 the last year which are easily taken from those monthly summaries I did, which is the way this...
34

35 Chair Garber: That the Planning Director creates. I was going to suggest something of that same
36 sort but before we do that let's get to Commissioner Holman.
37

38 Commissioner Holman: Well, again there is no perfection here but I think there is value to
39 having a discreet analysis of the 2007-08. If the information for 2008-09 could be pulled
40 together such as what Planning Director was talking about I think there could be a compilation of
41 those two for Council edification, if you will. So I could be still two distinct reports but then the
42 Trends, Issues, and such derived from those two reports. So I think that is one possibility. It is a
43 little bit more work but since it would be all in front of the subgroup then that would be not so
44 very, very difficult.
45

46 I am having a different challenge, which is we have a lot of paper in front of us, and I note that –
47 so I have the one I started with at home that I printed off. Then I have the one that has the color
48 charts, which was provided this evening, which seems to be different and not inclusive of the

1 information that was in either the one from home or the one that I think Arthur provided this
2 evening. I point you to, I don't know what else, but I do notice on.....

3
4 Chair Garber: Your observations are correct.

5
6 Commissioner Holman: There are no page numbers so when this comes back please page
7 numbers, but there is missing stuff from one to the next. So I don't know how we are really
8 going to address. We can address broader issues here, questions or suggestions, but it is
9 unmanageable.

10
11 Chair Garber: I apologize for the confusion. The PDF files actually had the complete report and
12 the DOC file for some reason was not what the PDF file was and I apologize for that occurring.
13 So the documents that you would be looking at tonight are the ones that have the color charts in
14 the back and then the first three pages, and then Exhibit 3 that Commissioner Keller has
15 prepared. To that point I think....

16
17 Commissioner Holman: If I could for a moment please?

18
19 Chair Garber: Yes.

20
21 Commissioner Holman: What I am referring to and again I don't know what else might differ
22 but if we are looking at the fourth page, the page starts out with VTA and continues to Reduce.
23 If I look at Commissioner Keller's printout at the bottom of the page it has PTC Review of New
24 Projects under Other Planning Indicators, item two. It lists seven items there as bullet points. If
25 I look at the color printout that came from the PDF it lists but three and then has a chart and
26 nothing after that.

27
28 Chair Garber: That is correct. The items that were taken off of the DOC document that
29 Commissioner Keller was working from were items that were a part of the previous year's
30 report. So the items that are on the PDF file, there were only three there, three new projects that
31 required demolition of existing buildings. We included the chart so that you could see the trend
32 that there were fewer items that came before the Commission that required demolition.

33
34 Commissioner Holman: Then what about item three and four again that are in Commissioner
35 Keller's that don't exist in the PDF?

36
37 Chair Garber: Those actually do occur in the PDF as exhibits and they were put in the back. Let
38 me find them. I don't find the first one. I think we will just have to get you those graphs,
39 Commissioner. So to the larger points any suggestions there?

40
41 Commissioner Holman: As to an approach I don't know what other Commissioners think but I
42 made a suggestion. There were some things in looking at this that I think might be
43 improvements, of course I have not had time to read the later submissions, but we are like a bad
44 applicant.

45
46 Chair Garber: Absolutely true, an applicant in seek of perfection.

1 Commissioner Holman: I did note that in comparison to the 2006-2007 that was attached to
2 tonight's Staff Report that there is a formatting difference that I think there are benefits to both.
3 If we look at the trend analysis, which is one of the appendixes, starting with the Appendixes and
4 if you go to the third page of that, again this is 2006-2007 Report. It gives a listing of projects,
5 the address, the zone, and the proposed project. That doesn't happen in the current report and I
6 think that information in combination with the description that is provided in the new report
7 would be helpful. But having only the text description I think is just a big blob of copy for most
8 people I think. So I think that engages one to look and see and want to say oh, that is the project,
9 now let's see what happened. But absent that I think it doesn't lead you into it. That is one.

10
11 Chair Garber: Okay, thank you. I am not seeing any other lights here. Shall we take a straw
12 poll? We have a light from Commissioners Keller and Fineberg.

13
14 Commissioner Keller: One of the differences between the last report and the current report is
15 that the last report had Impacts and Recommendations, which are not in the current report. I
16 would like information from the other Commissioners as to whether the inclusion of Impacts and
17 Recommendations were we better off including it or excluding it?

18
19 Chair Garber: There is a request for you to repeat your question, Commissioner Keller.

20
21 Commissioner Keller: Sure. In the last Planning Commission Report to Council the 2006-07
22 report is part of the Staff Report and if you look on what is pages 4 through 7 of the previous
23 report before the Appendixes it says Impacts and Recommendations. That section is not in the
24 draft report for 2007-08 in any of the versions handed out today or in the last few days. What I
25 would like is information from the rest of the Commission as to whether they desire that to be
26 included or are happy with it being excluded.

27
28 Chair Garber: If I may I will just answer for me personally I found that it was hard to get to that
29 and focus on that. I would be curious to find our other impressions as well. Commissioner
30 Holman.

31
32 Commissioner Holman: It was one of the things I had pointed out before the meeting. I think it
33 is helpful because it helps indicate how we get to what is on the first page, the near term actions
34 and the longer term actions. That information, those recommendations are derived as I have
35 understood this from this information, acknowledging those trends and identifying them. So
36 basically I would find it helpful to have it.

37
38 Chair Garber: Thank you. Commissioner Tuma.

39
40 Vice-Chair Tuma: First a question for Planning Director. How long would it take to prepare just
41 the synopsis of last year?

42
43 Mr. Williams: You mean just pulling those together?

44
45 Vice-Chair Tuma: Yes, the meetings.

46
47 Mr. Williams: Give us a week if you just want the same format that I guess Dan put it together.
48

1 Vice-Chair Tuma: Yes.

2

3 Chair Garber: Between Zariah and myself.

4

5 Mr. Williams: Yes, we could just pull that together in a week I would say.

6

7 Vice-Chair Tuma: Okay. I am going to make a proposal. I think that there is enough sort of
8 confusion even about the current documents that it needs some more work. I think Planning
9 Director is right sort of the substance, the important stuff here does come out of our previous
10 actions. So I think one approach would be if we go right now down the line sort of five minutes
11 each kind of timeframe and just anything about the current report that you think needs to be
12 addressed by way of whether it is drafting or things that are included, not included, but sort of a
13 quick run through. Then the subcommittee take the information from the Planning Director and
14 come back either on September 30, which is only three weeks from now or October 28, both of
15 those meeting currently only have one item on the agenda, and we come back with a report that
16 covers both years. So we can take some input tonight knowing that we are going to go through
17 the year that this covers in more detail when it comes back in sort of a single coherent format.
18 We take that away as well as the information that we get from the Planning Department and we
19 come up with one single document that we can go through, maybe it is two documents but one
20 set of cohesive documents that we can go through either at the end of September or the end of
21 October, and possibly even stay on track for a meeting this year with the Council.

22

23 Chair Garber: Commissioner Keller just pointed out to me that actually Zariah and I have
24 already created the list for this past year in anticipation of that. The only thing that I think we
25 would have to do is lean a little bit on Staff to recreate the sort of list that Commissioner Holman
26 was speaking about that we did two years ago to identify the zones of the things as a short sort of
27 without text list. I suspect we could do that fairly quickly as well.

28

29 I have lights from Commissioner Fineberg and then Lippert.

30

31 Commissioner Fineberg: I think Commissioner Tuma's idea works for me. The one caution that
32 I would have that I thought about before he suggested that and I think it is still relevant is if the
33 report is covering the two years, on let's say the synopsis of the trends are you going to segment
34 out here are the trends we have now for 2008-09 and then have old trends from 2007-08? If you
35 are maintaining looking at the current, regardless of version control, if you are looking at the
36 synopsis of trends for 2007-08 I am not convinced that the trends are not written now no matter
37 what version without being changed by the time that has happened since. So we are informed
38 with more knowledge and are we writing the trend that was what was in our brain in June 2008
39 or are we writing it now what we think it should be now knowing what we know and we can't be
40 blind to reality? So how does one change the 2008 trend and put blinders on to new information
41 or do we – the East Meadow Circle is still a trend that is going to be a current year's trend. So
42 do we just say find we make it more general the previous year and we will get it right for the
43 current year? Or do we take it off the previous year? Or do we just make something up for the
44 previous year that is what we think is what we remember?

45

46 Chair Garber: Commissioner Tuma.

47

1 Vice-Chair Tuma: You hit on something that the subcommittee struggled with as we were doing
2 this. We were asking was that the previous year or is that this year? And it really is almost
3 impossible to sort of take the glasses off that inform us through the current year. When I was
4 talking before I was envisioning sort of two separate documents but I am also open to the idea
5 that we just do one document that takes both years and obviously any trend that was uncovered
6 from the current document we are looking at that is still relevant or important would be carried
7 forward. By doing that you lose sort of the snapshot in time that Commissioner Lippert had
8 referred to before, which is helpful. Maybe we just live with the fact that the trends that we
9 discuss in 2007-08 are a bit colored by more knowledge. I don't think really at the end of the
10 day that it really too much matters because what we will focus on, and what the discussions will
11 be about will be the 2008-09 trends, and to the extent that we carry things forward from the
12 previous one then that information will get captured. So it doesn't really matter too much to me
13 and we could spend a lot of time trying to figure it out. I think we can just acknowledge that the
14 2007-08 trends are going to be somewhat influenced by what we learned in the meantime, leave
15 that as it is, focus on the 2008-09 and that becomes the discussion with Council.

16

17 Chair Garber: Commissioner Lippert.

18

19 Commissioner Lippert: I want to go back to our meeting with Council where we discussed the
20 Report to Council and the direction we were given by City Council. One of the conditions that
21 they placed on this is that it really needed to be a very brief report. In fact they said four maybe
22 five pages. I think that that holds true today. If we were to go to a combined report then easily
23 we are beyond the five pages.

24

25 Now let me tell you why that number was so important. They felt that this really needed to be a
26 nimble report. That it needed to be read by Council and the public, digested easily, and then if
27 there was more information to be gleaned then that was where people needed to go. I think that
28 we are doing ourselves a disservice in that the information will get buried and die under its own
29 weight if it is not kept concise.

30

31 Number two, I think that the formatting is very important. I believe that the formatting, the
32 context that we began with in 2006-07 should continue and that is for consistency sake and being
33 able to then take reports side-by-side and being able to look at them and being able to say this is
34 what has transpired, this is what has changed. I don't have a problem at all with reaching as was
35 indicated here in the Staff Report of our previous one, Impacts and Recommendations. In fact, I
36 think it is very important that Impacts and Recommendations change. To give you another
37 example, we are talking about a snapshot here. If we came back and took a picture of this Board
38 a year from now, actually if we took a picture of the Board from last year we would notice some
39 significant changes. The point is that I think it is important that as a snapshot that the report be
40 able to stand on its own, reach its own conclusions, not look forward, not look backwards, it is
41 based really on the information that is being delivered.

42

43 Chair Garber: So you would support two separate reports simultaneously delivered.

44

45 Commissioner Lippert: Most certainly.

46

47 Chair Garber: In the same format as the first report.

48

1 Commissioner Lippert: Exactly. Then if we find that something is not appropriate that could be
2 modified, adjusted as the different topic is needed. We will find that 2010-11 will be a very thin
3 report.
4

5 Chair Garber: Commissioner Keller and then Martinez.
6

7 Commissioner Keller: Well, what is interesting in looking at the Staff Report is that there are
8 some other changes in terms of what was done last year compared to this year. That is not only
9 is the trend analysis tabular but also the agenda is tabular as opposed to narrative. I am not sure
10 which is better, whether you want the detail or whether the tabular format allows you to get the
11 information at a glance, and that is something to be considered.
12

13 In particular, after last year's Annual Report to Council is a document dated June 19, 2009 with a
14 2007 to 2009 Annual Report to Council where we I believe being reminded this is what we
15 decided we were going to do. I didn't have this in front of me when the subcommittee was
16 working on this and it passed my mind. In some sense we have already come to the conclusion,
17 which we in fact did not follow. So in particular it talked about having a two-year report,
18 whether we want two one-year reports or a two-year report is something we can consider. It
19 talked about some additional sections that we wanted and further kinds of things to consider. So
20 I think the decisions that we made in June were worthwhile decisions but I think we somehow
21 failed to act on them.
22

23 Chair Garber: That memo was written by the Chair actually and presented, discussed, and then it
24 was discussed at this meeting, and part of the conversation that occurred as a result of that was
25 that we were going to just focus on the 2008-09 year as opposed to 2007-08 or combining, etc.
26 The conversation about that occurred about that time. Then some of the other modifications
27 occurred really out of a necessity of timeliness to make the report smaller and thus able to be
28 able to have something to discuss this evening. All that said, thank you for the reminder.
29 Anything else?
30

31 Commissioner Keller: So I think that there is some benefit to adhering as much as possible to
32 the format of the previous report with the tabular format it is easier to digest, although it is some
33 work to convert it from the narrative to that format. As was mentioned buy the Chair we do have
34 the data in the following document, pages 1 through 14, through June 2009 so that can be
35 extracted.
36

37 So to me the issue is there are effectively three questions. I am not exactly whether the first
38 question is something that we should address now or as part of the drafting process and see how
39 well it works. There is the hindsight question which is if you have a report for 2007-08 and a
40 report for 2008-09 are they sufficiently distinct that creating two reports actually means that
41 people won't read both of them and combining them means that people are more likely to read
42 the report and know which one they are reading. So that is a question that will come out of the
43 drafting process as opposed to something that may be arbitrarily decided now without seeing
44 how it fits when you try to write it.
45

46 The second question is whether the proposed revisions to the outline other than the 2007-09
47 versus 2007-08 and 2008-09 question whether we agree with the proposed revisions to the report

1 outline. In particular the issue of whether we want Impacts and Recommendations to stay and
2 this new section and new appendixes that we talked about. Do we still want those?
3

4 The third question is whether we want the trend analysis and the agenda topics to be in this
5 format or the narrative format. I think those are the three questions that we need to address. It
6 would be helpful hearing what other Commissioners think.
7

8 Chair Garber: Just again in the overview I am not hearing anything that you are saying that you
9 would not support, producing two reports one for each year, submitted simultaneously. Then the
10 only other topics that you are bringing up here are formatting and structure questions.
11

12 Commissioner Keller: What I am saying about whether it should be two reports submitted
13 simultaneously or one slightly larger report that is comprehensive has to do with the drafting. If
14 the two reports that are submitted simultaneously means that it is very repetitive and therefore
15 there is information that people will read the second report and not the first, and therefore things
16 that are important will be lost. Then that argues towards having a single report. On the other
17 hand if there is sufficiently distinct content in the two reports that separating them out, other than
18 the appendixes, the body of the report itself has distinct content that people will actually want to
19 read both of them that is my concern about having two reports. I think that we can't really tell
20 that now. We have to figure that out by putting the two reports and it is an editing process to see
21 whether they are distinct enough or whether it is just a hopeless task.
22

23 Chair Garber: Unless I have misunderstood them I believe that Commissioners Tuma, Fineberg,
24 and Lippert, perhaps myself as well suspect that there is – I don't dispute that editing needs to be
25 done such that each report is unique if it is to proceed that way, but I think their recommendation
26 to the committee is to pursue two reports and report on the actions that are specific to those
27 years. As we started off this conversation some of the key things that are not be in the latter
28 year's report that would be in the current year's report are topics including the economy,
29 Stanford, and the Comprehensive Plan. Presumably that would be some of the key things that
30 would differentiate the two reports.
31

32 Commissioner Keller: If I may?
33

34 Chair Garber: Yes.
35

36 Commissioner Keller: If we go to the proposed revisions to the report outline obviously the
37 purpose is the same in both, the synopsis may change somewhat, and in terms of how the
38 synopsis changes will people read both of them? Will people figure that one replaces the other?
39 How will people feel about two sets of near term and long-term recommendations, and how they
40 differ?
41

42 Chair Garber: Hold there. Let's just talk about that for a moment. The idea here is to have a
43 snapshot in time so that if a reader wants to read about the previous year they would go to that
44 report and look at that snapshot, if they want to read about the more current year versus the
45 previous year they would go to that report. It would be up to the writers to focus on those two.
46 Commissioner Tuma.
47

1 Vice-Chair Tuma: I think you could probably address this. I think Commissioner Keller's is a
2 good and a valid one. I think you could probably address it by having a single page, maybe one
3 paragraph transmittal memo that basically says here is what we have done. Make sure you read
4 both of these or make you understand. So that it highlights the fact that there really are two
5 distinct sets of important trends and synopses that people would want to read. You are not going
6 to force them to read it but I think you can sort of get around this in the drafting by having a
7 transmittal memo.

8
9 Chair Garber: Commissioner Keller.

10
11 Commissioner Keller: I think that this is interesting but this comes out to me that if the objective
12 of having two reports is to have two brief reports but the combination of them is repetitive and
13 verbose as a result that seems to be the defeating the purpose of having individual reports. It
14 seems to me that we are being somewhat pedantic in having year-by-year reports. Frankly, at
15 this point in time it doesn't really matter whether the trend is for 2007-08 versus 2008-09. What
16 really matters is the overall trends and recommendations for the combination of the years that is
17 relevant to now. I don't think the Council cares about what trends existing in 2007-08 that no
18 longer exist and are no longer relevant. What really matters are the ones that bubble up to the
19 top when the combined two years when we want to say okay this is what it is. So I think that it is
20 not like we are producing annual reports to a funding agency where the document says, the letter
21 of the contract says, that you have to have an annual report per se and therefore we better have
22 one. It seems to me that we are sort of behind and catching up. So I think that the interest is
23 served better by having one slightly larger report that is comprehensive and coherent rather than
24 two reports that give a somewhat double-vision view of history.

25
26 Chair Garber: Let's get comments from Commissioners Martinez and Holman and then let's do
27 a straw poll on whether to pursue two or one. Commissioner Martinez.

28
29 Commissioner Martinez: Chair Garber suggested that I may have limited input because I was
30 not around in 2007-08. I agree with that. I did want to say that this 2007-08 report is old and we
31 should wrap it up and put it aside and focus on 2008-09. When I interviewed with the Council a
32 couple of months ago probably the most thought provoking question they asked is what do you
33 see as the future of Palo Alto in the next ten to 20 years? I took that as really the Council's
34 sincere wanting to sort of grasp the direction that we should be going in, we are going in. The
35 reports that have been drafted read sort of like a research paper without footnotes but with
36 attachments. I appreciate Commissioner Lippert's history of this that suggested the Council
37 asked for something succinct, four to five pages, and that really gave them some insight into a
38 direction for the city. I would suggest that we go back to that four or five page synopsis, pick
39 some topics that we know broadly were important in the last year green building, the economy
40 related to land use, transportation, housing and put our synopsis, our summaries into those
41 categories or better ones that we come up with, and really go back to that four or five page idea
42 that really helps the Council see the direction that the city is going into. Thank you.

43
44 Chair Garber: Thank you. I did in fact say that your participation may be limited. I also
45 mentioned that your insight would be most beneficial as is in fact the case. Commissioner
46 Holman.

1 Commissioner Holman: I will be very brief here. I do think there is benefit to having two
2 distinct reports and here is why. Because I think it provides a really wonderful opportunity
3 because we have the 2006-07 then we will have the 2007-08 and 2008-09. Things have shifted a
4 lot in that period of time. Market forces have changed. Market trends have changed. The
5 economy has gone south. I think it gives us a really wonderful opportunity to look at in the
6 varying conditions what is the effectiveness of our zoning, is it delivering what we want, is it
7 consistent with the Comprehensive Plan? Are we facing any surprises? What lessons can be
8 learned from looking at this now three year comparative?
9

10 I spoke with somebody very wise, who is actually in this room, awhile back who referenced
11 something that I agree with that this City tends to make policy decisions based on what current
12 trends are and what the latest hot thing is to do, and the hot thing is to attract, and not really look
13 at long term considerations and long term planning and policy decisions. We do have a
14 Comprehensive Plan but then we, I wouldn't say subsume but we override that sometimes with
15 other things that come along. We really don't have this big picture. I think having three distinct
16 reports gives us an opportunity to, it is a little bit more work, but to make a comparative and get
17 an indication to the Council of what happens with different situations and different markets.
18

19 Chair Garber: Before we go to Commissioners Fineberg, Lippert, and Keller let's do a raising of
20 hands, a straw poll, for those that would favor doing two reports versus one. All those in favor
21 of the two reports? I am seeing five versus two or a hybrid. Commissioner Fineberg you are
22 next in line here. Would you explain your hybrid?
23

24 Commissioner Fineberg: Okay. I see there is absolute benefit from having two reports where it
25 captures the snapshot but I struggle with the idea of the synopsis recapping a period in the past
26 that we have passed. Would there be a way, we can leave it to the subcommittee to deal with the
27 details, that the one or two pages that are the true summary of the important issues where we are
28 now, pick the four things like Commissioner Martinez said, that could cover where we are now
29 and not have to have this artificial sense of blinders from a previous year. Then the breakdown
30 of the items seen by the Commission, past trends, and other planning indicators could be the
31 snapshots because those are the listings of the projects. So you can kind of get the best of both.
32 I look at that for something like the third item, the grocery store, continue to support the
33 retention of neighborhood grocery stores to better meet the neighborhood requirements. Does it
34 matter to anyone that that was important a year and a half ago? Does it become not important?
35 Will it drop off our trend list because let's say Stanford or the land use decisions because of
36 economic trends, or do we just have more trends and keep it? I think that can be crafted in
37 subcommittee. If the decision is you drop retention of grocery store is there any harm done that
38 the permanent record won't show that last year somebody thought that was important? The
39 knowledge is still there. Maybe 30 years from now somebody couldn't go read that recap but in
40 terms of what we can do to inform Council now I don't think they are going to change any of
41 their recommendations based on whether we tell them there was a trend last year.
42

43 Chair Garber: Okay, thank you. Commissioner Lippert and then Keller.
44

45 Commissioner Lippert: This is going back four years when a very green Commissioner Garber
46 joined this Commission and we had this discussion. At that point I had added as a possibility
47 during one of our Retreats having box scores. In other words taking a look at the number of
48 projects we did, and the types of projects they were, and having an understanding if they moved

1 forward with recommendation or whether they died or whether they were appealed or whatever.
2 The point was to have some statistics behind some of the trends and decisions we were making,
3 and being able to present those in a concise way to the City Council. I see the reports as being
4 very important in that they do provide a basis upon which development is going on in the city.
5 Very much like box scores in a baseball game. You have individual player statistics, but then
6 beyond that you have team statistics, and then you have outcomes in terms of the playoff games.
7 I defy anyone to tell me what year the players strike was and where that ended and who won the
8 World Series that year. The point is that if I were to pick a year like 1989 I am sure you all
9 remember the World Series and who won.

10
11 Chair Garber: Are you saying that we need to coordinate earthquakes with our Annual Report to
12 Council so they have impact?

13
14 Commissioner Lippert: Well they should be earth shattering. The point is that I believe that
15 these reports really do need to be separate and distinct because every year is separate and
16 distinct. As Commissioner Holman mentioned we are going through some trends now, which we
17 may not ever see again but they are important to document, record, and have for future
18 generations because we will be gone and these statistics will remain as a legacy to the work this
19 Board has done.

20
21 Chair Garber: Okay. Before we get to Commissioner Keller. Is there any Commissioner here
22 that would be uncomfortable with the subcommittee pursuing two reports, drafting them to see if
23 they can be made sense and understood as separate but equal – okay, you give it a try
24 Commissioner Keller.

25
26 Commissioner Keller: Okay, so I was the primary proponent of a single report and I have been
27 persuaded by the comments of Commissioners Holman and Lippert that there is merit in having
28 two distinct reports for each year. However, I think that the idea of a cover note or a hybrid as
29 Commissioner Fineberg mentions might be the way of handling it. What I am suggesting is in
30 some sense you have the two reports plus a cover note, which essentially summarizes the near
31 term actions and the longer term actions that we want to bubble up to give to the Council so they
32 could read that. Those may be in the individual reports but essentially that is one place you look
33 for the recommendation for us to think about. So in this case there are three sets of these
34 synopses but because the reports are coming together the combination makes sense as an
35 overview. If the Council will only read the cover note, the first page, or the first two pages that
36 should be sufficient. That may be the kind of compromise that makes sense.

37
38 Commissioner Holman: Just very briefly, Commissioner Tuma I think was the first to say that
39 there should be a cover letter. I agree with that and if it is not too burdensome of the group that I
40 think having a three-year analysis since the 2006-07 analysis is already done I think having the
41 broad brush and that “analysis” of trend for those three years could be very, very helpful to
42 Council and to the public and to our own group.

43
44 Chair Garber: Just so I understand, you are suggesting that the “cover note” address in some
45 brief way the changes over the past three years that the report has been issued? Is that what you
46 meant?
47

1 Commissioner Holman: Well, I would leave it to the subcommittee somewhat the discretion of
2 that but it could look at the three-year trends and the long and short-term goals based on that
3 three-year documentation.
4

5 Chair Garber: Thank you. Commissioner Lippert and then maybe we can pull this together.
6 Then Commissioner Fineberg and maybe we can get to the end of this.
7

8 Commissioner Lippert: I could support that. I think that is a very fine idea to actually have a
9 cover letter that actually covers the three years. I think that is an excellent way to frame
10 everything. Again, I go back to the brevity and the succinctness of the reports. So I would want
11 them all to fit within ten pages, number one. Then when it comes to the reports, the cover letter,
12 and the two reports should all be able to stand on their own.
13

14 Chair Garber: Commissioner Fineberg, some final comments.
15

16 Commissioner Fineberg: I just want to confirm, I am assuming that there will be some place in
17 the process, I don't know if that should be tonight, but how will the subcommittee be made
18 aware of the other Commissioners thoughts for what the trends are for the past years? As you
19 are fast-tracking this year's report we need to have somewhere in the process the ability to make
20 sure that you are not going to have are report that is on a short calendar and then when we all see
21 it we go, wait a minute, but and then we have to continue again to another meeting. So can the
22 process somehow incorporate ideas like what Commissioner Martinez said for these are the four
23 things he thinks, well what are the four things that everyone else thinks?
24

25 Chair Garber: The way that was handled in the first report was the subcommittee sent out
26 synopses of all the items that were before the Commission and the Commissioners were asked to
27 return with their top three trends and submit those to the subcommittee. That actually happened
28 the first year. This year that was sent out to the Commissioners and we got exactly zero
29 comments back. So if the Commissioners are willing we will use that same process for the last
30 year as well. Okay?
31

32 If there are no other comments we will end this item. Okay. Zariah, do we have any cards?
33 Does the Staff have any comments they would like to add or any advice? Thank you for that.
34 Commissioner Holman.
35

36 Commissioner Holman: I have a question. From the 2006-07 report there were some
37 recommendations on page 7 and I could not surmise from this report that this information had
38 been collected. Although I believe there was an indication from Staff that they would be
39 collecting this information. It is number eight, the bullet point Recommendation, study the
40 impact of demolition of existing structures has on the City's Comprehensive Plan and
41 environment, and develop recommended actions. The data that could support this study includes
42 the following: The gain and loss of residential units as a result of redevelopment; comparative
43 cost of the owner/tenant compared to current rates. Some of these are more easily captured than
44 other but I think there are three or four of these that are pretty easily captured and I think would
45 help inform us greatly. In other words, gain and loss of residential units as a result of demolition
46 should be pretty easy to capture. The gain and loss of retail square footage and income to the
47 City as a result of redevelopment. That could also be I would think pretty easy to collect.
48 Benefits analysis to community of redevelopment for use in policy decision as to rate/scale/type

1 of redevelopment most beneficial. Some of this I think is pretty critical especially the unit
2 numbers and the retail square footages. So I don't know if Staff has started collecting that
3 information yet or not.
4

5 Chair Garber: Some of it I know has from a variety of different sources with the Green Building
6 initiative some of these pieces of data are being collected. The real challenge here having waded
7 through the data that we do get is when it is received it is not in any form that can really be
8 communicated for our purposes. It has to be reassembled, put into an Excel spreadsheet, and
9 figured out. So we can ask for it and we can do our best to try to get it in there.
10

11 Commissioner Holman: Is that a result of how it is collected? I am just wondering if there is a
12 way to maybe work with Staff so that is digestible in the way that it is recorded and then the way
13 it can be read.
14

15 Chair Garber: Couldn't answer the question. Typically for instance most of the other data that
16 we have included in the past comes from reports that the City is obligated to create for other
17 agencies like the VTA or ABAG or any number of different authorities. So that we don't burden
18 Staff we don't ask them to reassemble it into a form that is helpful for us. So the subcommittee
19 has to go out and take that data and reassemble it in order to create a graph or to be able to create
20 a tabular form or however we end up communicating it. I suspect that this data will be no
21 different.
22

23 Commissioner Holman: So question for Staff. Is there not a way when this information is being
24 noted that, I don't know how **Excela** works particularly, or if that is even where you record some
25 of this, but the number of buildings demolished, the number of housing units or living units
26 being proposed that information we were able to get that and I do not recall what it took for us to
27 collect that for the 2006-07 information. So is it difficult to collect it in a way that is on a simple
28 process to accumulate?
29

30 Mr. Williams: What I think is not difficult to collect are basically the first and third bullets there,
31 the gain and loss of residential units and the third, the gain and loss although I wouldn't say retail
32 I would say commercial square footage, some of that is not retail. So we do that anyway. The
33 other thing all have subjectivity to them and a lot of analysis associated with them basically. So
34 we don't do those. As Chair Garber mentioned some of the Green Building components do now
35 start to look at some more details of the types of materials and that kind of thing, and quantities
36 of demolition. But really it is just the first and the third that we have fairly ready access to put
37 that together.
38

39 Commissioner Holman: That would be most helpful to have that information I think in our
40 reports. Julie, you had something else?
41

42 Ms. Caporgno: I was just going to add that on the third one we wouldn't have the income to the
43 City as a result of redevelopment either. We would just have the square footage information.
44

45 Commissioner Holman: That again that would still be helpful because there is the potential
46 there. If we lose it there is not potential.
47

1 Ms. Caporgno: We would be able to get that. One thing just to let you know about **Excelsa** if we
2 change what we have programmed in there we are constrained by that. We don't control that.
3 We have to go to IT and we have to have programming adjustments to the program to input any
4 additional data or whatever. We just can't go in and easily make those changes. So that is a
5 problem as far as if there are certain things that you would like to see that we could ask for in
6 conjunction with a project application. It is not as simple as it sounds.

7
8 Commissioner Holman: If I might, is that a difficult situation to get IT to make that kind of
9 change, especially if it is informative information that helps. I think these two things are
10 important to help guide City policy.

11
12 Mr. Williams: Some things are more difficult and it sort of depends on what the task is, but if we
13 asked for this to be done it probably in and of itself isn't a big deal but I can tell you that there
14 are a dozen things we would like IT to do with **Excelsa** that would help our processes generally
15 and so I don't know that this is necessarily a higher priority than those kinds of things and they
16 take awhile to get around to do just about anything. They are swamped with requests and that
17 too. We can ask. We will ask and see if it is something they can setup some reports to run more
18 readily.

19
20 Commissioner Holman: Thank you.

21
22 Chair Garber: Not to defend the City, having spend some time around Oracle and SAP databases
23 and trying to get information out of those databases that have not already been preprogrammed
24 into separate reports, etc. is rarely an easy task, unfortunately. It is frankly, often easier to take
25 whatever output has already been preprogrammed and literally spend the time to put it back into
26 Excel in the way that you need it. It is usually the most effective way of dealing with it.

27
28 Commissioner Keller, you had a final comment.

29
30 Commissioner Keller: Yes. So I don't hear any issues contrary to the idea of using the
31 document of June 19, 2009 as the outline with the proviso that we are doing two separate annual
32 reports plus the cover letter of some format and that we are using the tabular format to be
33 consistent with the previous ones.

34
35 I cannot resist making a structural comment to the Chair's comment about SAP and Oracle being
36 that I do have a Ph.D. in databases. That is that the biggest issue is whether or not the data is
37 captured in the database. If the data is not captured in the database then nothing you can do will
38 create it in any other form to put it into Excel. So the first issue is making sure the data is
39 appropriately captured. Then once you can get it out in some format I agree with the Chair that
40 reformatting it into some other format is somewhat doable whether within the programming
41 constructs or within Excel or whatever. So the first thing is capturing the data. The second thing
42 is that I think that it shouldn't be an either/or issue and I realize that there are time constraints in
43 terms of getting things done with IT, particularly with budget constraints and priority constraints
44 and things like that. It seems to me that implementing improvements to the IT infrastructure that
45 improve the processing of the Planning and Building Departments in such a way to make those
46 efficient and thereby involve savings might be in some ways a justification for doing the IT
47 investment, A. B, if that can be done in such a manner that data is captured in an appropriate
48 granularity so that you can access it later to do the necessary reporting that would seem to

1 provide the appropriate kinds of benefits that would benefit the goals of the Commission as well
2 as benefiting the goals of the Staff. I think it would be ideal if we could do both. Thank you.

3
4 Chair Garber: With that let us conclude. Commissioner Holman.

5
6 Commissioner Holman: Clarifying question. Commissioner Keller said using 2009 as the
7 sample and I am not sure if that is what you intended?

8
9 Commissioner Keller: No, what I said is that the major change to the June 19, 2009 document
10 that say how that report is outlined is that there will be a 2007-08 report, a 2008-09 report and a
11 cover document that is some sort of summary and three year trend.

12
13 Commissioner Holman: Okay, I thought you had also said that it would follow the formatting of
14 the 2006-07 report.

15
16 Chair Garber: The tabular format that was in the original report.

17
18 Commissioner Holman: Yes, if that is what was intended. Then one last request is if page
19 numbers and exhibit and attachment identification would be really helpful.

20
21 Chair Garber: Absolutely.

22
23 Commissioner Keller: I think we should endeavor to use something like ISO 9000 approaches to
24 document identification.

25
26 Chair Garber: Commissioner Lippert I see a light from you.

27
28 Commissioner Lippert: If we have duplicate information between the two reports that it really
29 only be cited in the latter, synopsisized and cited in the latter. Part of it I think also is just so that
30 we can get this to be real concise in terms of the final product.

31
32 Chair Garber: Okay, thanks. With that we will conclude this particular item. I believe we have
33 one more thing on the agenda. The minutes of August 12. Do I have a motion to approve?

34
35 **APPROVAL OF MINUTES**: Minutes of August 12, 2009

36
37 **MOTION**

38
39 Vice-Chair Tuma: So moved.

40
41 Chair Garber: By Commissioner Tuma, second?

42
43 **SECOND**

44
45 Commissioner Keller: Second.

46
47 Chair Garber: By Commissioner Keller.

1 Commissioner Keller: With amendments.
2
3 Chair Garber: And they would be?
4
5 Commissioner Keller: I already gave them to Staff.
6
7 Chair Garber: Thank you. Anyone else?
8
9 Commissioner Fineberg: I also gave some amendments, typographical corrections to Zariah.
10
11 Chair Garber: Thank you, Commissioner Fineberg.
12
13 Commissioner Lippert: I have typographical corrections.
14
15 **MOTION PASSED (7-0-0-0)**
16
17 Chair Garber: Okay, thank you very much. All those in favor of approving the minutes say aye.
18 (ayes) All those opposed? The motion passes unanimously.
19
20 Do we have any reports from Commissioners? Commissioner Keller.
21
22 ***REPORTS FROM OFFICIALS/COMMITTEES.***
23
24 ***COMMISSION MEMBER QUESTIONS, COMMENTS, AND/OR ANNOUNCEMENTS.***
25
26 Commissioner Keller: I just want to remind people that there is the high-speed rail meeting on
27 Saturday at Cubberley. I believe there is still space available because it has been moved from
28 City Hall to Cubberley, which I believe, is larger. You have to sign up for it so that is important
29 to do.
30
31 Chair Garber: Okay. Commission Representation at City Council this month is Susan Fineberg,
32 October is open. I believe I had taken that so I will put my name down there.
33
34 Then I also notice that we are carrying vacant for the Palo Alto Housing Corporation
35 representative and that was to be Lee Lippert.
36
37 If there is nothing else, Commissioners? Planning Director.
38
39 Mr. Williams: The next East Meadow Area Plan meeting is next Wednesday, the 16th, same
40 location as before I assume?
41
42 Chair Garber: Which is?
43
44 Mr. Williams: Loma Verde Elementary at seven o'clock.
45
46 Chair Garber: What was the school?
47
48 Mr. Williams: Loma Verde. I am sorry, Palo Verde.

1
2 Then the other workshop will probably be in November but we don't have a date yet.

3
4 Chair Garber: Thank you. Commissioners we will adjourn. It is 10:09. Commissioner Holman,
5 the last word.

6
7 Commissioner Holman: I had indicated earlier I had a question or comment about this. It is a
8 procedural question and Staff can respond now or later. We are having these public meetings
9 and the community is participating, Staff is participating, the consultants are participating. The
10 question that keeps popping up for me and it is akin to the issue that Commissioner Fineberg
11 raises about the Commission's leadership. So let's say this product comes back from the result
12 of these meetings and then the Commission has totally other ideas about what some reasonable
13 approaches might be. I worry that that would make the public feel like, and the consultant feel
14 like, and Staff feel like their work and effort to this point in time, which is considerable, would
15 be a waste. Maybe not a total waste, but without having our input somewhere along this process
16 it seems like we are not having a cohesive discussion.

17
18 Mr. Williams: I understand that but I think we are keeping this pretty open-ended too. When we
19 come to you we are going to come to you with alternatives and that kind of thing, not with sort of
20 this is the product and the recommendation. If you want to go a different way we will go a
21 different way. It is not a development project so I think there is a lot more flexibility there.

22
23 Ms. Caporgno: I would add that I think what we were attempting to do is provide you, because
24 you are going to be making the recommendation to Council, with as much information as
25 possible. So we have gone to the community, we have gotten that feedback through that process
26 and we have developed these alternatives as the Planning Director indicated we are going to
27 bring you those but we are going to have a preferred alternative kind of taking pieces of those or
28 one in particular. That is what we are going to discuss with the community next Wednesday.
29 Again, the Commission can make major changes to this but we have to have some process and
30 this is the one we thought would be the best for you because you would have maximum
31 information when you make your decision so it can be as informed as possible.

32
33 Commissioner Holman: I don't find flaw with that whatsoever. I was just wondering if the
34 Commission might also or is it available to the Commissioners to attend these meetings. They
35 are publicly noticed meetings, although they are not publicly noticed Commission meetings, and
36 have any kind of input because we basically watch, observe, and take note. We don't give input.
37 So where I see a potential flaw in the system is that we get all this feedback, which is great, but
38 then if we have different approaches and the public hasn't vetted them they have to come again
39 to these meetings to hear what we have to say and respond to or react.

40
41 Mr. Williams: If you are talking about at those meetings can the Commission have input I would
42 say no. I think that is outside your role to act at these meetings in terms of indicating your
43 preferences, etc. Certainly you can attend and observe but if you have issues from those that you
44 want to convey to us that is certainly appropriate separate from the meeting. Let us know that
45 you are concerned about a, b, c, d or you would want to explore x, y, z. You certainly can do
46 that with Staff. I think that is the best we could probably offer and stay within the legal bounds
47 of not sort of playing your hand before the item is properly before you.

1 Commissioner Holman: That is the role the Commissioners that have attended have played to
2 this point and back. Are these the last two public meetings?
3

4 Ms. Caporgno: This is the last meeting for East Meadow Circle and the one in November for
5 Cal Avenue there is going to be one after that one. So the one on Cal Avenue is one in which we
6 are hoping that the different groups can kind of come to some consensus as far as different
7 alternatives that they are looking at. Then we would either come back, I am not sure with Cal
8 Avenue if Staff is even going to come back with a preferred alternative, we may bring to you
9 various alternatives for you to evaluate and then make a recommendation on. I think just to kind
10 of add, hopefully we have been clear with the community and with the stakeholders and anyone
11 we have met to date that we are pulling together this information and we are trying to take what
12 they have said both different groups and looking at the area with the information that we have
13 gotten from the consultant as far as the economic analysis, that sort of thing, and then what we
14 think are good planning principles, and applying that to bring to you a recommendation, but the
15 Planning Commission is going to be able to make adjustments to that. So I think we have been
16 clear, hopefully we have been clear with everyone, that that's the process that we are
17 undertaking. What we come up with is not a given or that there won't be any changes to that.
18

19 Chair Garber: Commissioner Lippert and then Keller.
20

21 Commissioner Lippert: Actually, what I have to say is not important.
22

23 Chair Garber: Commissioner Keller, a last word.
24

25 Commissioner Keller: Thank you. I didn't attend any of the California Avenue hearings but I
26 did attend both of the East Meadow Circle hearings and I will take an opportunity now to express
27 two concerns that I have, actually three concerns.
28

29 The first concern is that there wasn't any information given....
30

31 Mr. Williams: Excuse me. I am not sure that this is really – we are starting to get to a point
32 where it is not on the agenda to be commenting on this. I would again suggest to you that you
33 talk to Julie offline about concerns that you have about that. If you have comments about it then
34 I think it is certainly open for any Commissioner to have comments and it becomes a discussion
35 item.
36

37 Chair Garber: Knowing how influenced I am by you, Mr. Keller, I suggest you withhold your
38 comments.
39

40 Commissioner Keller: If Staff will stay two minutes afterwards I would be happy to express
41 those concerns to them afterwards. Thank you.
42

43 Chair Garber: Great. Okay, now if there is nothing else we will adjourn at 10:15. Thank you.
44

45 **NEXT MEETING:** Special Meeting of September 23, 2009
46

47 **ADJOURNED: 10:15 PM**