



## POLICY AND SERVICES COMMITTEE

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Special Meeting  
Thursday, July 29, 2010

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

Present: Yeh (Chair), Holman, Price, Shepherd

Absent: None

1. Oral Communications

None.

2. Follow-Up Discussion of Options to Implement a Fraud, Waste, and Abuse Hotline Program

City Auditor, Lynda Brouchoud said that in 2008 the City Auditor's Office issued an Audit of Employee Ethics Policies which included the recommendation to implement a hotline. She said there was currently no development of a hotline to accept or review complaints involving fraud, waste, or abuse. Whistleblower legislation took effect in 2009 allowing City Auditors to establish and manage hotlines. In November of 2009, the Policy and Services Committee reviewed the recommendations and requested a follow up meeting with Staff. She recommended the following considerations for determining next steps: 1) should a hotline be established, 2) if so, what type of hotline should be implemented, 3) who would manage the hotline, and 4) what costs would be associated with the program. She said research indicated a reduction of fraud when a program such as this was in place. Further research indicated that organizations with hotlines tend to detect fraud activity seven months earlier, and lessen the financial impact by as much as 60%. She said the law that was passed in 2008 allows City Auditors to take the calls from a hotline, distribute them to appropriate Staff and provide documentation for disciplinary purposes. She said it was important to maintain confidentiality. She said that the bill has been amended to include a definition of fraud, waste, or abuse. She said the City Auditor's Staff had surveyed comparable organizations regarding hotlines.

The results showed that some organizations have them, some don't, and some were considering implementing them. She said the City of San Francisco had a public hotline and she demonstrated what that looked like. She said they produce reports based off of the hotline data that included information on claims that were investigated. She said that the City of Stockton had an employee hotline. They reported results via a newsletter. She discussed options. Staff recommended that it would be best to incorporate a hotline into an organization-wide ethics program. She recommended piloting a limited, employees only hotline. Staff also recommended that contract options for the investigation component of the program should be researched as there was concern over Staff's ability to manage the workload.

Assistant City Manager, Pamela Antil said that the legislation allows the City Auditor to create and maintain a hotline, but it does not require one. She said the City Manager's Office supports the idea of an outside contractor to vet the calls. The City Manager's Office also recommended the establishment of a committee consisting of the four Council Appointed Officers (CAO's) and the Chief Financial Officer (CFO) vet the calls. She said she can't recommend hiring additional Staff. She said the 3-1-1 system might be a good approach.

Council Member Holman asked what prompted the first audit that sparked this finding.

Ms. Brouchoud said it was based off of some past issues and recommended practices. She said that the City Auditor and Staff are charged with reviewing fraud, waste, and abuse at all times, regardless of a hotline.

Council Member Holman asked if having a Staff Member that was certified to handle fraud, waste, and abuse was required.

Ms. Brouchoud said the only requirement was for the City Auditor to be a Certified Internal Auditor.

Council Member Holman said there were a variety of perspectives on the next step recommendations. She said that any program will have problems, but the Policy and Services Committee (P&S) should work toward making it as easy as possible.

Ms. Antil said that Staff complaints should always be handled by a third party. The City Manager's Office wasn't recommending that the CAO's perform the audits, but rather they determine how the audits would be conducted. Some might be appropriate to go through the City Auditor Staff because of their training. She added that the process should have some transparency.

Ms. Brouchoud agreed that a committee approach was appropriate. The complaints that were in the fraud, waste, and abuse category would need to be reviewed by an appropriate party.

Council Member Price asked for clarification regarding the committee model. She wanted to know who would actually conduct the investigations.

Ms. Brouchoud said there was a concern regarding Staff's workload. It was difficult to answer whether or not an outside source would be required because it was impossible to predict the number of significant complaints.

Council Member Price said that the complaints would need to be sorted and prioritized. She said that she supported the hotline concept. She wanted to know who, out of the CAO's would take the lead on the committee.

Ms. Brouchoud said that there were two different elements to contractors; one would be contractor management of the actual hotline. The contractor would place the calls into categories as an initial cut. The task of the CAO Committee would be to review either the cut list or the whole body of complaints. She said that in the City of Stockton the City Auditor filters the messages through to the appropriate parties.

Council Member Price asked if they could discuss implementation.

Ms. Antil said that there were opinions, including that of the Ethics Manager at ICMA, that this type of complaint should be routed through the City Manager's Office. She said that the CAO's were capable of vetting the complaints appropriately. She said that budget was an important component to the project. She could not recommend bringing another City Auditor Staff Member to the organization. As a result, some tasks on the City Auditor's Workplan would have to be diverted to manage the complaints.

Assistant to the City Manager Kelly Morariu said they should discuss whether or not they were going to implement a hotline. If a hotline was approved, there were options such as either a dedicated line or the incorporation of a hotline into a more general 3-1-1 system.

Ms. Antil said Staff would like to link it all together.

Council Member Price said it would be advisable to implement the hotline as part of a broader ethics policy.

Council Member Shepherd asked if the CAO Committee model was used, what would happen if a whistleblower was on a CAO's team.

Ms. Antil said it was a good question. There would be a notification.

Ms. Brouchoud said there would be a process in place to manage that, to explain how issues go to the user. It would be a little more difficult to keep the anonymity with the CAO Committee.

Ms. Antil said the Palo Alto Staff did not tend to be shy about bringing issues forward, even without a system. She voiced concern about complaints being more frequent as a result of the shrinking employee base. An ethics policy could either be rules based or values based, the City Manager's vision was to have a values based policy. With or without a hotline, a values based policy would be what Staff would prefer to focus on. She expressed concern about a hotline being set up ahead of Staff training and the mixed message it might send.

Council Member Price asked what the difference was between a CAO Committee and the roles of the CAO's involvement in the process.

Ms. Antil said that in the first round of vetting all complaints would go through the City Auditor.

Council Member Shepherd asked where the budget for the program would come from.

Ms. Brouchoud said that was one of the trade-offs. The hotline itself could cost around \$6,500 and would have to come out of the City Auditor's contract budget. She expressed concern about the impact on other audit work. The non-fraud, waste, and abuse calls would still have to be forwarded somewhere, likely to the City Manager's Office. She said Staff wasn't able to compile much data regarding actual workload, but the City of Stockton had 33 calls annually.

Council Member Shepherd asked if Stockton had identified any savings from that.

Ms. Brouchoud said it was difficult to quantify what is prevented and any actual findings are kept confidential.

Council Member Holman asked for clarification regarding complaints that go straight to a CAO.

Ms. Antil said that often cities the size of Palo Alto do not have City Auditors and may or may not have hotlines. She said that calls come in to the City Manager and then are filtered down to the appropriate Staff. She said that Palo Alto Staff has struggled with the process since calls are infrequent. A process needed to be developed. She said some organizations have an elected Auditor that handles the calls, or they may be routed through a Controller's office. She said that the last city she worked in was about the same size as Palo Alto and functioned without a hotline and complaints were still managed effectively. She said that some Staff Members may not trust the confidentiality of the hotline.

Council Member Holman said the State's recommendation was that the hotline should be run through the City Auditor's Office.

Ms. Antil said the State law was that a hotline may run through the City Auditor's Office.

Council Member Holman said that she read it as "should be." She said the estimate of 7% of annual revenue lost to fraudulent activity was an interesting number. She discussed a recent case involving a former City Staff Member who filed a complaint after they left, yet they were still labeled as a disgruntled employee. She said this situation with what happened to someone after they left the organization, made her think about the process for Staff that are still on the payroll. She said that 63% of the cases reported to a hotline were based on fraud committed by a manager or executive. She said that someone certified in fraud, waste, and abuse cases should handle the calls. She asked for a follow up on the progress being made in the development of an ethics program.

Ms. Antil said a consultant will work on it.

Ms Morariu said it was the same consultant that had worked with the City of Santa Clara. Staff was reviewing his proposal.

Council Member Holman asked for a timeline.

Ms. Morariu said Staff hoped to start rolling out a phased approach to an ethics program in the fall with values development and training in the spring.

Council Member Holman asked about the City Manager's interest in the 3-1-1 line.

Ms. Antil suggested the claims should be vetted.

Council Member Holman asked for clarification on the CAO's role in the vetting.

Ms. Antil said a contractor would decide what level the complaints would fall to, and the CAO's would decide if the organization had the resources to handle the complaint internally or not.

Ms. Brouchoud reiterated that the calls would be placed into predefined categories and then would need to be vetted into the appropriate dispositions.

Ms. Morariu said the initial vetting also would determine the validity of the complaint.

Ms. Brouchoud said they would transcribe and categorize the complaints. A determination on whether to investigate or not would have to be made on the calls.

Ms. Morariu said there were several ways to process the calls. The contractor, for example, would be able to vet the complaints.

Ms. Brouchoud said the contractor could categorize the complaints, but may not be qualified to determine if the complaint qualified for investigation.

Ms. Antil said the City Manager's Office may have additional information that could help determine whether a complaint should be investigated, information that the City Auditor may not have. She said action had to be taken on complaints in a timely manner and voiced concerns about the City Auditor Staff having the ability to do so.

Council Member Holman said the City Auditor should be able to determine the City Auditor's Department workload. Priorities would have to be shuffled around as issues come up.

Ms. Brouchoud said it was part of the broader workplan discussed with the Council.

Ms. Morariu said, regarding the 3-1-1 number, that type of system has a mechanism to automatically route calls eliminating the need for the CAO vetting scenario. It may be awhile out, but implementing the system would help alleviate some of the concerns over Staff resources.

Council Member Yeh said that in Oakland, they had a fraud, waste, and abuse hotline contracted out. There was no budget for investigators. The number of calls increased considerably when the hotline became available to the public. It

is a separate function from the 3-1-1 line. If it is appropriately tailored for employees, the inappropriate calls would be limited. He said that he would support moving forward with a fraud, waste, and abuse hotline, separating it from a 3-1-1 hotline, and housing it in the City Auditor's Office. Clear policies would need to be developed for the use of the hotline to ensure fairness and equity across the board. An external contractor also helps to keep anonymity. A resource combined with a culture is the most powerful and an ethics policy should be implemented.

Council Member Shepherd said that she supported the trial period. She said ethics issues tended to occur during difficult financial times such as these and having that policy in place would help.

Ms. Brouchoud said that the policies should be in place prior to establishing a hotline. Previous discussions suggested six months to develop policies and find a contractor as well as 12-18 months to test a program.

Council Member Shepherd asked if the contractor would assist in the policy creation process.

Ms. Brouchoud said there were some pre-planned policies that some contractors had.

Council Member Price asked about the anonymity option.

Ms. Brouchoud said they could opt out of filing anonymously. She asked if they would like a draft policy to be presented.

**MOTION:** Council Member Yeh moved, seconded by Council Member Price, that the Policy and Services Committee recommends the City Council: 1) establish a fraud, waste, and abuse hotline that is organized under the City Auditor's Office; 2) that clear policies and procedures should be established prior to the hotline implementation; 3) the hotline will be for employees only; 4) Auditor's office has six months to develop policies and find a contractor; and 4) there be a 12-18 month time period to test a program.

Council Member Shepherd said it could go straight to Council.

Council Member Holman said she was trying to integrate the timing with the policies that were not in place yet. She also would like to see how it would be implemented prior to approval.

Council Member Yeh suggested an informational report could be brought back to P&S.

Council Member Holman said it was a complicated issue and she would like more clarity about how it would be implemented.

Council Member Shepherd said there wasn't really any more detailed they could be at the policy level prior to the pilot.

Council Member Yeh said there should be continued dialogue regarding opportunities. He suggested an informational report to Council would be useful. He said that issues such as potential expenditures prior to implementing a policy would be an important topic.

Ms. Brouchoud agreed that expenditures were important to discuss. She said that information regarding expenditures was not available yet because discussions had not progressed that far with a contractor. She said that Staff would prepare a follow-up list of recommendations and return to P&S on the ethics audit recommendations.

Ms. Antil suggested the City Auditor may have a little bit of training prepared at that time for both City Staff and the City Auditor's team that will be handling the complaints.

Council Member Holman asked what levels of certification they had.

Ms. Brouchoud said she was a Certified Internal Auditor, but there were other levels of certification as well.

Council Member Holman wanted to know how that increased certification fit the timeline of the ethics policies implementation. She suggested Staff work toward a smooth transition to the policy. She also stated that she didn't expect many complaints once the program was implemented.

Council Member Price liked having an informational report tying all of this together. She said it might be more efficient if it went straight to Council.

Council Member Holman said she was struggling with not having more information. She wanted to see across the board what steps were being taken.

Council Member Shepherd said Staff would integrate that vision into the process.



Ms. Morariu said that by the time the item went to the Council there would be more information available and incorporated into the report.

Ms. Antil said that the City Manager's Office and the City Auditor's Office were in agreement on the type of ethics program that should be created.

**MOTION PASSED 4-0.**

3. Continued Discussion of and Recommendations to Council on Proposed Changes to the City Council Procedures and Protocols

Assistant to the City Manager, Kelly Morariu reviewed the last discussion Staff had with the Policy and Services Committee (P&S) regarding the language in the Procedures and Protocols manual. She said P&S had requested the Planning Director to return to them with information regarding the planning submittal process. She said the timing in the proposed language had caused a concern for the P&S Members.

Council Member Holman said the discussion was missing standard practice examples. It seemed to be impractical to expect the Planning Staff to properly review plans and make a recommendation when the plans are delivered to them day before the packet is released.

Planning Director, Curtis Williams said that the level of changes made to the plans affected the amount of time Staff needed to review them. He said it would be helpful to have a procedure. Other jurisdictions don't typically have a set policy either. It depended on the Council or the Committee's stance on the process. He supported adding language to the Procedures and Protocols that would create a specific timeline.

Council Member Holman suggested a policy requiring significant changes being submitted to Staff six working days prior to Council review.

Council Member Price suggested that if the changes were significant enough to change a project description or the required noticing, the Council review should be postponed. She said that Staff had mentioned deferral recommendations they had made occasionally to Council that had been denied. She requested clarification on this.

Mr. Williams said he was referring to specific items that came in the day of the meeting which changed the nature of the project giving Staff no opportunity to review the changes at all. He said it seemed there had been dialogue between

the Applicant and Council Members resulting in changes and ultimately project approval.

Council Member Price suggested Staff should request applicants submit changes with sufficient time to incorporate the changes into a Staff Report allowing everyone to have the same document to work from. She said that when changes affect a project it made sense for the Planning Department to have stricter deadlines.

Mr. Williams said that the dilemma for Staff was not meeting the agenda deadline because it wasn't difficult for Staff to defer the item until another Council meeting. The larger issue was when information arrived after the packet is released.

Council Member Price said that Council Members need to be corrected in their own behaviors and review what was in the packet. If there were significant changes to the project, the Council should defer it. It protects all the stakeholders to have stricter guidelines.

Council Member Holman asked if Staff had a suggested time line for final submittals.

Mr. Williams said one day prior to the packet release was a good starting point. It could be argued that the further in advance the deadline is set the longer Staff had to review it. There was also a counter argument for small changes not requiring as much time.

Council Member Holman said she wasn't comfortable with one day due to the City Manager Report (CMR) process. She suggested five working days. Getting items at places violated issues of transparency and relied on Staff expertise.

Mr. Williams said that they would need to use language such as "substantial" changes in order to get to that five working days.

Ms. Morariu said that the item should be deferred when it warrants a change to the Staff Report. Staff's judgment should be considered when making these decisions. If the criteria were set for final submittals at the Monday before the Staff Report due date, Staff would have three days to review the changes.

Council Member Holman said that all situations were not the same. She wanted to empower Staff with the ability to defer Council review of projects when changes arrive after the deadlines are missed.

Ms. Morariu said that the Committee had previously discussed using the following language, "if there were significant changes, Staff would analyze to determine whether a need exists to continue the item."

Council Member Holman said there still needs to be a number of days specified.

Council Member Price suggested three to five days.

**MOTION:** Council Member Holman moved, seconded by Council Member Shepherd, that the language in the City Council Procedures and Protocols regarding late submittal of Planning Applications that reads "not later than noon one day prior to release of Council Agenda Packet" be changed to "not later than noon five days prior to release of Council Agenda Packet" and the language which states "Staff will continue the item to the next available Council meeting" will change to "Staff will continue the item to a future Council meeting."

**MOTION PASSED 4-0.**

Ms. Morariu discussed expanding the Council prohibition on ex-parte judicial matters referring to section IV-B-2 of the City Council Procedures Handbook.

Council Member Holman said that to be consistent, this section was regarding quasi judicial matters and planned community zone projects. She said that the Council had discussed problems with not allowing Council Members to discuss projects with applicants prior to study sessions. She said that those early reviews were not very specific. She added that anything that can be learned in a private meeting with an applicant can also be learned in the study session. She recommended not having ex parte communications. She said the language should be "strongly discourage" versus "prohibit."

**MOTION:** Council Member Holman moved, seconded by Council Member XXX, that the language in the City Council Procedures and Protocols change to strongly discourage gathering and submission of materials prior to meeting with the Planning and Transportation Commission or the Architectural Review Board.

Council Member Price asked if this applied to post recommendations.

Council Member Holman said she'd be willing to add that to the motion.

**MOTION FAILED DUE TO THE LACK OF A SECOND**

Ms. Morariu said they had not. She said she would change the language in the existing City Council Procedures Handbook to read "It is the policy of the Council to strongly discourage the gathering and submission of information outside of any required hearing when such information will impair the Council's impartiality on a quasi-judicial decision or planned community zoning application. It is also the policy to strongly discourage the gathering of information prior to Planning and Transportation Commission and Architectural Review Board meetings."

Council Member Shepherd asked for clarification regarding prohibiting the behavior.

Ms. Morariu said it was suggested by the City Attorney that they could not prohibit communications but could strongly discourage them.

Council Member Price said the motion made sense but she felt there were not very many of these conversations occurring between Applicants and Council.

Mr. Williams said they were not unusual.

Council Member Holman asked if they should add language regarding transparency.

Council Member Price said it wasn't necessary, as it was implied.

Council Member Yeh said that belonged in section A-1 in the City Council Procedures Handbook.

Ms. Morariu suggested adding language to section IV-A-1 of the City Council Procedures Handbook stating "To encourage transparency in review."

Council Member Holman recommended adding "in order not to undermine the deliberations of the recommending bodies."

Council Member Shepherd asked why they needed that language.

Council Member Holman said that the context of the purpose was important. She said that, for example, a new Council Member may not know why this was added.

Council Member Shepherd said it all seemed very clear and basic. Adding the transparency wording made it seem retaliatory and micromanaging. She would prefer to leave it as is.

Council Member Holman said that “undermining” was the wrong word, perhaps “rendering ineffectual” would be better. She said that sometimes the appearance is that Council has met with the applicant, and the ARB and Planning Commission are undermined because the applicant appears to know they have Councils vote.

Council Member Shepherd said she would like to keep the wording less laced with distrust. It was micromanaging Council Member affairs. She requested the motion to be broken into two.

Council Member Yeh suggested the first motion could be regarding section V-2.

Ms. Morariu suggested it could read “strongly discourage gathering and submission of information outside of any required hearing including prior to recommendation by Architectural Review Board or Planning and Transportation Commission when such information will impair Council’s impartiality on a quasi-judicial decision or planned community zoning application.

Council Member Shepherd confirmed that the City Attorney would review the wording.

Ms. Morariu said the City Attorney would review the language.

Council Member Price confirmed that the language was not exclusive to the planned community zones.

**MOTION:** Council Member Holman moved, seconded by Council Member Price that the Policy and Services Committee recommends the City Council change section IV-B-2 of the City Council Procedures Handbook to read, starting with the second sentence “It is the policy of the Council to strongly discourage gathering and submission of information outside of any required hearing including prior to recommendation by Architectural Review Board or Planning and Transportation Commission when such information will impair Council’s impartiality on a quasi-judicial decision or planned community zoning application.”

**MOTION PASSED 4-0.**

Ms. Morariu said these rules are intended to assure that City Council decision making on quasi-judicial matters is based upon facts and evidence known to all parties, to encourage transparency, and to not render ineffectual the review of advisory bodies to the Council.

Mr. Williams suggested rather than “to not render ineffectual” the language could be “to support the autonomy of boards and commissions in making their recommendations to Council.”

Ms. Morariu restated the proposed language “These rules are intended to assure that City Council decision making on quasi-judicial matters is based upon facts and evidence known to all parties, and to support the autonomy of Boards and Commissions in making their recommendations to Council.”

Council Member Holman stated they did not need to add planned community zone in this section.

**MOTION:** Council Member Holman moved, seconded by Council Member Price that the Policy and Services Committee recommends the City Council change section IV-A-1 of the City Council Procedures Handbook to read “These rules are intended to assure that City Council decision making on quasi-judicial matters is based upon facts and evidence known to all parties, and to support the autonomy of Boards and Commissions in making their recommendations to Council.”

**MOTION PASSED:** 4-0

Ms. Morariu discussed the routine changes listed in the June 22, 2010 Staff Report. She said there were also questions regarding the procedures for Colleagues Memos to make the procedure consistent with the new early packet deadlines. She said that item three was regarding designating every Monday as a Council Meeting night in the Municipal Code but the Committee had agreed not to approve that. She said that item four was regarding adding a space for email addresses to Speaker Cards. She said there was one other minor change to add the Council travel policy as an addendum to protocols.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Holman that the Policy and Services Committee recommends the City Council adopt the changes to the City Council Procedures Handbook as follows and as referenced on pages one through three of the June 22, 2010 Staff Report:

- II-1-A – Regular Meetings: remove the posting outside at Downtown Library and include posting in the City Plaza by the elevators.
- II-1-A – Regular Meetings: change the date of the distribution of the agenda and reports from Thursday to Wednesday.
- II-6 (e) (1) – remove “resolution” from Mayor reading titles.
- II-8 Item (4) – strike by a majority of a Council Committee.

- Page V-I (4) – the minutes for these meetings shall be sense minutes.
- Page 2 of Protocols – add “designee” after City Manager.
- Page 11 of Protocols – change reference from Assistant City Manager to City Manager.
- Page 11 of Protocols – add “highest” before priority on last bullet.
- Procedures for Colleagues Memos to accommodate early packet release, as well as identify the Staff and fiscal impacts of the recommended action.
- Revised Speaker Cards consistent for all public meetings and to include a space for the speakers email address.
- Add the Council travel policy as an addendum to protocols.

City Clerk Donna Grider clarified that the email section of the Speaker Cards was for future notifications of Planning items for the use of the Planning and Community Environment Department and was not applicable for other Council meetings. The intention was not for the City Clerk’s Office to create and maintain distribution lists.

Council Member Holman said it could also be used by the Public Works Department.

Ms. Grider said the cards would be passed on to applicable departments.

Council Member Yeh suggested that information should be folded into the motion since it was going to the full Council.

Council Member Holman agreed it should be folded in to the motion. She said that there used to be a process that allowed for distribution of information to public speakers, so it should not be difficult to implement again.

Ms. Grider agreed that it shouldn’t be difficult, particularly using email. Public Speakers sometimes preferred not to use their home addresses on the cards, using email instead may ease their concerns.

Ms. Morariu said that when Staff brought the item back they would state “The Committee added that it would be the original department’s responsibility to provide notice. If the box is checked, the City Clerk’s Office would forward the card to the department.”

**MOTION PASSED:** 4-0

Ms. Morariu said the Policy and Services Commission had discussed the Council Liaison’s role in Boards and Commissions. The Council had discussed

strengthening the language regarding the work of Council Standing Committees as well as the Council Members' involvement in the agenda process.

Council Member Yeh said they should start with the Liaison relationship. The language was on page four and five of the Staff Report dated June 22, 2010.

Council Member Holman said there had been concern over the last few years that the Council Liaison participates as if they were a member of the Board or Commission. She suggested that general parameters should be set. She also asked at which time it was appropriate for a Council Member to speak at a Board and Commission meeting as a private citizen.

Ms. Morariu said Council Members speaking as private citizens could be speaking to a matter that impacts their property. They would not be able to participate as a Council Member on that item, but they would be able to speak as a citizen.

Council Member Shepherd said that she thought that Council Members were not allowed to do that.

Ms. Morariu said the process should be clarified by the City Attorney.

Council Member Yeh said that Council Members recently spoke at the Utilities Advisory Commission meeting after clearly stating that they were speaking as individuals.

Council Member Price said the protocols should define that the Council Member must clearly state that they were speaking as an individual and not representing the Council.

Council Member Shepherd said she was on the Library Advisory Commission's Agenda to provide an update from Council.

Council Member Price asked what would happen if another Council Member showed up at the Library Advisory Commission's meeting to speak.

Ms. Grider said that Commissioners regularly speak at Council Meetings on personal matters after clearly stating that they were speaking as individuals. She said that it needed to be clearly stated so that the minutes accurately reflect their position.



Council Member Holman asked if parameters should be set for Council Members. She said she spoke at a Historic Resources Board meeting about an item that was not going before Council.

Council Member Shepherd said she thought they were not allowed to give the Boards and Commissions advice or tell them what their agenda should be.

Ms. Morariu said that the policy states that they should refrain from speaking on Council matters in which the full Council has not yet taken a policy position.

Council Member Shepherd said the Library Advisory Commission had asked her to review their survey. She said that perhaps she should have refused to do so.

Council Member Holman said as the Liaison they asked her for input. But, it is different when a Council Member is not the Liaison.

Council Member Shepherd said that in that case they should clearly state that they are speaking as individuals.

Ms. Grider said that the policy should avoid taking away an individual's right to speak.

Ms. Morariu said that all of the language was to address issues where Council Members would attend Boards and Commissions meetings as individuals, so the conversation should focus on that.

Council Member Price said that "should be clearly made as individual opinion" should change to "should make a point to state it is an individual opinion."

Council Member Yeh asked if the Committee had any comments on the next bullet, "Limit contact with Board and Commission members to questions of clarification."

Council Member Price asked if it was ok to seek their opinion.

Council Member Holman asked if the language was too limiting.

Council Member Yeh said that conversations occasionally occur when Board and Commission Members seek advice not in the spirit of this policy, such as if they want to discuss whether or not they should reapply to a board.

Ms. Morariu stated that the language in the heading "Limit contact with Board and Commission members to questions of clarification" was not consistent with the language in the body, " It is inappropriate for a Council Member to contact a Board or Commission member to lobby on behalf of an individual, business, or developer, or to advocate a particular policy perspective. It is acceptable for Council Members to contact Board or Commission members in order to clarify a position taken by the Board or Commission." She suggested changing the heading to read "Council should be careful not to advocate or lobby for a position."

Council Member Shepherd suggested changing the heading to read "Contact with Board and Commission members."

Council Member Holman said it wasn't consistent with the other headings. She suggested "refrain from lobbying Board and Commission Members."

Council Member Yeh said they should move on to the next bullet with the heading "Remember that Boards and Commissions are advisory to the Council as a whole, not individual Council Members."

Council Member Shepherd said that she had seen in other cities where Board and Commission Members were appointed by Council and would campaign for them.

Council Member Holman suggested leaving that one as it was.

Council Member Shepherd said she would like to remove the last sentence "A Board or Commission appointment should not be used as a political 'reward'" because it takes five votes to get appointed.

Council Member Holman said that Council Members do lobby each other within the confines of the Brown Act.

Ms. Morariu said the language in the policy implied that one person could appoint a member.

Council Member Yeh said he would support removing the last sentence. He suggested they move to the next bullet with the heading "Concerns about an individual Board or Commission member should be pursued with tact."

Council Member Shepherd asked for clarification on Council's role in communicating with Commission Members. She said she felt that Council

should not communicate directly with Board and Commission Members as suggested by the policy.

Council Member Holman agreed.

Ms. Morariu said that the Commissions are appointed by the Council so they are ultimately responsible to the Council.

Council Member Shepherd said that they don't have Liaisons to several Commissions.

Council Member Price said they should hear from the Commission Chair.

Ms. Morariu said they could add language encouraging the Chairs to manage issues at the first level then bring them to the attention of a Council Member if needed.

Council Member Holman said she had issues with the language that suggested if a Council Member cannot resolve an issue it should be brought before the full Council. She felt it was inappropriate to discuss individual Commission Members with the full Council.

Council Member Shepherd said it would only be an issue if they were discussing removing them from their position. She then asked if there were processes for removing a Commissioner.

Ms. Morariu said the Municipal Code stated that the "appointing authority may remove any member with the approval of the Council."

Council Member Holman said the policy used the word "effectiveness" which was not specific.

Council Member Shepherd agreed.

Council Member Price said effectiveness referred to how they communicate, and how they conduct themselves in the course of their responsibilities.

Council Member Holman said that should be left to the Board.

Council Member Price said it felt like Council would be interfering.

Ms. Grider said that as an individual Council Member they might prefer to bring a concern about a Board or Commission Member to their colleagues.

Council Member Holman said there might be times when a Council Member would be comfortable discussing concerns directly with the members.

Ms. Grider said bringing concerns to the Council keeps the discussion subjective.

Council Member Shepherd said there needed to be recourse.

Council Member Holman said it was in the code.

Ms. Morariu said the protocols could say the Council encourages Board Members to address concerns with their peers and, if there are egregious issues, the Chair could bring it to the attention of the Mayor.

Council Member Holman said that the procedures for handling Board Members concerns with their peers should be in the protocols of the board. Currently, the discussion should be regarding the Council Protocols.

Ms. Grider agreed and added that the Municipal Code did mention removal of Board Members, so it was important to have something in the protocols to address that.

Council Member Shepherd suggested they replace effectiveness with egregious behavior to read "If a Council Member has a concern with egregious behavior by a Commissioner and feels comfortable speaking with the individual privately, the Council Member shall do so. Alternatively if the problem is not resolved, the Council Member should consult with the Mayor, who can bring the issue to the Council as appropriate."

Council Member Price asked if they could end it at "the Mayor" rather than have the additional layers.

Council Member Yeh said that to remove a Commissioner takes a majority vote by Council.

Ms. Morariu recapped the changed verbiage to read "If a Council Member has a concern with a particular Board or Commission Member fulfilling their roles and responsibilities and is comfortable talking with that member individually, they should do so."

Council Member Shepherd asked if there were any protocols regarding Council Liaisons at regional bodies.

Council Member Price said that they are Members of those bodies not Liaisons.

Ms. Morariu said a bullet could be added about representing the City.

Council Member Shepherd asked if there should be changes to the last bullet, "Maintain an active liaison relationship." She said that the City Clerk had told her she could not refuse a meeting request for a Council Meeting because of liaison duties for a Board or Commission.

Ms. Grider clarified that there were times when Council Members need to make a choice between a Council Meeting and a Commission Meeting. If a quorum is required, the Council Meeting would take priority over a Board and Commission meeting. She added that, while Council Members attend Commission meetings as often as possible, in the past Commissioners have been concerned at the lack of attendance by Council Liaisons at their meetings. She had not heard any concerns this year. She suggested that the verbiage regarding an alternate should be removed.

Ms. Morariu said that the Mayor assigns alternates; the Council Member would not arrange their own.

Council Member Price suggested the following verbiage "Appointed Council Liaisons or alternates as appropriate are encouraged to attend all regularly scheduled meetings of their assigned Board or Commission." She said the last line of the original bullet would be deleted.

Ms. Morariu recapped the verbiage, with the agreed upon changes, "Appointed Council Liaisons and/or alternates as appropriate are encouraged to attend all regularly scheduled meetings of their assigned Board or Commission."

**MOTION:** Council Member Yeh moved, seconded by Council Member Price to adopt the changes made the Council Conduct with Palo Alto Boards and Commissions section of the City of Palo Alto Council Protocols.

**MOTION PASSED:** 4-0

Ms. Morariu said the next bullet in question was under Other Procedural Issues, "Respect the work of the Council Standing Committees."

Council Member Holman said she didn't understand the use of the word "re-commit."

Council Member Shepherd said it was probably referring to the commitment that the Committee made and if the vote was unanimous, it would be placed on the City Council agenda under the Consent Calendar.

Council Member Yeh said that if the Policy and Services Committee voted on an issue unanimously, it would go to Council on Consent and someone would have to actively pull it off in order for Council to discuss it.

Ms. Grider said these were their procedures; as a Committee, they could put in their motion to bring this back as an Action Item.

Council Member Price suggested that they end the bullet after "respect the work of the committees."

Council Member Yeh said sometimes things end up on Consent.

Council Member Price said that many things didn't and they should not make a sweeping statement.

Council Member Yeh suggested the individual Committees could specify in their Motions whether it should go on Consent or not.

Council Member Shepherd said they would not remember to include that and not all items go back to the Council.

Council Member Yeh suggested the protocols could state that all items that are to return to Council should be specified.

Council Member Shepherd reiterated that the Committees would rarely remember to include that.

Council Member Holman said that Staff would remind them.

Ms. Morariu said that Staff has always put unanimous Standing Committee decisions on the Consent Calendar. If Staff knew there would be substantial policy discussion, or if it was not unanimous, it would go on the Action Agenda. She said that did not prohibit a Committee from making their own recommendation. She recapped the changes, "If a matter is taken forward to the full Council for approval and it received a unanimous vote at Committee, the item will be placed on the Consent Calendar, unless otherwise recommended by the Committee or Staff."

**MOTION:** Council Member Shepherd moved, seconded by Council Member Price to adopt the changes made the bullet point titled "Respect the work of the Council Standing Committees" in the Other Procedural Issues section of the City of Palo Alto Council Protocols.

**MOTION PASSED:** 4-0

Ms Morariu said that regarding the last bullet point, questions had come up about the Agenda planning process.

Council Member Price said one issue was to have a manageable Agenda with some assessment of the likely duration of the meeting.

Ms. Grider said that it was difficult to predict the timing of Agenda items.

Council Member Price said she agreed that timing predictions should not be published on the public Agenda, but rather used in the planning process.

Ms. Grider said that was the goal of the Tuesday meetings of the Executive Leadership Team, but at each Council Meeting there are items that Council directs by Motion to be added to future agendas.

Council Member Price said that building an evening when there is a Closed Session, and the heart of the Agenda isn't started until 9:00 or 9:30 is difficult.

Council Member Shepherd said it has been nice having the Consent Agenda flipped on the agenda after the Action items.

Council Member Price suggested they address the length of the Agenda or the number of topics covered.

Ms. Morariu said they were trying to reinforce the intent. She suggested "Consideration in building the Agenda should be given to the potential length of the meeting and at what point items of significant public concern may be heard."

Council Member Yeh said that while the verbiage may not shorten the meetings it's good to have the information. He said that people look at this when considering whether to run for Council.

Ms. Grider agreed. She said that often candidates tell her they don't feel the time commitment is too much even though the meetings are long, because

they are only Monday nights. She said she informs them Council actually meets much more often on other nights for various committee assignments.

**MOTION:** Council Member Price moved, seconded by Council Member Holman to adopt the changes made the bullet point titled "The Mayor and Vice Mayor should work with Staff to plan the Council Meetings" in the Other Procedural Issues section of the City of Palo Alto Council Protocols.

**MOTION PASSED:** 4-0

Council Member Yeh asked what the deadline was for Council Questions.

Ms. Grider said the suggested time was by noon the day of the meeting.

Council Member Yeh said this might tie back to the early Council Packet release. He suggested this should be revisited then.

Ms. Grider said the intent of the procedure was simply to make sure the question is answered. If a question comes in at 4:00 pm the night of the meeting, the Council may not receive an answer.

Council Member Shepherd said the question would be asked during the meeting then.

Ms. Morariu said it was on page 11 of the Policy and Procedures for City Council E-Mails for Agenda Related Items of Council Protocols. She said the current language was "Council Members will submit questions on agenda items no later than 9:00 am the Monday of the Council meeting at which the item will be discussed."

Ms. Grider said it was important to include the reasons for early submittal of Council questions. It wasn't only that Staff wanted the questions early; it was helpful to have ample time to answer the questions and to release them to not only the Council, but to the public.

Council Member Holman said the language stated Council questions should be submitted by noon elsewhere.

Ms. Grider said the document states "as early as possible" elsewhere.

Council Member Yeh said that both page six and page 11 discuss this.



Ms. Morariu suggested they cross reference the language between the two pages, "more details relating to Agenda questions can be found in the addendum."

Council Member Shepherd asked Staff to clarify the timing for Council questions in the document. She said the practice had been to submit them by noon.

Council Member Holman asked about page two of the protocols under the heading Council Conduct with Staff, where it references the Manager's Office, but not the other Council Appointed Officers (CAO).

Ms. Morariu said that was part of the Municipal Code and could not be changed at this time.

Council Member Holman agreed but added that there was no language to address the other CAOs.

Council Member Price said it does state elsewhere to not go to other Staff.

Ms. Morariu said that the document did state that Council Members should channel communication to appropriate City Staff.

Council Member Holman said it didn't say anything about trying to influence other CAOs whereas there is language in the Municipal Code about not trying to influence the City Manager. She suggested the language should be more consistent.

Ms. Grider said an Ordinance would be required to make that change because the language was in the Municipal Code.

Council Member Yeh said it was referring specifically to appointments made by the City Manager.

Ms. Morariu said it also mentions dealing with City Services.

Ms. Grider said it might be the section of the code dealing with the hiring of the City Manager.

Council Member Holman asked if the Committee was agreeable to adding language regarding not interfering in the role of the City Manager.

Ms. Morariu reiterated that they would have to make a motion for Staff to come back with an Ordinance to change the Municipal Code. She said they could make the motion and Staff could report back on it.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Price, that the Policy and Services Committee directs Staff to bring an Ordinance before the full Council adding language to the Municipal Code that states a Council Member may not interfere with the administrative role of the CAOs.

**MOTION PASSED 4-0.**

4. Selection of Top Focus Areas for Policy & Services Workplan from Council Priorities Workplan

Ms. Morariu said the Committee could opt to defer the item. She said that at the last meeting they discussed trying to develop a top ten list of issues. She said they could go through an exercise to review the matrix. She said the Council was concerned already that the workplan was more than Staff could accomplish. She suggested they identify on the matrix which items were mandatory.

Council Member Holman said the document suggests that adherence to City and State rules were not mandatory.

Council Member Price said that process issues create consistency and better processes, they control that. Adherence to rules is mandatory.

Council Member Holman said she felt the matrix had shifted.

Ms. Morariu said the matrix was put together quickly before returning to the Committee.

Council Member Holman said they could separate the individual points within the matrix to identify the mandatory processes.

Council Member Shepherd they should remove items that are mandatory according to law.

Council Member Yeh discussed signature items within each of the priorities.

Ms. Morariu said the point in revisiting the list was not to change it. The point was to rank the items.

Council Member Holman discussed how the items should be more clearly defined. She said that most of the items under Planning/Building Processes were subsets of the first one.

Council Member Shepherd said this conversation sounded like Boards and Commissions were currently not adhering to State and local laws.

Council Member Holman said there was a lack of clarity.

Council Member Shepherd said that meant they were functioning illegally. She said it was mandatory to follow State and local rules, and they did. She felt that the wording should reflect the issue is communication, not adherence to the law.

Council Member Yeh asked the Committee to focus on the document as a whole, not one item. He asked if Staff captured mandatory issues.

Ms. Morariu said it only identified items from the Council Priorities Workplan.

Council Member Price said there should be a list that includes all items compared to the amount of work that can be done. When a priority is added, it is referenced against what can be completed.

Council Member Yeh said that as a Committee perhaps they should narrow the list.

Council Member Shepherd suggested Staff separate the mandatory items, so Council can just review what's left.

Ms. Morariu said she could go back and manipulate the spreadsheet to reflect only items that were not in the budget or considered mandatory.

Council Member Price asked why they would discuss items not in the budget or that were not mandatory.

Ms. Morariu said that there may be issues that should get done. She added that Staff was trying to not over commit to the Council or the public and promise things that can not be done.

Council Member Price said it is a culture shift and will take time.

Ms. Morariu said there may be issues, such as the business registry that the Committee may want to discuss, even though it's not a mandatory component to the workload.

Council Member Holman said she agreed with identifying priorities, as long as nothing drops off the list. She reiterated that the items under Planning/Building Process needed to be included as a subset of Addressing Community Concerns.

Council Member Price said it was frustrating to review these lists knowing that the different categories probably mean something different to each Committee Member.

Ms. Morariu agreed and suggested Staff could put together a description of each item.

Council Member Price suggested a single sheet that identifies the projects and their parameters.

Council Member Yeh agreed.

Ms. Morariu said there were too many issues to put out a one sheet report. The Committee needed to narrow down to ten items or so first.

Council Member Price said that in Sunnyvale each department creates their own one page list.

Ms. Morariu said that was the ultimate goal in Palo Alto as well. She said they would return during the September meeting.

Council Member Holman asked Staff to include the completed items.

Ms. Morariu said she would.

## 5. Discussion of Upcoming Meetings and Topic

Council Member Yeh said the Priority Work Plan would be on the September 14<sup>th</sup> agenda.

Council Member Price asked when Project Safety Net would be ready.

Ms. Morariu said she would check. She also asked if the Committee wanted to continue meeting twice a month.

Council Member Yeh said they could determine that at the September meeting.

Council Member Holman asked to have a placeholder added to the agenda for future discussions.

ADJOURNMENT: Meeting adjourned at 10:05 p.m.