

Regular Meeting
September 9, 2003

1.	Oral Communications.....	2
2.	City Council Protocols and Ethics Addendum	2
3.	Status of Council Assignments	6
4.	Discussion of CMR Format	8
5.	Discussion of Board and Commission Members Participating at Council Meeting.....	10
6.	Discussion for Future Meeting Schedules and Agendas	11
	ADJOURNMENT: Meeting adjourned at 8:45 p.m.....	11

Chairperson Burch called the meeting to order at 7:04 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

PRESENT: Burch, Kleinberg (arrived at 7:06 p.m.), Lytle, Ojakian

1. Oral Communications

None.

2. City Council Protocols and Ethics Addendum

Council Member Lytle referred to Attachment 2 of the staff report (CMR:401:03) and suggested that the crossed out section, "Public officials, comply with both the letter and spirit of the laws and policies affecting the operations of government," should be included. The wording was a standard pillar of ethical conduct in government that was in the Brown Act and should apply to all laws.

Chairperson Burch suggested adding to Attachment 3 of the staff report (CMR:401:03), at the end of the first bullet, "and comply with both the letter and spirit of the laws and policies affecting the operations of government" or as a separate bullet.

MOTION: Council Member Lytle moved, seconded by Ojakian to include as a separate bullet to Attachment 3, "Comply with both the letter and spirit of the laws and policies affecting the operations of government."

MOTION PASSED 4-0.

Council Member Lytle referred to the crossed out section in Attachment 2, Acts in the Public Interest. The part not covered in item 4 of the protocol was the portion that read, "members will not work for private or personal interests." Item 4 of the protocol said "Work for the common good, not personal interest." The distinction was "private" such as nonprofits or private entities. A private role was treated like a conflict of interest when being represented publicly. In most cities, public officials did not represent a private entity as a board member in public. The appearance of conflict was created, which confused the public.

Council Member Kleinberg asked whether Council Member Lytle researched the definition of "private interest."

Council Member Lytle said that was the way private interest was described at the League of California Cities training. A Council Member did not stand up and represent a private entity in a public forum before the Council.

Council Member Kleinberg was unclear where the line was drawn, noting that all the Council Members belonged to organizations. For example, as a member of the YMCA, a Council Member could not vote on recreation issues that might have an application to the YMCA. Council Members worked for the interest of all the organizations and nonprofits that provided critical services to the community.

Council Member Lytle explained she stepped down as a public official in a YMCA situation, where the YMCA did a conditional use permit (CUP) to expand their operation. She made sure she was not the officer of the YMCA who reviewed the annual CUP. As a professional planner, the appearance might be that she was not being fair.

Council Member Ojakian noted the wording was "members will work for the common good of the people and not for any private or personal interest." For instance, members of the Rotary might be involved in a public activity and should not be involved in discussion at Council meetings.

Council Member Kleinberg was not comfortable with the definition of "private" because "private" had many different legal meanings.

Assistant City Manager Emily Harrison said she did not know whether the Protocols were intended to cover every possible situation.

Council Member Lytle understood Council Members usually stepped down from issues where they had a strong leadership role in a private organization and the private organization was asking for funding or partnership with the City.

Council Member Kleinberg suggested defining "private" as hidden, unknown to the public. She was a member of the YMCA, but not a Board Member, and thus not legally responsible.

Chairperson Burch thought Council Member Kleinberg's comments were covered by "personal interest."

Council Member Kleinberg said many people came before the Council wearing many hats, and those people made it clear to the Council which hat they were wearing.

Council Member Lytle said the Council had a lot of debate on Conduct of Public Meetings and did not need to make any changes.

Council Member Kleinberg said the item regarding Practice civility and decorum in discussions and debate was lifted directly from Roberts Rules of Order. The protocols should include wording that any substantive information received by the Council from any source to make a decision should be shared.

Ms. Harrison pointed out there was much discussion and the wording was the compromise that was agreed upon.

Council Member Lytle referred to the independence of Board and Commission items and favored the wording that was crossed out, "shall refrain from using their position to unduly influence the deliberations of board and commission proceedings." The idea of "unduly influencing" was what the Council tried to get at.

Ms. Harrison suggested saying, "unduly influence" instead of "threaten" on page 6, first bullet.

MOTION: Council Member Lytle, seconded by Burch, to allow staff the liberty of rewording the section to use "unduly influence" instead of "threaten."

MOTION PASSED 4-0.

Council Member Kleinberg said there should be an "arms length" relationship between the Council and Boards and Commissions. The Council should not influence board and commission members in their decision-making process.

Ms. Harrison suggested, "Council Members should not feel they have the power or right to unduly influence Board or Commission members in any way."

Chairperson Burch pointed out that page 5 of the Council Protocols read, "in this role are expected to represent the full Council in providing guidance to the Board or Commission."

Council Member Lytle understood the wording meant to report objectively what the Council directed rather than a personal opinion.

Council Member Kleinberg said Council Members in other cities who were liaisons received "marching orders" from their Council colleagues and took the opinions and reported them. Individual Council Members should not purport to

represent the Council unless the issue had already been decided on. Council Members in Palo Alto were careful not to represent Council opinions.

Council Member Lytle said her response to questions by Board or Commission members was that they needed to call and talk to Council Members.

Council Member Kleinberg suggested adding "refrain from speaking for full the Council except matters that had already been voted on or policy established. "

Chairperson Burch said the protocol was restrictive and related to Boards and Commissions that the City established.

Council Member Kleinberg suggested, "City Boards and Commissions."

Council Member Lytle suggested, "Palo Alto Boards and Commissions."

Ms. Harrison said the item in Attachment 1 of the Protocols would be retitled to clarify "Palo Alto Boards and Commissions." The wording was changed to, "and in the role are expected to represent the full Council in providing guidance on Council processes or actions to the Boards and Commissions. Refrain from speaking for the full Council on matters in which the full Council has not yet taken a policy position."

Council Member Kleinberg expressed concern that the law was stricter regarding conflict of interest, and the same wording should be in the Protocol.

Council Member Lytle suggesting referring to the Brown Act in the Protocol, under Conflict of Interest.

MOTION: Council Member Kleinberg moved, seconded by Burch, to delete the second sentence in Attachment 1 of the staff report (CMR:401:03) in favor of the existing laws.

Council Member Kleinberg stated the reason the Council deleted the wording was because it felt the laws were adequate to control.

MOTION PASSED 4-0.

Council Member Kleinberg referred to the section on Gifts and Favors in Attachment 1 of the staff report (CMR:401:03) and noted the wording, "Members shall not take any special advantage of services or opportunities for personal gain by virtue of their public office that is not available to the public in general," was very strict. The law applied to the standard.

Council Member Lytle said she did not accept anything that she did not pay for.

Council Member Kleinberg suggested removing the first sentence.

Council Member Lytle asked whether there was a way to tie in gift reporting.

Council Member Kleinberg suggested saying that Council Members commit to follow the laws that applied to gifts and favors as a public official.

MOTION: Council Member Kleinberg moved, seconded by Ojakian to change Gifts and Favors to "Council Members shall commit to follow the laws that applied to acceptance of gifts and favors for public officials."

Council Member Lytle said laws were well vetted in the public domain. She was comfortable saying the Council was not doing a disservice to the Council if the law was followed.

MOTION PASSED 3-0, Lytle "no."

MOTION: Council Member Ojakian moved, seconded by Lytle, that the Policy and Services Committee recommends to the City Council that the Ethics Addendum be added to the City Council Protocols as modified.

MOTION PASSED 4-0.

Council Member Kleinberg said the Policy and Services (P&S) Committee tried to discourage pulling items from the Council.

3. Status of Council Assignments

Assistant City Manager Emily Harrison said she kept track on her laptop at each meeting of items that Council needed to follow up with action items.

Chairperson Burch clarified the issue was format as opposed to content.

Ms. Harrison the "Staff Action" document attached to the staff report (CMR: 405:03) was used as an internal document.

Council Member Lytle suggesting a check box on the "Staff Action" document listing what departments were involved.

Ms. Harrison said items were assigned to one person as a lead.

Council Member Ojakian said the Council wanted to see the status of an action item.

Ms. Harrison said the "Staff Action" document was an accountability tool for the Council rather than a project-planning tool for staff.

Council Member Ojakian said the purpose of the "Staff Action" document was to list actions the Council currently worked on and which ones were high level.

Council Member Kleinberg asked whether adding a contact person's name or email address was difficult in order for Council Members to direct members of the public to the right staff person.

Ms. Harrison said the protocol was to send questions to department heads.

Council Member Kleinberg asked whether a notation could be added where the completion dates were due to a Council directive.

Ms. Harrison said she would try to add a small "ca" to the list.

Council Member Kleinberg asked for further explanation under "Status."

Ms. Harrison did not want to make the Staff Action List more work for staff.

Chairperson Burch clarified the status update report went to the Council on a quarterly basis.

Ms. Harrison said that was correct.

Chairperson Burch said the status update report would inform the Council what had been done. Ongoing items would be projected out. The Council would like to know what items were overdue or deferred.

Council Member Ojakian said the Staff Action list was meant to be a quick overview of projects.

Ms. Harrison said the Staff Action list was actually the "to do" list at the end of a Council meeting.

Council Member Ojakian said the Council did not want to put an overemphasis on the Staff Action document.

Ms. Harrison heard the Council request that staff indicate under the Completion Date where the dates were set by the Council and an explanation of why projects did not meet their completion dates.

4. Discussion of CMR Format

Chairperson Burch said Council Member Freeman had asked for additional information in the staff reports.

Council Member Kleinberg said Council Member Freeman was particularly interested in the pros and cons in order to provide guidance.

Chairperson Burch said if a particular Council Member wanted more information, they were free to ask for it. The staff should not be put in a position to think about what might have been left out.

Assistant City Manager Emily Harrison appreciated Council Member Freeman's point about making transparent the options that were looked at and rejected.

Council Member Lytle referred to page 3, of Attachment A to the staff report (CMR: 419:03), **Alternatives to Staff Recommendation**. She was struck by the language that said, "This section should only be used" and suggested the paragraph was a great place to show the staff's work and to allow the Council to see how staff derived at its recommendation. Options should be explained.

Ms. Harrison stated the majority of reports she edited each week did not lend themselves to the type of discussion similar to the recent tennis court issue.

Chairperson Burch expressed concern about the use of the word "only."

Council Member Lytle referred to page 4 of Attachment 1 of the staff report (CMR: 419:03), **Policy Implications**, and suggested adding some explanation for staff. For instance, if the Council did a zone change, one of the helpful things that used to be in a staff report was a matrix that said, "What is the Zone Map and Comp Plan designation today, what is it under the proposed plan, what are the site development regulations, existing and proposed, in order to see the delta."

Ms. Harrison said staff tried to have more information in the Planning Staff reports rather than the City Manager Report (CMR). The Planning Report was the first attachment to the CMR.

Council Member Lytle said many times the Council received a lot of paperwork, and the matrix could not be found. The matrix was one of the most

fundamental policy issues and needed to easily be found. Figuring out what projects needed California Environment Quality Act (CEQA) checklist was difficult. The D-overlay should be listed for people so the Council did not continue receiving contracts that did not have site and design approval early in the process.

Ms. Harrison said staff had internal discussions about the problem but decided it was not a CMR issue.

Council Member Lytle said writing a staff report was difficult where there was a divided Council who had a spectrum of policy positions. Staff needed to anticipate that Council debate was among a wider range of options.

Council Member Ojakian said the Council wanted staff's expert opinion on the way staff thought something should be handled. Page 9 of Attachment A to the staff report (CMR: 419:03) needed to have an "Executive Summary," which described the issue and approach.

Ms. Harrison said prior CMRs included an Executive Summary, which was eliminated because it appeared to be extra staff work. The Council read the more in-depth report.

Council Member Kleinberg said summaries were standard procedure in court decisions. The Council should be encouraged to use the Summary as a guide but not as a definitive statement.

Council Member Ojakian said the summary provided flexibility for the reader.

Council Member Kleinberg said the contract structure was a nice summary.

Ms. Harrison said she would share the comment with the Streamlining Committee.

Council Member Kleinberg said many times new information was provided between the time the CMR was prepared and the Council held a meeting. The thought was that the Council receive a highlight update.

Ms. Harrison said new information was provided during staff overview at the beginning of the meeting. If the Council needed to know about the information prior to the meeting, staff sent an email.

Council Member Kleinberg suggested using a different color paper at the meeting for information received after the packet was prepared and sent to the Council.

Ms. Harrison said staff would look at some way to identify the new information. The City Clerk's office needed to be involved.

Council Member Kleinberg asked about questions and clarifications that emanated from the City Manager's Report, which staff answered by email on Monday prior to the meeting.

Ms. Harrison responded that staff could color code late received email. Council Member Lytle appreciated staff's tendency to include changes in the staff presentation.

No action required.

5. Discussion of Board and Commission Members Participating at Council Meeting

Assistant City Manager Emily Harrison said the configuration of the Council Chambers at the prior night's Council meeting was an experiment. Board or Commission members who were present representing boards or commissions felt frustrated because they had a difficult time inserting themselves into the discussion.

Council Member Ojakian agreed that the configuration at the prior night's Council meeting worked well.

MOTION: Council Member Ojakian moved, seconded by Lytle, that there be an official board/commission representative present at Council Meeting where items are passed forward from boards and commissions.

MOTION PASSED 4-0.

Council Member Lytle said the physical location of those sitting at the staff tables was important.

Council Member Ojakian suggested finding a way to designate the board or commission members who were speaking.

Council Member Kleinberg suggested designating the first row of seating near the microphones for commissioners who were present to participate in a meeting.

Ms. Harrison said her direction to staff was there would be a place for commissioners, at no cost to the City.

6. Discussion for Future Meeting Schedules and Agendas

Assistant to the City Manager Chris Mogensen said the next meeting on October 15, 2003, included two audit items: audit of the Planning process and the annual report on the status of audit recommendations. November 19, 2003, was a follow-up meeting.

Council Member Ojakian clarified the prior motion would go on the Consent Calendar.

Ms. Harrison said that was correct.

ADJOURNMENT: Meeting adjourned at 8:45 p.m.

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.