



## CITY OF PALO ALTO OFFICE OF THE CITY COUNCIL

July 12, 2011

The Honorable City Council  
Palo Alto, California

### **Continued Discussion and Recommendation for Approval of an Electronic Packets for Council**

On June 14, 2011 Staff presented a proposal to the Policy & Services Committee that recommended changing from a paper based packet to an electronically delivered packet for the City Council Members.

At this meeting, the Policy & Services Committee requested that Staff return with information regarding the following items:

- The City Attorney was requested to review the policy of the City of Saratoga regarding electronic packets and bring back a recommendation if the City of Palo Alto should create a policy. Attached please find a memo from the City Attorney's office.
- Staff was requested to return with information on policies other Cities have in place to govern the use of iPads. The City Clerk's Office polled surrounding Cities and has attached a chart detailing the results.
- Staff's original proposal included delivering the paper packets to the Libraries on Thursdays instead of Wednesdays to eliminate the overtime costs incurred by the Administrative Services Division with late Wednesday delivery. The Policy & Services Committee requested that Staff continue delivery on Wednesdays. A new cost analysis has been attached that accommodates this revised information. The new cost analysis indicates that if the City purchased iPads and paid for the monthly plan, the City would break even in the third year.

Attached please find the minutes from the last Policy & Services Committee meeting. The following Motion was approved by the Policy & Services Committee:

**MOTION:** Council Member Klein moved, seconded by Council Member Price to recommend to the City Council to adopt Option A of the iPad proposal as recommended by Staff.

**OPTION A**

City Purchases 9 iPads for the Council Members to receive and read the packets. The City installs the appropriate applications, pays for the monthly data services fees, and provides all maintenance and service. Council Members will return the devices to the City when they leave office.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** that the City Attorney evaluate if they need to provide Council with a policy addressing transparency issues heightened by having e-devices at the Dais.

**MOTION PASSED:** 4-0

Staff respectfully requests direction from the Policy & Services Committee regarding the implementation of electronic packets for the City Council.

REPORT PREPARED BY: Ronna Jojola Gonsalves, Deputy City Clerk

**ATTACHMENTS:**

- -a: Memo from City Attorney's Office (PDF)
- -b: Comparison Cities (PDF)
- -c: Cost Analysis 2 (PDF)
- -d: Excerpt 6-14-11 Policy and Services (DOC)

Department Head: Donna Grider, City Clerk





## CITY OF PALO ALTO OFFICE OF THE CITY ATTORNEY

July 12, 2011

The Honorable City Council  
Palo Alto, California

### **Follow Up Questions Regarding Recommendation for Approval of an Electronic Packet for Council**

#### **Background**

On June 14, 2011, the Policy & Services Committee reviewed the City Clerk's recommendation to implement a paperless packet that Council Members could access electronically on iPads or similar devices. At that meeting, the committee voted to recommend Option A (City purchase of iPads for council members), subject to follow-up information addressing:

- a. The City Attorney's evaluation on whether any revisions to Council policy are needed to address transparency issues that might be heightened as a result of increased use of iPads and similar electronic devices at the dais;

and

- b. Recommendations on what, if any, non-city uses of these devices would be available to council members.

#### **Discussion**

##### *a. Council Policy Regarding Wireless Communications*

Policy revisions are not legally required. As discussed in the June 14 staff report, the City does not currently have a policy specifically addressing electronic communications (or other uses of electronic devices) during Council meetings. There are two legal issues related to the use of these devices during meetings. First, the Brown Act prohibits any kind of communication used to develop a collective concurrence on an item before the council. Thus, Council Members could not use electronic devices to communicate with a majority of members in a

manner that cannot be observed by the public. Second, quasi-judicial hearings require the Council to apply specific facts and evidence in the context of existing law. To the extent Council Members might use electronic devices to communicate and receive evidence to which other Council Members or parties to the proceeding do not have access, potential due process issues arise because such communications could create a perceived or actual challenge to a fair hearing.

Outside of these two considerations, it is not illegal to communicate with others during a meeting, whether through an electronic device or any other means. A policy revision is therefore not legally required, as these limitations exist whether or not the Council adopts a policy specifically addressing electronic communications. In addition, existing protocols already address these concerns generally by providing that Council Members “should comply with both the letter and spirit of the laws and policies affecting the operation of government.”

However, the public and the Council may nevertheless feel concerned about the opportunity for communication these electronic devices provide. If the Council wants a policy that specifically addresses electronic communications, it could choose one of two options: (1) a policy prohibiting all electronic communications during meetings, such as the Saratoga example discussed in the last staff report, or (2) a broader policy statement that electronic communications during council meetings must not violate the Brown Act or due process rights of parties to quasi-judicial hearings. The desired “level of transparency” is a policy question for the Council. If the Council wishes to specifically address electronic communications without prohibiting them altogether, the option to add a general statement that communications must comply with the law may provide the best balance between the legal minimum and the desire for a more public, transparent statement for Council Members and members of the public.

*b. Issues Related to Non-City Use of City Issued Devices*

The City’s use policies for city-owned devices such as computers and telephones properly restrict employees’ personal use. Public employees and officials in California are subject to stringent requirements regarding use of City resources; any personal use of City-owned equipment beyond that which is incidental, occasional, and minimal, is prohibited by state law. The Council Protocols also address this rule by providing that “Members shall not use public resources, such

as City staff time, equipment, supplies or facilities, for private gain or personal purposes.”

Specifically, Government Code section 8314(a) provides that “It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.” “Personal purpose” under this law is very broadly defined to include activities resulting in personal gain or generally unrelated to City business, as well as any activity for “personal enjoyment.” (Gov’t. Code § 8314(b)(1)). The definition of “use” is similarly broad, including not just a use that would result in a monetary loss to the City, but also any use which is “substantial enough to result in a gain or advantage to the user.” (Gov’t. Code § 8314(b)(4)). The only exception to these limitations is for “incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.” (Gov’t. Code § 8314(b)(2)). Finally, the consequences of violating section 8314 are serious; the statute penalizes intentional and negligent violations, with a penalty up to one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. (Gov’t. Code § 8314(c)). To the extent a public officer’s personal use of public resources is so extensive that it becomes embezzlement, it may be prosecuted as a felony.

Under these rules, using a city-issued device to either conduct non-City business or for any general use that contributes to personal enjoyment could be viewed as creating a “private advantage” in violation of section 8314. Therefore, revisions to the City’s existing policies to allow more expansive use of non-city use of city-owned devices are not appropriate because the policies accurately reflect state law. As the Institute for Local Government notes in its publication “Understanding the Basics of Public Service Ethics: Perk Issues,” (2009) *available online at* [https://www.ca-ilg.org/sites/ilgbackup.org/files/Basics\\_Perklssues\\_watermark.pdf](https://www.ca-ilg.org/sites/ilgbackup.org/files/Basics_Perklssues_watermark.pdf), the “incidental personal use” exceptions “prevent traps for the unwary; they do not constitute an affirmative authorization for personal use of public resources.”

Therefore, City-owned electronic devices issued to any public official must be limited to City uses. Council Members who want to have the freedom to use iPads

for uses other than accessing the Council packet and conducting City business should choose to purchase their own.

The following chart summarizes the applicable rules and appropriate uses:

<b>Who purchases device?</b>	<b>Use for City Purposes?</b>	<b>Incidental personal use?</b>	<b>Unlimited personal use?</b>	<b>Reimbursement &amp; IT Support</b>
City	Yes	Yes- see discussion above	No- limited by state law	City would be responsible for and control device, apps, updates, etc. CM should review ILG publication "Perk Issues" to avoid any issues related to personal use.
Council Member	Yes	Yes	Yes	CM's own device can be used for any purpose. Apps necessary for council packets, other approved and necessary City uses may be reimbursed and IT can support packet-related use.

Department Head: Molly Stump, City Attorney

### IPAD POLICY COMPARISON CITIES

City	Electronic Equipment	Policy
Alameda	Mayor purchased iPad	No policy
Hayward	City purchased iPads for Council.	No personal use allowed, a memorandum offers Council guidance on proper usage that includes the following verbiage: "Communications made via City-issued devices are subject to disclosure under the Public Records Act whether or not related to City business, unless a privilege exists that justifies withholding the information."
Redwood City	City purchased iPads/Laptops for Council based on Council Member's preferences.	There is no policy regarding personal use of the equipment. Council Members may use the equipment as they see fit.
Mountain View	Council Members will provide their own equipment.	None Supplied
Saratoga	Council Members provide their own equipment.	* Policy prohibits personal use of city hardware or software. Council may not use personal accounts for electronic communication.

\* Policy Attached



## SARATOGA CITY COUNCIL

**MEETING DATE:** July 1, 2009

**AGENDA ITEM:**

**DEPARTMENT:** City Attorney

**CITY MANAGER:** Dave Anderson

**PREPARED BY:** Richard Taylor

**DIRECTOR:** Richard Taylor

---

**SUBJECT:** City Council and Commissions' Electronic Communications Policy

---

**RECOMMENDED ACTION:** Discuss the draft City Council and Commissions' Electronic Communications Policy and provide direction to staff.

### REPORT SUMMARY:

City communications increasingly occur through electronic means. Over the years the City has followed various formal and informal procedures for effective use of electronic communications. The attached draft policy seeks to collect and coordinate those procedures into a single policy document for use by the City Council and City Commissions. While the primary objective of the draft policy is to promote effective use of electronic communications in conducting City business, an important secondary purpose is to create a system that allows compliance with state and federal laws governing electronic communications. Those laws include the Records Retention Act, the Public Records Act, the Brown Act, and state and federal rules of evidence. The attached policy facilitates compliance with those laws by the City, Council members, and Commissioners.

Under the policy, the City would issue e-mail addresses to all Commissioners and Council members (currently only the Council and Planning Commission have e-mail addresses). These addresses would be used for all City business. Personal business via City e-mail would be prohibited. The policy includes straightforward guidelines for use of City e-mail and the internet in a manner that does not violate the Brown Act or other laws (e.g., no policy discussions among Council members or Commissioners via e-mail or internet forums). The policy is drafted in a manner that applies to any type of electronic communication account issued by the City. If the City develops tools other than e-mail (e.g., instant messaging) the policy would apply to use of those tools as well.

The policy also formalizes existing procedures for responding to e-mails from the public addressed to the Council or a Commission as a whole and for responding to e-mails to less than a quorum. It also establishes as formal policy for all Commissions the existing practice for Council and Planning Commission of posting all agendas and minutes on the City website.

Finally, the policy addresses two relatively new matters. The first concerns use of e-mail during Council or Commission meetings. With increasing use of laptops for notes and paperless agendas there is a potential for use of e-mail during the meeting. To assure the public that their decision-makers are considering only the public information presented at the meeting the policy makes clear that e-mail may not be used by a decision-maker during a meeting. The second new matters concerns e-mail retention. Historically the City has printed all substantive e-mail for archival purposes. The City now has the capacity to electronically archive e-mails without printing. This is reflected in the policy.

**FISCAL IMPACTS:** None significant. There will be some staff time involved in establishing user accounts for all Commissioners and in Commissioner training but these costs will be offset in the long run through more effective recordkeeping and resident services.

**FOLLOW UP ACTION:**

The City Attorney will finalize the policy to reflect direction from Council and the policy will be set for formal adoption at a future Council meeting.

**ADVERTISING, NOTICING AND PUBLIC CONTACT:**

Notice for this meeting.

**ATTACHMENTS:**

Draft City Council and Commission Electronic Communications Policy

**CITY OF SARATOGA**  
**City Council and Commissions**  
**Electronic Communications Policy**  
Adopted May 19, 2010

**I. Purpose:** Use of electronic media is necessary and useful for City Council and Commission members in order to improve communication and efficiently perform their City duties. The purpose of this policy is to insure the proper use of the City's electronic media and to set out the policy the City Council and Commission members will follow when using electronic media and the City's electronic communication system. This policy will also insure that use of City electronic media complies with applicable law, including the Public Records Act and Brown Act. This policy is applicable to all City Council members and Commissioners except members of the Youth Commission.

**II. Definitions**

- A. City's Electronic Communication System** – City-owned devices or products designed to electronically process, transmit, or store information such as computers, phones, cell and smart phones, printers, modems, data files, and e-mail.
- B. User** – a Council member or Commissioner who uses the City's electronic communication system.
- C. E-Communication** – electronic text or visual communication and attachments distributed via e-mail, websites, instant messaging, text messaging, twitter, or comparable services.
- D. Electronic Media** – a method for processing or transmitting information in electronic form, including E-Communication, software programs and the Internet.

**III. General Procedures**

- A. Procedures for Electronic Communications.** All Council members and Commissioners will be issued accounts for use of City electronic media for E-Communication on City business. E-Communication by nature represents and reflects upon the City's public image and integrity. Users should insure that their messages are respectful, professional, and are consistent with City policies. E-Communication should be written or otherwise presented in the same professional and respectful manner as paper communications. The City's Electronic Communication System shall be used only for City business.
- B. No Use of Personal E-Communication.** Users shall not use their home or business E-Communication accounts or addresses for any communication pertaining to City

business. When using E-Communication, users should communicate with the public and staff solely via their designated City E-Communication addresses. Users shall not commingle E-Communication pertaining to City business with E-Communication pertaining to their home or business.

**C. Electronic Communications between Council members or Commissioners**

**Concerning City Business.** Communications from (1) a Council member to another Council member or members concerning City business, and (2) a Commissioner to another Commissioner or Commissioners concerning Commission business should be “one way” and marked “For Information Only—Do Not Reply.”

**D. Electronic Communication by a Quorum of the Council and Commission or a Council and Commission Standing Committee.**

A majority of the members of the Council or a Commission shall not send or exchange facts about or engage in discussions regarding City issues via E-Communication, including chat rooms, news groups, on-line forums, weblogs, twitter feeds, or list-serves (collectively referred to as “Internet forums”).

**E. Electronic Communications from the Public.** The public may electronically communicate with the Council and Commission through the City’s Website at: [www.saratoga.ca.us](http://www.saratoga.ca.us).

- 1) E-Communication from the public addressed to the City Council will be distributed to each Council member and E-Communication addressed to a Commission will be distributed to each member of the Commission. E-Communication addressed to the Council or a Commission also will be forwarded to the City Clerk. The Mayor, or Mayor’s designated representative, in consultation with staff if necessary, will respond on behalf of the Council to E-Communication addressed to the Council. The Commission chair or Commission staff liaison will respond on behalf of the Commission to E-Communication addressed to the Commission.
- 2) E-Communication from the public addressed to more than a quorum of the City Council or Commission shall be forwarded by the recipients to the City Clerk (for the City Council) or staff liaison for the Commission. These E-Communications will be distributed and responded to in accordance with paragraph E.1, above.
- 3) Upon receipt of an E-Communication addressed to less than a quorum of the City Council or Commission, the recipient may: 1) treat it as an individual communication to which he or she may or may not respond; 2) inform the Council or Commission of the communication at a properly noticed meeting; or 3) ask that it be forwarded to the full Council or Commission as part of its information packet for the next available Council or Commission meeting. Such E-Communication may also be forwarded to staff for response as set out in Section G, below. When a User responds to individual E-Communication from the public, and desires to forward the response to the Council or Commission, he or

she shall forward his or her response and the individual E-Communication to the City Clerk or Commission liaison for inclusion in the Council or Commission's informational packet at the next available Council or Commission meeting.

- F. City Electronic Communications with the Public.** City staff will post official information on upcoming and prior City Council meetings, workshops and events on the City Website. Council and Commission agendas and minutes will be posted for the current and prior calendar year. Additional materials may be posted at the discretion of the City Manager or Manager's designee.
- G. Use of E-Communication During Meetings.** City Council members shall not use E-Communication at any time during a meeting of the City Council at which he or she is in attendance. No Commissioner may use E-Communication at any time during a meeting of the Commission of which he or she is a member at which he or she is in attendance. The foregoing limitation shall not apply to receipt of telephone calls or text messages from family members in the event of an urgent family matter; a Council member or Commissioner wishing to respond to such a message during the meeting shall do so during a recess or shall excuse him or herself from the meeting to place the return call or text in a manner that does disrupt the meeting.
- H. City Participation in Internet Forums.** The City will not generally answer questions or respond to comments made in Internet forums. The City will post answers to such questions on its website if the questions are deemed important by the Mayor or by the City Manager or at the direction of the City Council. If a Council member desires staff to prepare a response to a question or comment received by E-Communication or made in an Internet forum, the Council and Commission member may forward the question or comment to the City Manager and request that staff prepare an appropriate response in a reasonable period of time. If preparation of a response will require significant staff time to research or draft the response, an interim response to the questioner or commenter will be sent as soon as possible acknowledging receipt of the inquiry and informing the sender that a response is being prepared.

#### **IV. Specific Procedures**

- A. Retention of E-Mail.** The City electronically archives E-communications in accordance with the City's Records Retention schedule. E-communications that constitute preliminary drafts, notes, or intra-agency or interagency memoranda that are not retained by the City in the ordinary course of business are not required to be archived and should be deleted prior to regularly scheduled archiving. The City Clerk and City Attorney are available to assist users in determining how to address questions concerning the application of these procedures.
- B. Public Records Act.** City records, whether paper or electronic, are governed by the public disclosure requirements of the Public Records Act. Disclosure may be required regardless of who sends or receives a communication or document. In the event that the City receives a request for disclosure of City records that includes E-Communication, the

person responsible for the requested records must use his or her best efforts to preserve all City E-Communication covered by the request until the responsive E-Communications have been identified. Requests for disclosure of any City records applicable to E-Communication or other electronic records of any user subject to this policy shall be submitted to the City Clerk..

**C. Confidentiality.**

- 1) California law requires that certain information be treated as confidential and not be distributed to others inside or outside the City who do not have authorization to view such information. Council members or Commissioners may occasionally receive confidential electronic information. Some examples of confidential information are: personnel records, internal investigations, information relating to litigation or potential litigation, attorney-client communication, information relating to labor negotiations, or information relating to confidential real estate negotiations. When Council and Commission members receive confidential information, it should be marked "Confidential Information" so that Council and Commission members are alerted to the nature of the information.
- 2) Confidential information should not be sent or forwarded to individuals or entities not authorized to receive that information and should not be sent or forwarded to City employees not authorized to view such information.
- 3) Council and Commission members shall exercise caution in sending confidential information by E-Communication as compared to written memoranda, letters or phone calls, because of the ease with which such information can lose confidentiality by inadvertent or intentional diversion or re-transmission by others.
- 4) The City Attorney should be contacted concerning any questions about whether a communication is confidential.

**V. Compliance with this Policy:** It is the responsibility of every user to insure that he or she is in compliance with this Electronic Communications Policy.

**RESOLUTION NO. 10 – 026**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SARATOGA  
ADOPTING AN E-COMMUNICATIONS POLICY FOR  
THE CITY COUNCIL AND CITY COMMISSIONS**

**WHEREAS**, the City of Saratoga seeks to promote effective use of electronic communications by City Council members and Commissioners in conducting City business and to create a system that allows compliance with state and federal laws governing electronic communications including the Records Retention Act, the Public Records Act, the Brown Act, and state and federal rules of evidence; and

**WHEREAS**, the City Council adopted an interim policy for a trial period in July 2009 for use by the City Council and Planning Commission and now wishes to adopt a final policy for use by the City Council and all City Commission except the Youth Commission.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

The attached City Council and Commissions Electronic Communications Policy is hereby adopted.

The above and foregoing resolution was passed and adopted at a regular meeting of the Saratoga City Council held on the 19<sup>th</sup> day of May 2010 by the following vote:

**AYES:** Councilmember Chuck Page, Howard Miller, Vice Mayor Jill Hunter,  
Mayor Kathleen King

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Vacant (Susie Nagpal)

\_\_\_\_\_  
Kathleen M. King, Mayor

**ATTEST:**

\_\_\_\_\_  
Ann Sullivan, City Clerk

\_\_\_\_\_  
Date

**SUMMARY, QUARTERLY CASHFLOW BEFORE AND AFTER IPAD PURCHASE AND USAGE**

<b>Current Annual Cost Estimate</b>		
Printing	\$	23,011.22
Delivery	\$	6,798.57
<b>Total</b>	<b>\$</b>	<b>29,809.79</b>

<b>Post-iPad Annual Cost Estimate</b>		
Annual Printing Costs, Post-Ipad	\$	13,944.97
Annual Delivery Costs, Post-Ipad	\$	5,467.39
Annualized Equipment Purchase Cost	\$	2,299.46
Annualized Dais Wiring Cost	\$	2,000.00
Annual Data Plan Cost	\$	4,548.00
<b>Total Annual(ized) Cost</b>	<b>\$</b>	<b>28,259.82</b>

		year 1				year 2				year 3			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
<b>"BEFORE" iPADS</b>	Printing	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753	\$ 5,753
	Delivery	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700
	<b>Total</b>	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452	\$ 7,452
	<b>Cum. Total</b>	\$ 7,452	\$ 14,905	\$ 22,357	\$ 29,810	\$ 37,262	\$ 44,715	\$ 52,167	\$ 59,620	\$ 67,072	\$ 74,524	\$ 81,977	\$ 89,429
<b>"AFTER" iPADS</b>	Printing	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486	\$ 3,486
	Delivery	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367	\$ 1,367
	Equipment	\$ 6,898	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Wiring	\$ 6,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Data Plan	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137	\$ 1,137
	<b>Total</b>	\$ 18,888	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990	\$ 5,990
	<b>Cum. Total</b>	\$ 18,888	\$ 24,879	\$ 30,869	\$ 36,859	\$ 42,849	\$ 48,839	\$ 54,829	\$ 60,819	\$ 66,809	\$ 72,799	\$ 78,789	\$ 84,779
<b>Marginal Cumulative Savings ("BEFORE" minus "AFTER")</b>		\$ (11,436)	\$ (9,974)	\$ (8,511)	\$ (7,049)	\$ (5,587)	\$ (4,124)	\$ (2,662)	\$ (1,200)	\$ 263	\$ 1,725	\$ 3,188	\$ 4,650

*Break-Even*



## **POLICY AND SERVICES COMMITTEE**

### **DRAFT EXCERPT**

Regular Meeting  
June 14, 2011

#### 1. Discussion and Recommendation for Approval of an Electronic Packet for Council.

City Clerk, Donna Grider stated that Council had asked Staff to look into ways to save money and improve sustainability by reducing the number of packets produced each week. Last fall the City Manager and City Clerk's Offices undertook a pilot program using iPads to receive electronic versions of the packets. In a collaborative effort with the City Manager's office, the City Attorney's office, Administrative Services Department, and the IT Division, the City Clerk's Office reviewed the process for producing an electronic packet. She stated electronic distribution of the packet to Council would lessen but not eliminate printed packets as paper packets would still need to be produced for the libraries for members of the public who do not have or are unable to use computers. The number of paper copies would reduce from 22 to 11. She stated that Staff was trying to reduce the costs incurred by delivering the packets overnight and have them delivered during the workday instead. The Administrative Services Department completed a cost analysis and in comparing the paper packet with the electronic packet they found that the costs would break even after the first year. The largest cost would be in the first year due to the purchasing of the iPads, and the other costs would be the data plan and the applications; the applications were a one-time cost. In three years the City would save approximately \$28,000. She reviewed the three policy decisions that Staff was bringing forward to the City Council: 1) The City would incur all of the costs, and will perform the training and updates on all the applications. 2) Council Members would purchase their own devices and the City purchases the applications and the data plans. 3) Council Members incur all of the costs. She explained that the City Attorney's office did not have any major concerns with the proposal.

City Manager, James Keene spoke about automating the agenda preparation

process and how to produce the packet in an electronic format rather than a paper format and talked about the benefits of using an iPad for the packets. He talked about the benefits of having 3G added since Wi-Fi was not always available where 3G was and it was not a prohibitively large expense. He spoke of further benefits such as the electronic distribution of agenda updates. The software would allow them to add and or search features in the packet to find an item quickly.

Council Member Klein stated that the data provided by Staff indicated that the iPads would cost about \$800 each. His understanding was that iPads cost about \$500 each at the Apple Store.

Mr. Keene explained that the prices differ depending on the size of memory purchased. He further explained that a lot of memory was not necessary as most items were on the server and accessible that way.

Joel Dino, Technologist, explained the model the IT Division was looking at was the least expensive of the 3G version of the iPad. He further explained that the \$499 was the Wi-Fi only 16 GB iPad, with the built-in 3G and Apple Care (3-year warranty) it came out to \$629.

Council Member Klein mentioned that the iPad had competitors and asked if there was a potential savings there.

Mr. Dino stated that the closest competitor would be the Motorola Zoom which was \$599 with a data plan.

Mr. Keene stated the iPad was the leader of the pack. He also stated if the City provided the hardware there would be more standardization among the devices rather than if they were purchased individually by Council Members.

Council Member Price asked about benefits and difficulties other cities have experienced with the proposed process.

Ms. Grider stated that her department researched other Cities that were using electronic packet delivery for Council. Generally speaking most of the City Clerks spoke favorably of the process as it was an easier format to get the packet out. She stated that not all Council Members embraced the electronic format. She further stated that the feedback they had received in their research was positive.

Council Member Price asked if the research had been mostly in California.

Ms. Grider stated the research was not done outside of California.

Council Member Price asked if there was any kind of anecdotal information beyond California.

Mr. Keene stated he had heard good things from other cities outside of California.

Ms. Grider explained the process involved learning and change, but it had been a good experience.

Mr. Keene stated that if one was willing to be adaptive it was easier.

Council Member Holman stated she noticed that when there were electronic devices up at the Dais they caused frequency interference with the microphones.

Mr. Keene explained that the static was probably due to the cellular interference with the antenna on cell phones, he noted that Wi-Fi worked the same way.

Ms. Grider explained that the Dais would need to be configured with power to keep the Council Members iPads charged. She stated that there was a one-time, first year cost to get the Dais set up.

Council Member Holman asked about writing notes in the margins of the packet using the iPad. She also asked about storage of files and what it would take to get up to capacity.

Mr. Keene stated that it would not be an issue. He explained that users could either type notes onto the documents in their iPads, or they could handwrite them using their fingertips or a stylus.

Council Member Holman asked if storage would be an issue.

Mr. Keene stated that storage would not be an issue and archiving would actually be better than with paper.

Council Member Holman asked how they would go about finding a file; if it would be the same way they find a file now, by title.

Mr. Keene stated that right now you could go in your Dropbox account to save and retrieve files. He explained that the next phase of the software that they

had, once implemented, would allow you to search with keywords.

Council Member Holman stated that you could search by keywords now on the server, but you get all documents that have that keyword in it, not necessarily the exact document you were looking for.

Mr. Keene stated that he was not familiar with the navigation of the search function, but when the software was being evaluated by the City Clerk team and others it had a better search function.

Council Member Burt suggested that the Municipal Code and other frequently referenced documents could be pre-loaded onto the memory of the iPad.

Council Member Holman asked if packet completion and delivery could be moved up to the prior Tuesday or Wednesday at noon.

Ms. Grider stated that Tuesday's were very difficult because of follow up work from the Council meeting the night before.

Mr. Keene stated that there was no way that Tuesday's could be accommodated.

Council Member Holman stated that she did not want them to go backwards when it came to access to the public or the press.

Mr. Keene stated that the public would still have electronic access.

Council Member Holman stated that people who rely on paper would not have access until Thursday evening.

Mr. Keene stated that they could go to the library and get on the free computer to look them up and print pieces that they wanted.

Ms. Grider stated that some paper copies would still be put in the Council Chambers. She explained that they were trying to save costs and not have to pay overtime to have a Staff Member waiting for a packet to be completed so it can be delivered.

Council Member Burt stated that he did not think they broadcast the Wi-Fi access and that it could be announced to the public that there was Wi-Fi access and guide them to accessing the packets online.

Herb Borock voiced concerns relating to the Brown Act. He stated that this was

one of a number of issues that was being presented to both Committees and the Council, creating a situation with Staff acting as an intermediary of with a majority of the Council meeting on something that was not a noticed and open meeting of the City Council. He stated that Council should give direction that this should not be done. The second Brown Act issue that he mentioned was the potential for abuse of having a device on which you can communicate. He explained that there were devices that were essentially read only and that possibly they could have such a device available at the meetings. He mentioned that the policy that was attached to the Staff Report stated that City Staff reserved the right to look at anything on City devices, and he stated that what was annotated on a Council Member's electronic documents was private to them. He stated that the library was not open on Thursday mornings. He also stated that the copies at the library were not always there because someone on the Staff might use them.

**MOTION:** Council Member Klein moved, seconded by Council Member Price to recommend to the City Council to adopt Option A of the iPad proposal as recommended by Staff.

#### OPTION A

City Purchases 9 iPads for the Council Members to receive and read the packets. The City installs the appropriate applications, pays for the monthly data services fees, and provides all maintenance and service. Council Members will return the devices to the City when they leave office. Option A will cost the City approximately \$16,942 at onset of the project, and \$61,419 over the life of the devices (3 years). The annual savings for the City in year one will be approximately \$9,333, and over the life of the devices will be \$28,000. This option allows City Staff to offer training for Council Members because the process will be consistent. The City will be able to maintain City owned devices. Staff would be able to monitor the devices for needed updates and repairs. Staff would be able to provide a backup device in the event one is needed. Program functions associated with the iPad would include the ability to highlight text, save annotations to the document, bookmark pages, and search for text. The City Clerk's Office would work with the IT department to design a training program for Council Members. Council Members would follow City Policy 1-08, the Employee Telephone, Cellular Phone, and Wireless Device Use Policy (Attachment C) and City Policy 1-40, the Employee Computer Use Policy: Passwords, Internet, Intranet, E-Mail, and Information Resources Policy (Attachment D).

Council Member Klein stated he attended a number of regional meetings monthly and he found more frequently his colleagues were using the iPad services as mentioned by the City Clerk and City Manager. He felt it was appropriate for the City to pay for the equipment and services while lending the devices to the Council. The term lend was used to emphasize once a Council Member left service the iPad remained with the City and therefore they would not upload non-City applications. He saw the iPad evolution as a win-win for the City where the information was released in a more efficient and cost effective manner.

Council Member Price stated that she believed it was environmentally responsible and introduced efficiencies. She stated that if the iPad proposal were to pass it would still be optional for Council Members to have electronic devices.

Council Member Holman mentioned concerns about Staff providing training to Council Members, maintaining City-owned devices, monitoring the devices for needed updates and repairs, and providing a backup device. She asked how the Staff effort compared cost wise. She stated that she was not against this, but they were looking at financial savings as well as paper savings, and wanted to know how the labor costs compare to what's being expended now.

Ms. Grider stated that training was mostly at the beginning of the process. She stated that she did not believe that it would be labor intensive.

Mr. Dino stated with the development of the iCloud a lot of things were able to be updated effectively.

Mr. Keene stated that he had not had issues in the two years he had been involved with iPad.

Council Member Holman asked if all of the Council Members were going to want to do this.

Ms. Grider stated she had polled the Council and in the feedback there were some concerns regarding the continuance of paper for large items such as Environmental Impact Reports (EIR's) and maps, but approximately 90 percent were in favor of it. Staff concurred some large items would still be delivered.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to include a policy recommendation that was comparable to the City of Saratoga Policy with respect to transparency.

Ms. Grider stated that she agreed with the Saratoga Policy. The City Attorney's

office felt the language existed in a number of other Palo Alto policies.

Mr. Keene suggested that they ask the City Attorney how they would incorporate Saratoga's policies within Palo Alto's existing framework.

Council Member Klein stated his willingness to accept Mr. Keene's suggestion. He also stated that the iPad was not creating the problem; if someone wanted to violate the Brown Act they could use a pencil and paper and pass notes.

Council Member Holman stated her agreement and suggested being as forthcoming as possible.

Council Member Klein stated he wanted to be clear that he did not wish to set the focus on the iPad as what may cause a problem.

Council Member Burt asked for clarification on the amended language.

Council Member Holman stated the Amendment was to incorporate policy language from the City of Saratoga policy that would address the concerns of Brown Act violations while using iPads.

Council Member Burt stated that the issue should be focused around reconfirming prohibition of communication among Council Members or Applicants or members of the public from matters before them. He stated that he did not know why there would be something that goes beyond that. He also stated that there was no prohibition that you cannot read another piece of paper at a Council meeting, or that you could not turn to a Colleague and mention something that has nothing to do with the Agenda. He stated that Saratoga's requirement would say, "As regarding electronic communication, you're forbidden to look at telecommunication." He felt that this was an unnecessary rule and was suddenly popping up because there was an additional means of communication now. He stated he would not support Amendment as proposed; although, he would support a policy which clarified there could be no electronic communication of any kind among Council Members or between Council Members and members of the public or anyone with matters before the Council during the meeting.

Council Member Holman stated the intention of the Amendment was not to copy Saratoga's policy but to address the issues that if there were iPads at the Dais, that there was a policy in place that the public could see that the electronics issue had been addressed.

Council Member Burt stated that was not the stated Amended language and felt

a different Amendment was in order.

Council Member Holman stated the Amendment had already been accepted.

Council Member Burt stated if Council Member Holman did not intend her Amendment to be what she stated there was an issue.

Council Member Klein stated Council Member Holman could make a proposed Amendment that might get some support.

Council Member Holman withdrew her Amendment which was incorporated and restated when the iPad matter moved forward to the full Council that the City Attorney's office would provide language that would address transparency issues that might be heightened by the presence of electronic devices at the Dais.

#### **INCORPORATED LANGUAGE WITHDRAWN**

Council Member Klein added that if in the City Attorney's professional judgment she deemed the language necessary. He stated he believed the existing policies already covered the transparency concern.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** that the City Attorney evaluate if they need to provide Council with a policy addressing transparency issues heightened by having e-devices at the Dais.

**AMENDMENT TO MOTION:** Council Member Holman moved for Staff to review ways to provide earlier Wednesday delivery or the day before, not Tuesday, and that large items be out two weeks ahead of time.

Council Member Klein stated he did not accept the proposed Amendment.

#### **AMENDMENT FAILED DUE TO LACK OF A SECOND.**

Council Member Burt stated he believed that Council Member Holman's concern was that they were going backwards. He asked why the hard copies could not be out by Wednesday afternoon.

Ms. Grider stated that the new program was effective as it allowed Staff to follow the process for approval and without printed copies. She also stated that the electronic method had increased workload in her department.

Council Member Burt asked what changes would be difficult to manage if the City went to the electronic method.

Ms. Grider stated whether the packet was electronic or paper it was still the same amount of work for her department.

Council Member Burt stated there was nothing that caused the need to move to Thursday delivery .

Ms. Grider stated that there was because she and her management Staff could stay if the reports were running late and distribute them electronically without waiting for the print shop.

Council Member Burt stated that was the case now.

Ms. Grider stated Staff was trying to move away from the overtime. The overtime occurred with the Administrative Services Department Staff delivering the packet.

Council Member Burt asked what situations the electronic packet created that made it more difficult to release on Wednesday afternoon or evening than at present.

Ms. Grider stated that there were times when the packet process was running late that the libraries were getting them on Thursday.

Council Member Burt stated that if they stayed with the same practice and all due efforts were made to get the packet out by the end of the day Wednesday, the workload did not increase. He asked why the Council Direction to release the packets on Wednesday should be revisited just because they were going electronic. He stated that there was no relationship between going electronic and needing to go to Thursday morning if nothing changed for the workload by going electronic.

Ms. Grider stated that they were also trying to look at cost savings at the same time.

Council Member Burt stated that was an issue when they adopted the policy to get the packets out on a Wednesday. He further stated that if on a separate issue Staff wanted to come forward and discuss with the Council the policy of getting the packets out on Wednesday was creating a burden on the City Clerk's office then they had a discussion, but that had nothing to do with this.

Council Member Price stated that they were not making any modifications to the existing policy practice.

Council Member Burt stated that as Option A was written, they could not use the iPads for personal matters or other work matters, so they would have to have two iPads. He further stated that the Motion did not allow them to use their own iPad and they should look at Option B, where the Council Members pay for their own device and have one device to use for personal and City business.

Council Member Klein stated that if individuals want to buy individual applications for the iPad they were free to do so.

Council Member Burt stated that he was assuming there were certain restrictions on use of City devices.

Ms. Grider stated that was correct.

Council Member Burt stated that he wanted to be able to use a device without restrictions and that he would be willing to buy his own device.

Council Member Price stated that she assumed that the Motion did not preclude a Council Member from using a personal iPad.

Council Member Burt stated it did.

Council Member Price stated the Motion could be modified to indicate the policy did not preclude personal use of personal iPad devices.

Council Member Burt stated he did not understand the basis on which Council Member Price assumed that to be true.

Council Member Klein stated the Motion did not say anything to the contrary.

Council Member Burt stated that his Amendment would be that alternately Council Members may elect to purchase their own iPads.

Mr. Dino stated if the City issued the iPad and they were maintaining the applications; the applications were tied into the account that the City would own. He stated if a Council Member wished to download an application for their personal use, that would conflict with the account and the next time the iPad was updated the process would erase their personal applications. He stated there was

an issue with which account would be used to install the software. The City could reimburse the Council Members after they use their own account to install the applications.

Ms. Grider stated that Council Members do not have to take the iPad purchased by the City.

Council Member Burt asked if Mr. Dino's explanation of the process would fall under Option B.

Ms. Grider stated it was possible to morph Options A and B to achieve the greatest goal. She clarified at the present time the City offered to provide the Council with cellular phones and service although a number of Council chose to supply their own phone and service; the same option would apply to the iPad.

Council Member Burt stated Staff and the Committee were in agreement on the intent and asked what the correct wording would be to reflect that intent in the Motion.

Council Member Klein asked if a Council Member wanted to use the iPad for other purposes, was there anything in the City policies to prevent that from being done.

Ms. Grider stated if it was a City issued phone or iPad, per this policy, it could not be used for personal uses.

Council Member Klein stated it was not the same thing as buying applications and asked how this was enforced or if it should be.

Mr. Keene stated that the policy statement intention was that it was City property so it was just used for City purposes and there was not necessarily enforcement. He stated the intention of the rule was constraining and there was not necessarily added cost to run a personal application. There was the cost to purchase the hardware and the software so there was no marginal cost increase to running a personal application unless there were issues of maintenance on the Staff for uploading or changing things. He stated that by having his own personal cellular phone for City use there was no cost to the City but added value, and the benefit to him was not having to deal with the policies. He stated if there was a stipend that could be provided, which would be taxable, but an amount that could supplement the cost.

Council Member Klein stated he thought the cellular policy indicated that the

carrier could have personal calls.

Mr. Keene stated Staff needed to review the policy to see whether there were necessary changes to allow for a reasonable amount of personal use in order to have efficiency, as it was not costing the City anything for it to be used for personal use.

Ms. Grider stated that under existing Policies and Procedures 1-08 read: "Personal use of such City devices is prohibited."

Council Member Holman asked for her Colleagues thoughts on the idea of a stipend.

Mr. Keene stated that the stipend would have to be increased by 30-35 percent because it would be treated as increased compensation.

Council Member Klein stated the Charter would need to be amended if there was an increase in compensation for Council Members.

Council Member Burt offered an Amendment that Council Members who elect to purchase their own iPad will have the data service supplied by the City but otherwise not be subject to City Policy 1-08.

Ms. Grider asked for clarification on whether the City would supply the data service and the applications.

Council Member Burt stated yes.

Council Member Klein stated he did not accept the Amendment because he felt it would not get the job done. He would like for Staff to look into how other cities were handling the situation.

Mr. Keene asked if there could be a Motion that favors the City supplying the hardware and the data plan to Council Members recognizing the cost savings to the City providing that service, but at the same time directing Staff to look at how other cities have their policies on personal use.

Council Member Klein asked what the policy was regarding desktops at the City.

Council Member Holman felt some of the existing policies were dated and most of them did not apply to Council Members although they were employees.

Council Member Price asked if it would be appropriate to separate this into two separate Motions; 1) being the item before the Committee in the Staff Report and 2) to direct Staff to examine the policies regarding personal use of City issued devices. She asked Staff what made the most sense from their perspective.

Council Member Burt stated he would accept separating the Motions but felt it would not be appropriate to forward to the Council without a resolution to the second Motion.

Mr. Keene agreed the second Motion would need to be resolved.

Council Member Klein stated Policy and Procedures 1-08 had conflicting statements. One sentence stated that personal use of City provided devices was discouraged and employees must accept the financial responsibility for non-city calls; while the next sentence stated the personal use of City provided devices was prohibited. He stated General Procedures were that the regular work time of employees should not be used for non-City calls, texts or other communication.

Council Member Price asked if it would be appropriate to defer action now and have the Staff come back with a clarification on policies and the discussion could be continued at the next Policy and Services meeting.

Mr. Keene stated that the intention of the Council would be to recommend that the City provide the equipment and the data plan. He stated the unresolved matter was how the use of the hardware and the data plan was restricted. He stated the best route would be to have possible Amendments to the existing policies before forwarding to the Council.

Council Member Burt stated if amending Policy I-08 became overwhelming, allow the Council Members to choose between Option A and Option B may be the best solution.

Council Member Klein stated he was comfortable with the modifications suggested by the City Manager.

Mr. Keene stated the Committee would move Option A and bring back options related to City policies as to how the use of the hardware and data plan was regulated before forwarding it to the Council. He felt there was a lot to be had by modification of the policy which was created in a different time.

Council Member Klein stated the Motion was to approve Option A, holding it in

Committee subject to Staff coming back with recommendations with regard to what non-city use can be made, if any, of the hardware and software.

Council Member Price stated her thought was the Committee wanted to move the recommendation forward and then the other piece would be resolved and her understanding now was they were coupled as one.

Mr. Keene stated that it would be better to complete it in Committee before presenting it to Council.

Council Member Holman stated there was the Amendment regarding the other policy.

Mr. Keene stated yes, the Amendment was to have the City Attorney review the policy language on transparency.

**MOTION PASSED: 4-0**