

Special Meeting
September 10, 2007

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ADJOURNMENT: 23

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:32 p.m.

Present: Barton, Beecham, Cordell, Drekmeier, Klein, Kleinberg (arrived at 6:35 p.m.), Morton, Mossar

Absent: Kishimoto

CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Authority: Government Code Section 54956.8
Property: 2785 Park Boulevard, Palo Alto, CA, APN: 132-31-042
Subject of Potential Negotiations: Price and Terms of Payment
2. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Authority: Government Code Section 54956.8
Property: 2747 Park Boulevard, Palo Alto, CA, APN: 132-31-071
Subject of Potential Negotiations: Price and Terms of Payment

Vice Mayor Klein stated no reportable action was taken on Items 1 and 2.

Closed session ended at 7:20 p.m.

3. This Item Intentionally Left Blank

SPECIAL ORDERS OF THE DAY

Vice Mayor Klein reported that Item 21 would be removed from the Consent Calendar to become Item 5A.

4. Resolution 8749 entitled "Resolution of Council of the City of Palo Alto Expressing Appreciation to Lucie Hirmina upon her Retirement"

MOTION: Council Member Barton moved, seconded by Morton, to adopt the resolution.

MOTION PASSED 8-0, Kishimoto absent.

5. Resolution 8750 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Blake Heitzman upon his Retirement"

MOTION: Council Member Barton moved, seconded by Kleinberg, to adopt the resolution.

MOTION PASSED 8-0, Kishimoto absent.

5A. (Old Item 21) Resolution 8751 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Daisy Stark upon her Retirement"

MOTION: Council Member Morton moved, seconded by Barton, to adopt the resolution.

MOTION PASSED 8-0, Kishimoto absent.

6. Proclamation Commending Common Ground Organic Gardening Supply and Education Center on its 35th Anniversary

7. Selection of Applicants to Interview for the Parks and Recreation Commission

MOTION: Council Member Morton moved, seconded by Klein, to select all Parks and Recreation Commission applicants for interviews.

MOTION PASSED 8-0, Kishimoto absent.

8. Selection of Applicants to Interview for the Public Art Commission

Council Member Morton asked whether it was required to interview the applicant considering there was only one applicant.

Vice Mayor Klein replied it was not required.

MOTION: Council Member Barton moved, seconded by Mossar, to recruit once again for the Public Art Commission and include the one applicant in the applicant pool.

MOTION PASSED 8-0, Kishimoto absent.

ORAL COMMUNICATIONS

Lynn Power, 2254 Dartmouth, spoke regarding parking tickets issued to automobiles parked on the street for 72 hours.

Aram James spoke regarding a ban on tasers event on September 11, 2007.

Bob Moss, 4010 Orme Street, spoke regarding a project on 195 Page Mill Road.

APPROVAL OF MINUTES

09/10/2007

MOTION: Council Member Morton moved, seconded by Mossar, to approve the minutes of July 9, 2007, July 16, 2007 and July 23, 2007, as submitted.

MOTION PASSED 8-0, Kishimoto absent.

CONSENT CALENDAR

MOTION: Council Member Barton moved, seconded by Mossar, to pull Item 19 from the Consent Calendar to become Item 26A.

Council Member Barton stated he would not participate in Item 9 as he has a conflict of interest because he had projects which would be affected by the zoning changes.

Council Member Morton stated he would not participate on Item 16 b) as he has a conflict of interest because he lives within 500 feet of District 38.

Vice Mayor Klein stated he would not participate in Item 16 a) as he has a conflict of interest because his residence was within 500 feet of District 37.

MOTION: Vice Mayor Klein moved, seconded by Beecham, to approve Consent Calendar items 9-18 and 20.

9. Ordinance 4964 entitled "Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code to: Delete Chapters 18.22, 18.24 and 18.26 and Adding Chapter 18.13 [Multiple Family Residential Districts: RM-15, RM-30 and RM-40]; Deleting Chapter 18.83 and Adding Chapters 18.52 [Off-Street Parking and Loading Regulations] and 18.54 [Parking Facility Design Standards]; Deleting Chapters 18.32, 18.71, and 18.72 and Adding Chapter 18.28 [Special Purpose Districts]; Amending Definitions in Chapter 18.04 (Definitions); and Amending Miscellaneous Zoning Provisions to Provide Clarification and to Reformat the Ordinance"
10. Ordinance 4965 entitled "Ordinance of the Council of the City of Palo Alto Amending the Zoning Map of the City of Palo Alto to Change the Zone Designation for 4225 Middlefield Road, 4233 Middlefield Road, and 710 San Antonio Road from Planned Community No. 1561 Zone Designation to the Service Commercial (CS) Zone Designation with an Automobile Dealership Combining District (AD) Overlay"
11. Ordinance 4966 entitled "Ordinance of the Council of the City of Palo Alto Amending Section 18.76.020 of Chapter 18.76 and Section 18.77.020 of Chapter 18.76 of Title 18 of the Palo Alto Municipal Code"

to Provide a Sustainability and Green Building Finding (18.76.020 (D)(15)) and Add Council Adopted Sustainability Policies in the Section on Applications (18.77.020(A))”

12. Ordinance 4967 entitled “Ordinance of the Council of the City of Palo Alto Approving and Adopting a Park Improvement Ordinance and an Improvement Plan for Herbert Hoover Park”
13. Ordinance 4968 entitled “Ordinance of the Council of the City of Palo Alto Approving and Adopting a Park Improvement Ordinance and an Improvement Plan for John Boulware Park”
14. Recommendation from Finance Committee to Preliminarily Approve 2006-07 Reappropriation Requests
15. Approval of Four Contracts with Baker & Taylor for Up to Three Years for the Purchase of (1) Library Books in an Amount Not to Exceed \$1,090,000, (2) Audio Visual Materials in an Amount Not to Exceed \$240,000, (3) Library Continuation Services in an Amount Not to Exceed \$150,000, and (4) Cataloging and Processing Services in an Amount Not to Exceed \$118,000
16. Adoption of Two Resolutions Regarding Summary Vacation of Public Utility Easements for Overhead Facilities in Underground Utility Districts 37 and 38.
 - a) Resolution 8752 entitled “Resolution of the Council of the City of Palo Alto Summarily Vacating Public Service Easements for Utility Poles and Overhead Lines in Underground Utility District 37, Encompassing the Areas Contiguous with Portions of Embarcadero Road, Middlefield Road, Seale Avenue, Byron Street, Bret Harte Street, Mark Twain Street, Newell Road, Guinda Street, Fulton Street and Tennyson Avenue”
 - b) Resolution 8753 entitled “Resolution of the Council of the City of Palo Alto Summarily Vacating Public Service Easements for Utility Poles and Overhead Lines in Underground Utility District 38, Encompassing the Areas Contiguous with Portions of High Street and Cowper Street, and Oregon Expressway and Colorado Avenue”
17. Approval of a Final Map to Merge Two Parcels (Approximately 6.5 Acres) Into One Parcel for Condominium Purposes at 3270 and 3290 W. Bayshore Road [05PLN-00320]

18. Approval of Memorandum of Understanding with Santa Clara Valley Water District (SCVWD) to Implement a Three-Year Water Conservation Program Partnership in the Amount of \$442,715
- ~~19. Approval of a Wastewater Treatment Enterprise Fund Contract with Anderson Pacific in the Total Amount of \$859,000 for the Recycled Water Pump Station Upgrade Project at the Regional Water Quality Control Plant—Capital Improvement Program Project WQ-80021~~
20. Finance Committee Recommendation to Accept the Auditor's Office Quarterly Report as June 30, 2007
- ~~21. Resolution xxxx entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Daisy Stark upon her Retirement"~~

MOTION PASSED for Item 9: 6-1 Morton no, Barton not participating, Kishimoto absent.

MOTION PASSED for Items 10-15: 8-0, Kishimoto absent.

MOTION PASSED for Item 16 a): 7-0, Klein not participating, Kishimoto absent.

MOTION PASSED for Item 16 b): 7-0, Morton not participating, Kishimoto absent.

UNFINISHED BUSINESS

22. Acceptance of Audit of Library Operations

City Auditor Sharon Erickson stated the purpose of the audit was to identify operating efficiencies. She stated the findings indicated the libraries in Palo Alto were in poor condition and would need significant improvements. There were three recommendations: 1) The City should address the significant library facility problems including overcrowding, poor lighting and inadequate meeting space; 2) Renovation plans should be analyzed for staffing implications in order to minimize the need for additional staff; and 3) The City should fund routine ongoing replacement of furniture, shelves and minor repairs in the library facilities. There were also recommendations for improving the efficiency of the five-branch library system: 1) Weekend inter-branch deliveries to smooth the circulation workload; and 2) The use of one schedule for each location to analyze staff coverage.

Senior Auditor Renata Khoshroo stated the next four finding areas in the report were: 1) The changing nature of the workload; 2) The efficiency of

scheduling; 4) Very low hourly positions; and 5) Job titles and volunteers. The recommendation was to annually calculate the workload impact of self-check out machines, holds, online renewals, inter-branch transfers and new technologies. A recommendation was made establishing performance measures for off desk reference work to track volume outcomes, community impact of the work and understand how those services change overtime. The reconfiguring of schedules would improve the efficiency of staffing coverage and may allow the library to open more hours. The recommendation was to convert the low hourly positions to at least a .20 Full Time Equivalent (FTE) and to simplify job titles. There is a recommendation to set and achieve a target for an increase in volunteer hours and consider expanding Operation Homebound with a recommendation that all volunteers be fingerprinted and a background check performed.

Ms. Erickson stated there were eight total recommendations for suggested improvements for internal controls over library collections: 1) The library's theft detective system had been partially deactivated and would need to be replaced; 2) Loner laptops were a high-risk item to lend out to citizens and wanted to reconsider the program; and 3) Several other recommendations to improve controls over cash and strengthen collections procedures for outstanding fees and fines which includes online payments as soon as possible. There were 32 total recommendations to improve the current library operations and more information on those recommendations is included in the full audit report.

Library Director Diane Jennings stated the libraries have implemented the four recommendations regarding cash handling and were working on reinstating programming to generate collection letters. The Library Advisory Commission (LAC) agreed with the recommendations to institute payment of fines by credit card, increase the frequency of reports to track missing items, and adopt Radio Frequency Identification (RFID) to help improve security and inventory control over collections. The laptop lending service is very successful, checking out almost 25,000 times with only one theft. The thief was caught and convicted of a felony. The LAC recommended continuing the laptop service. She stated the recruitment of volunteers for the Operation Homebound program should be reviewed, as well as the volunteer's hours that could be accommodated. Shifts and workloads would continue to be monitored.

Alison Cormack, 3487 Ross Road, stated the Palo Alto Library Foundation was firmly committed to help the City address the significant problems across the library system.

Council Member Barton stated the audit was a huge risk for the City considering it was right before going to the community for support on the upcoming bond measure.

Council Member Morton referred to Exhibit 14 and noted that compared with Mountain View, Palo Alto provides more than three times as many hours and questioned if the additional Librarians enabled Palo Alto to provide a higher quality service.

Ms. Erickson stated in Palo Alto there were more Librarians and hours but less square feet, which were spread out over multiple facilities. If the community needed more hours this would be reassessed to reassign staff to circulation and cross training.

Council Member Morton stated the number of visits to the libraries compared to neighboring communities was very high.

Ms. Erickson stated he was correct.

Council Member Morton stated when that factor was put into the number of Librarians, it gives a different statistic but it was not clear what was being measured.

Ms. Erickson stated we are trying to stretch dollars and resources as far as possible while enhancing the quality of service.

Council Member Morton added Palo Alto has concentrated on the quality of service and now must concentrate on the physical part.

Vice Mayor Klein asked if it was possible to build the new facilities without an increase in staff.

Ms. Erickson stated the recommendation was to use existing staff as efficiently as possible and incorporate more hours with current staff.

Ms. Jennings said if a larger Mitchell Park Library reopened, it would need to have more hours. The consultant's report recommended between one and a half to three positions be added to Mitchell Park Library's new design.

Council Member Beecham stated this audit was to ensure our residents that our libraries were being operated optimally.

MOTION: Council Member Morton moved, seconded by Barton, to accept the Audit of Library Operations.

MOTION PASSED 8-0 Kishimoto absent.

PUBLIC HEARINGS

23. Approval of License Agreement with T-Mobile, for Placement of Telecommunications Facilities on City Owned Property Located at 1082 Colorado Avenue

MOTION: Vice Mayor Klein moved, seconded by Mossar, to accept staff recommendation to continue Item 23 to the October 22, 2007 City Council Meeting.

MOTION PASSED 8-0 Kishimoto absent.

26A. (Old Item 19) Approval of a Wastewater Treatment Enterprise Fund Contract with Anderson Pacific in the Total Amount of \$859,000 for the Recycled Water Pump Station Upgrade Project at the Regional Water Quality Control Plant - Capital Improvement Program Project WQ-80021

Josue Garcia, 2102 Almaden Road, Suite 10, San Jose, asked to make requirements for prevailing wage on this project to help people pay for housing, health insurance and transportation.

Neil Struthers, 2102 Almaden Road, #101, San Jose, asked the Council to reject all bids on this project and rebid it with a prevailing wage requirement. People were dependent upon access to healthcare, retirement benefits and apprenticeship training, which were all tied to prevailing wage policies.

Doug Nasreau, 4976 Garden Hwy, Nicolaus, asked the Council to discuss this item to help make the right decision regarding prevailing wage requirements.

Juan Garza, 1493 Park Avenue, San Jose, stated prevailing wage was for group of workers who have been able to use their craft intelligently enough to improve their lives.

Wendell Phillips, Northern California Electrical Construction Industry, asked the Council not to award the contract and to re-bid it requiring prevailing wage.

Council Member Barton stated he believed in prevailing wage.

MOTION: Council Member Barton moved, seconded by Kleinberg, to reject the contract and have the contract re-bid to ensure the bid includes a prevailing wage provision.

City Attorney Gary Baum stated that Palo Alto was a Charter City and was not subject to prevailing wage in ordinary projects. This was a relatively small, local project at the plant and was a policy choice for the Council.

City Manager Frank Benest stated that staff comments were: 1) Council had never had a policy for prevailing wage provision and this would be a change of policy; 2) This was a major contract that paid the equivalent of prevailing wage for the major trades; 3) This project could only be done at certain times of the year and could not be completed by the completion date if the contract were to be re-bid; and 4) If there were to be a prevailing wage policy for all of the Public Works contracts, this should go to Policy and Services to determine if there will be a specific policy.

Council Member Beecham stated he opposed the Motion on the floor based on staff comments.

Council Member Mossar stated she opposed the Motion on the floor based on the comments from staff and due to the timing on the project.

Council Member Morton asked whether it could be validated that the Contractor paid the equivalent of prevailing wages within the bid set forth.

Assistant Director Public Works Mike Sartor stated Anderson Pacific advised that they paid the equivalent of prevailing wage.

Council Member Morton asked whether Anderson Pacific was viewed as a reputable contractor.

Mr. Sartor stated the City's experiences with them had been good.

Council Member Cordell asked whether Anderson Pacific paid prevailing wage but just didn't call it that.

Mr. Sartor stated based on his experience with the contractor, he believed that was the case.

Mr. Baum added either they paid prevailing wages or they did not and there was no verification that they did.

Council Member Cordell asked whether there was a legal term for "equivalent".

Mr. Baum stated it was a number set by certain guidance and they may be matching that number but were not paying prevailing wage under the contract.

Council Member Kleinberg asked if something in writing could be requested from the contractor regarding prevailing wage.

Mr. Sartor agreed this could be done.

Council Member Kleinberg asked whether it was illegal in the bid process.

Mr. Baum stated the second highest bidder might feel like it changed the process. He added he was not capable of analyzing that at this time.

Council Member Kleinberg stated the Council has a responsibility to provide our residents with housing and other amenities and to ensure the people, who work in our City, could afford to live near by. She added for this contract, it would be appropriate to have a re-bid or to ask for assurance from the winning bidder that this was going to be equivalent to prevailing wage. She supported the motion on the floor and, if it should fail, she asked for a side letter.

Vice Mayor Klein stated he did not want to change the policy regarding prevailing wage as it was an issue that needed discussion, had serious financial implications for the community, and was not a trivial issue. He asked to approve the contract and was against the Motion.

Council Member Cordell asked about the legality of a letter from the bidder stating they paid equivalent to prevailing wage.

Mr. Baum stated the winning bidder could bind itself via a letter to pay prevailing wages but it could cause a bid protest.

Council Member Cordell asked what the completion deadline was.

Mr. Sartor stated the project was connected with the Reclaimed Water Pipeline Project and the same equipment used for this project would test the pipeline. Re-bidding this project could delay the two projects.

Council Member Cordell asked for a deadline date.

Manager Water Quality Control Plant Rick Wetzel stated this project was scheduled to be completed in December 2008.

Council Member Cordell asked how long it would take to re-bid this project.

Mr. Wetzel stated it would take three to four months to re-bid the contract and return to Council.

Council Member Cordell asked if the Council approved this in January, if it would give them enough time to get the project done by December 2008.

Mr. Wetzel stated that construction could not be done during the wet weather season and would not begin until October 2008.

Council Member Cordell asked why the work could not be done during the spring and the summer.

Mr. Wetzel replied the facility was supplying water to the fresh water marsh, the Palo Alto Golf Course and Greer Park and the work needed to be done during the wet weather months when there was not such a demand for irrigation water.

Council Member Cordell asked what months the project needed to be worked on.

Mr. Wetzel stated from October 2008 to May 2009.

Council Member Drekmeier asked if the Motion failed where they would stand.

City Manager Frank Benest stated staff would present it at the next Council meeting with the nine Council Members in attendance.

SUBSTITUTE MOTION: Council Member Drekmeier moved that Anderson Pacific provide documentation that they pay prevailing wage.

SUBSTITUTE MOTION FAILED FOR LACK OF A SECOND.

Council Member Drekmeier stated prevailing wage helped more people afford to live and work in Palo Alto, and the community had a lot to gain by requiring prevailing wage.

Council Member Mossar stated if the contract was not approved, the City would have to wait another year. She asked whether delaying the project another year would put grant funds in jeopardy.

Mr. Sartor said it would and if the project went out to re-bid, the renovation work would not start until next October.

Council Member Mossar stated it would jeopardize the funding from the State to build a recycled water project and that the Council should schedule a separate discussion regarding prevailing wage.

Council Member Morton asked if the winning bidder had been requested to provide insurance to prove he was paying prevailing wages would that change the whole contract and open us to legal risks.

Mr. Baum stated that there would be legal risks.

Council Member Morton he stated he did not support the Motion.

Council Member Beecham asked to approve the contract and follow up on the policy at a different time.

SUBSTITUTE MOTION: Council Member Cordell moved, seconded by Kleinberg, to move the item to the September 17, 2007 Council Meeting in order to have Anderson Pacific attend the meeting, or for Anderson Pacific to provide the documentation indicating they pay prevailing wage.

SUBSTITUTE MOTION FAILED 3-5 Barton, Beecham, Klein, Morton, Mossar no, Kishimoto absent.

SUBSTITUTE MOTION: Council Member Beecham moved, seconded by Morton, to approve the staff recommendation to approve the contract with Anderson Pacific.

SUBSTITUTE MOTION FAILED 4-4 Barton, Cordell, Drekmeier, Kleinberg no, Kishimoto absent.

MOTION: Vice Mayor Klein moved, seconded by Drekmeier, to continue the item to the Council Meeting of September 17, 2007 with no additional public comment.

Council Member Kleinberg asked for clarification whether the winning bidder could send a letter stating how they paid their workers if they were not able to attend the meeting.

Council Member Cordell stated she did not want to change the contract and was asking for someone from Anderson Pacific to attend the meeting to confirm they paid prevailing wage.

Council Member Kleinberg asked whether Council Member Cordell would accept something in writing.

Council Member Cordell stated she did not want any legal issues to arise and wanted any documents that would adequately represent they do pay prevailing wages.

Council Member Kleinberg stated this policy should be sent to the Policy and Services Committee (P&S) for review.

Council Member Mossar asked whether the public hearing was closed.

Vice Mayor Klein stated there was no public hearing on this item and there were six speakers heard earlier in the meeting.

Council Member Mossar asked if this item was continued would there be public comments taken again on this item.

Vice Mayor Klein stated the public comments had been closed but the Council could reopen public comment.

Council Member Mossar stated she did not want to spend a lot of additional time on this and she did not want to support the continuance.

Council Member Morton asked if this was continued whether it needed to be continued to P&S as a separate item.

Vice Mayor Klein stated there was nothing in the Motion referring it to P&S.

Council Member Morton asked if the seconder had asked to make it part of the Motion.

Council Member Kleinberg stated it was not part of the Motion but just a comment.

Council Member Morton stated he thought there was enough information and it was not necessary to be continued.

Council Member Beecham asked if the public comment was reopened would anyone be able to comment.

Mr. Baum stated the Council could open the comment period in a limited fashion but, in general, it was difficult to do.

Council Member Beecham asked if the Council voted and it was tie vote would this item be reagendaized.

Mr. Baum stated he was correct.

Vice Mayor Klein stated the Motion on the floor was to continue.

Council Member Beecham stated he wanted to add that the public comment be open for the bidder to make comments.

Vice Mayor Klein stated if the bidder was asked to put something in writing, it would be like stating the policy was to have prevailing wage.

Council Member Cordell asked whether the bidder could submit something before the meeting.

Council Member Beecham clarified that on any continuance the Council was not prohibited from looking at additional information and the Motion was not reopening public comments if it passed.

Mr. Baum added that because this was not a true public hearing it may be difficult to not have public comments and he would look into it further.

MOTION PASSED 5-3 Kleinberg, Mossar, Morton no, Kishimoto absent.

Council returned from break at 9:40 p.m.

REPORTS OF COMMITTEES AND COMMISSIONS

24. From Policy and Services Committee: Potential Adoption of Voluntary Campaign Contributions Limits

Council Member Cordell reported after a two to one vote, the Policy and Services Committee (P&S) recommended adoption of this program.

MOTION: Council Member Cordell moved, seconded by Drekmeier, to adopt the following guidelines for campaign contributions and expenditure limits with the deletion of “. . . and should include in-kind” contributions”:

- It is a voluntary system.
- It should have a cap of individual or group contributions of \$300.
- The \$300 amount should be adjusted annually based upon the CPI and should include in-kind contributions.
- The system is self-enforcing.
- Total expenditures shall be capped at \$30,000.
- Incentives for participation shall include waiver of the fee for the ballot statement.
- Candidates shall sign a form agreeing to the system and may designate themselves as agreeing to the system in their campaign literature.

Council Member Drekmeier asked for a change where it stated, “a candidate’s name will be listed in the newspaper” to state “a candidate’s name may be listed in the newspaper.”

Council Member Morton asked whether waiving the fee for a subset of the applicants would then be considered denying people the right to run.

City Attorney Gary Baum stated it was a voluntary program and the City was not required to pay for that statement.

Council Member Morton said the City was not required to pay could choose to set a limitation on the amount of money they raised and asked whether it was challengeable.

Mr. Baum stated there were systems utilized by other communities.

Council Member Mossar asked whether the total expenditures would be capped at \$30,000.

Mr. Baum stated it was possible but it was the direction of P&S to have it capped and it could be adjusted by the Council.

Council Member Drekmeier stated there was no limit on how much money was raised but there was a limit to how much was spent.

Council Member Kleinberg stated that P&S asked for the limit to be adjusted annually.

Mr. Baum stated the minutes said the \$300 per contributor was adjusted by the Consumer Price Index (CPI) but he believed the cap would come back to the Council.

Council Member Drekmeier stated it was decided that it was not a legal issue and it was not necessary to raise it to keep up with the economy.

Council Member Kleinberg stated she was referring to the \$30,000.

Council Member Drekmeier stated it was the same for that and it could be changed to reflect concern.

Council Member Kleinberg stated there was concern for the language and that amount being a cap. She asked whether this was a requirement that you must opt out of in order to save money.

Mr. Baum stated that not every system had a pledge.

Council Member Kleinberg stated this looked like a system asking to involuntarily tell whether you are or are not going to observe the system and you cannot file without doing so.

Mr. Baum stated it could be changed if needed.

Council Member Kleinberg asked whether other systems were looked at before some mandatory filing.

Mr. Baum stated they had examined a number of systems, which were like this.

Council Member Beecham asked what would happen if a candidate took this pledge and then ended up spending more than \$30,000.

Mr. Baum stated this was an honor system and there was no enforcement mechanism.

Council Member Beecham asked whether it was the honor of the candidate to recognize and to pay the fees.

Mr. Baum stated he was correct but there could be something added to the system if needed.

Council Member Kleinberg asked for clarification whether the cost of printing the candidate statements in the ballot pamphlet would be absorbed.

Mr. Baum stated she was correct.

Council Member Kleinberg asked if Palo Alto paid for the candidate's ballot statement and they did not follow through with the written agreement that there would be no enforcement.

Mr. Baum stated the City would not sue. However, there could be something added that in the event an individual had chosen to opt out the Candidate should repay the City.

Council Member Mossar asked what a candidate would be allowed to do with any extra money raised.

Mr. Baum stated he was not familiar with campaign laws.

Council Member Mossar asked if a candidate who was elected had extra money where that money would go.

Mr. Baum stated whatever the Fair Political Practices Commission (FPPC) said it could go toward.

Herb Borock, P.O. Box 632, stated he opposed the voluntary system and such a high contribution limit.

Fred Balin, 2385 Columbia Street stated having caps of \$300 on individual contributions and \$30,000 on total expenditures would be more than adequate to run a campaign. He did not agree with a candidate pledging to abide by a standard.

Council Member Morton stated this would not be encouraging people to run but there would be a bigger barrier to run. There was a voluntary system in place and they had a commitment to serve the community with no other requirements. He added it was limiting to require someone to take a pledge to allow them to have a fee waived and he did not support this.

Council Member Beecham stated as long as in-kind contributions were limited to \$300 this would not work and would be pushing people to make compromises that he would not feel comfortable asking at this point.

Council Member Mossar stated this did not accomplish what it had intended to accomplish and she did not think it was necessary.

Council Member Kleinberg stated the in-kind contributions were not justified and there were talents and skills that could be donated to a campaign. She did not agree the City should pay for the ballot pamphlet statements and more thought was needed regarding that issue.

Vice Mayor Klein stated he would not vote for this item. The only way to get campaign finance reform was to have public financing for campaigns.

Council Member Cordell stated the system proposed was simple. It was an honor-based system, a good test for candidates for public office and the fee waiver was an incentive for the candidates to participate. She added if there was a program instituted that limited the contributions and had an expenditure cap then the in-kind contributions could be taken away.

Council Member Barton stated he did not see a reason to make this law and did not support this item.

Council Member Beecham stated there needed to be options to things that happen even when they could not be controlled and he did not support the changes.

Council Member Morton stated if the in-kind contributions were exempt the people who were not politically connected would have to pay for things that people who were politically connected would not have to.

Council Member Drekmeier stated this was a step to improve elections and he wanted to leave out in-kind contributions.

Council Member Barton said taking out the in-kind contributions would be in favor of the people who were well connected and would not help in the long run.

MOTION FAILED 2-6, Barton, Beecham, Klein, Kleinberg, Morton, Mossar no, Kishimoto absent.

REPORTS OF OFFICIALS

MOTION: Council Member Mossar moved, seconded by Klein, to hear Item 25 and Item 26 together with one public comment period to be heard at the end of Item 26.

MOTION PASSED 8-0, Kishimoto absent.

25. Transmittal of Police Auditor Annual Report

26. Colleague's Memo from Council Members Cordell and Barton for Approval of Proposal to Continue Police Auditor Program and to Authorize the Mayor to Execute a Two-Year Agreement with OIR in an Amount Not to Exceed \$52,000

Council Member Cordell asked the Council to approve the extension of a two-year contract for the independent Police Auditor. She stated in one year the Police Department had implemented several recommendations from the Auditor, which had improved the work of the department. Since the OIR had been retained, there had been no lawsuits claiming Police brutality, misconduct, racial discrimination, or racial profiling.

Council Member Mossar asked if there would be money in the budget to continue the Police Auditor contract in the future.

City Manager Frank Benest stated once this was approved it would be automatically included in the base budget.

Council Member Mossar asked for that to be clarified once the Motion was reiterated.

John K. Abraham, 436 Ellsworth Place, stated the Police Auditor was not going to uncover racial bias in Palo Alto.

Aram James requested the Auditor program continue. He stated there had been underreporting and asked the title be changed to something people

could recognize when they are calling with complaints. He encouraged the Council to vote in favor of the extension of the contract.

Bob Moss, 4010 Orme Street, stated he agreed with extension of the contract as it would enhance the credibility of the Police Department.

Council Member Morton asked whether the Police Auditor had a beneficial impact in terms of future legal costs.

City Attorney Gary Baum stated if a long-term trend started or if it were to defuse a lawsuit, it could be beneficial from a financial standpoint.

Mr. Benest added he did support the Police Auditor and, over time, it would be cost avoidance.

Council Member Morton stated he supported the extension considering the costs would not be coming out of the General Fund.

Council Member Kleinberg stated she supported the Motion and asked for clarification whether there was no review of information except for what was submitted by the Police Department.

Council Member Cordell stated the Auditors talked with the Police Officers, reviewed the Police report, met with the complainants, and reviewed videotape with the complainants.

Vice Mayor Klein thanked Council Member Cordell for all her work with this program and he supported this Motion.

MOTION: Council Member Mossar moved, seconded by Klein, to approve the Police Auditor's Annual Report and to Authorize the Mayor to Execute a Two-Year Agreement with OIR in an Amount Not to Exceed \$52,000, and to add wording to the paragraph "and to direct staff to include funds for the 2008-09 budget in the ordinary course of business."

MOTION PASSED 8-0 Kishimoto absent.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Barton stated he attended the League of Cities Annual Conference and the League Policy Committee for Environmental Quality.

Council Member Kleinberg noted September was Preparedness Month and she stated in the memory of those who died on September 11, 2001, Palo

Alto should be prepared for disasters. She requested to close the meeting in memory of those who died on September 11, 2001.

Council Member Mossar noted she attended the Northern California Power Agency (NCPA) meeting in Murphys, California; one of the discussions was about reducing carbon emissions. She reported water levels were low at the Spicer Reservoir.

Council Member Beecham noted he had attended the NCPA meeting in Murphys, California. He had met with Fitch, one of the rating agencies, and presented to them how NCPA, by re-injecting wastewater from Lake County, had extended the productive life of the Geysers.

Vice Mayor Klein requested staff provides an update on the status of the web-site in response to public complaints.

City Manager Frank Benest noted the web-site was being worked on and an staff update would be available to the Council in a couple of weeks.

ADJOURNMENT: The meeting was adjourned at 11:00 p.m. in memory of the individuals who died on September 11, 2001.