

1.	Resolution 8550 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Don Greenwell Upon His Retirement".	2
ORAL COMMUNICATIONS		2
2.	Resolution 8551 entitled "Resolution of the Council of the City of Palo Alto Designating the Palo Alto Children's Library Eligible as a "Sender Site" in the Transfer of Development Rights Program"	4
3.	Palo Alto Shuttle Program - Approval of Contract Extension No. 10 and Increase in the Expenditure Limit of the Rail Shuttle Bus Service Administration Agreement with the Peninsula Corridor Joint Powers Board.....	4
4.	Agreement with the Los Altos Hills County Fire District for Inter-Jurisdictional Fire Protection and Emergency Medical Response Service from Fire Station Number 8.....	4
5.	Approval of a Purchase Order with SBC Datacomm in the Amount of \$509,754 for Networking Equipment for the Institutional Network (I-Net).....	4
6.	Public Hearing: License Agreement with Acterra for Operation of a Native Plant Nursery and Restoration of a 0.53 Acre Portion of a City-Owned 7.7-Acre Parcel Adjacent to Foothills Park	4
7.	Approval of Library Advisory Commission's Recommendation to Fund a Survey of Community Priorities for Library Service	5
8.	Authorize the City Manager to Execute a Purchase Order in an Amount Not to Exceed \$200,000 with Kustom Signals, Inc. for the Police Vehicle Mobile Audio Video Recording System - Capital Improvement Program Project Number PD-05010.....	9
COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS		18
ADJOURNMENT: The meeting adjourned at 11:00 p.m.		19

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:37 p.m.

PRESENT: Beecham, Burch, Cordell, Freeman, Kishimoto, Kleinberg, Morton, Mossar

ABSENT: Ojakian

SPECIAL ORDERS OF THE DAY

1. Resolution 8550 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Don Greenwell Upon His Retirement"

Police Chief Lynne Johnson said Mr. Greenwell worked in the Palo Alto Police Department from 1969 to 1980. In 1980, he transferred to Poke County, Oregon, returned to Palo Alto in 1983, and was promoted to Chief Dispatcher. She thanked him for his accomplishments and dedication to the City. Since 1983, Mr. Greenwell commuted daily from Manteca to Palo Alto.

Don Greenwell thanked the citizens of Palo Alto and said it was an honor and a privilege being a dispatcher for so many years.

MOTION: Council Member Beecham moved, seconded by Kleinberg, to approve the Resolution.

MOTION PASSED 8-0, Ojakian absent.

ORAL COMMUNICATIONS

Don Letcher, 788 N. Rengstorff Avenue, Mountain View, spoke regarding police issues and the Human Relations Commission (HRC).

Dennis Mitrzyk, 201 Maclane Street, spoke regarding police issues in the community.

Herb Borock, P.O. Box 632, spoke regarding police review and the HRC.

Roger V. Smith, 270 Tennyson Avenue, stated Palo Alto had an incredible community and noted the following evening was National Night Out.

Nancy Alexander, 435 Santa Rita Avenue, spoke regarding the adoption of a temporary moratorium on new third floor additions in the R-1 District.

Danielle Martell spoke regarding the dead man found in the dry creek.

Aram James spoke regarding police oversight.

CONSENT CALENDAR

MOTION: Council Member Morton moved, seconded by Beecham, to approve Item Nos. 2-5 on the Consent Calendar.

Council Member Mossar disclosed she would not participate in Item No. 5 due to a conflict of interest because of family holdings of SBC stock. City Attorney Baum said Council Member Mossar and Council Member Morton, who owned SBC stocks, would need to leave the room once discussions began due to a conflict of interest.

Council Member Morton disclosed he would not participate in Item No. 5 due to a conflict of interest because of family holdings of SBC stock.

City Attorney Gary Baum noted the Council needed to make a Substitute Motion because Council Member Morton could not participate on Item No. 5.

SUBSTITUTE MOTION: Council Member Beecham moved, seconded by Kishimoto, to approve Item Nos. 2-5 on the Consent Calendar.

Council Member Freeman asked a question regarding Agenda Item No. 5 about the source of the \$509,000 for Cable Franchise Joint Powers Agency.

Assistant City Manager Emily Harrison said IT Manager Glenn Loo, advised that 55 percent of the cost for hardware came from the Cable Co-op Legacy Grant. The grant required contributors to be acknowledged, and she apologized for the oversight of not recognizing Cable Co-op in the staff report (CMR:342:05). The remaining 45 percent funding came from the Technology Fund.

Mr. Baum confirmed the monies came from the Comcast settlement, which was placed in Palo Alto's Technology Fund.

MOTION: Council Member Freeman moved to remove Item No. 5 from the Consent Calendar.

MOTION FAILED DUE TO THE LACK OF A SECOND

Council Member Freeman registered a "no" vote on Item No. 5 due to lack of information.

Robert Moss, 4010 Orme Street, spoke on behalf of the Cable Co-op's Board of Directors. He said the Legacy Grant contribution was \$280,000. The money was to provide Internet connections to public organizations for the Cities of Palo Alto, Menlo Park, East Palo Alto, and Atherton to enhance the capability to all government agencies and schools.

Council Member Freeman changed her vote on Item No. 5 to "yes."

LEGISLATIVE

2. Resolution 8551 entitled "Resolution of the Council of the City of Palo Alto Designating the Palo Alto Children's Library Eligible as a "Sender Site" in the Transfer of Development Rights Program"

ADMINISTRATIVE

3. Palo Alto Shuttle Program - Approval of Contract Extension No. 10 and Increase in the Expenditure Limit of the Rail Shuttle Bus Service Administration Agreement with the Peninsula Corridor Joint Powers Board
4. Agreement with the Los Altos Hills County Fire District for Inter-Jurisdictional Fire Protection and Emergency Medical Response Service from Fire Station Number 8
5. Approval of a Purchase Order with SBC Datacomm in the Amount of \$509,754 for Networking Equipment for the Institutional Network (I-Net)

SUBSTITUTE MOTION PASSED 8-0 for items 2-4, Ojakian absent.

SUBSTITUTE-MOTION PASSED 6-0, for Item No. 5, Morton, Mossar not participating, Ojakian absent.

UNFINISHED BUSINESS

6. Public Hearing: License Agreement with Acterra for Operation of a Native Plant Nursery and Restoration of a 0.53 Acre Portion of a City-Owned 7.7-Acre Parcel Adjacent to Foothills Park *(Item continued from 07/25/05)*

Real Property Manager Bill Fellman gave an overview of Item No. 6, as outlined in CMR:322:05.

Acterra Executive Director Michael Closson, 3921 East Bayshore Road, said the nursery was part of their stewardship work on the Pearson-Arastradero Preserve and the San Francisquito Watershed. The nursery had over 100 rare species and specialized in watershed plants, trees, and grasses. Plants were provided free to restoration projects throughout Palo Alto and to the residents living along the creek for restoration projects.

MOTION: Council Member Mossar moved, seconded by Kleinberg, to accept the staff recommendation approving the license agreement (attached to CMR:322:05) between the City and Acterra to permit the operation of a non-

profit native plant nursery and restoration of a 0.53-acre portion of a 7.7-acre City-owned parcel adjacent to Foothills Park.

Council Member Mossar said the agreement was a public-private partnership essential in maintaining and beneficial to the San Francisquito Creek Watershed.

Vice Mayor Kleinberg echoed Council Member Mossar's comments and congratulated the nursery for their great work.

MOTION PASSED 8-0, Ojakian absent.

REPORTS OF COMMITTEES AND COMMISSIONS

7. Approval of Library Advisory Commission's Recommendation to Fund a Survey of Community Priorities for Library Service

Library Advisory Commission Chairperson Sandra Hirsch asked the City Council to approve the Library Advisory Commission's (LAC) request for \$35,000 to fund the survey in assessing community priorities for library services. Funding came from the Council's Contingency Fund. She gave an overview of accomplishments and the survey timeline, as outlined in staff report CMR336:05. The Commission determined a random sample survey of the community was the best way to assess the community's top priorities for services. The information would be used to formulate the recommended plan and would be presented to Council in March 2006. She asked whether the LAC's planned course of action was consistent with Council's direction and whether the timeframe and scope were reasonable.

Jeff Levinsky, President of the Friends of the Palo Alto Library, said although they did not oppose the survey and found it to be beneficial, they felt the impending problems and cost of reorganizing the Main Childrens' Library and Downtown Branches took higher priority.

Council Member Cordell left the meeting at 8:20 p.m.

Mary Jean Place, 809 Northampton Drive, said it was critical to know how to proceed with the future of the libraries. She favored the survey and urged Council to support the recommendation.

Council Member Cordell returned to the meeting at 8:25 p.m.

Mary Jo Levy, 2412 South Court, said it would be difficult to compile a report for Council without the data. She was anxious to know what the community had to say about the LAC's priorities and proposals.

Betsy Allyn, Willmar Drive, said with library closures and reconfigurations, the

citizens would begin to feel the impact by December 2005. She suggested delaying the survey for six months to a year so public would be better prepared to answer the survey questions.

Robert Moss, 4010 Orme Street, said library priorities should serve the public, meet the community's needs, and provide a scope of services and materials to satisfy the widest possible range of needs in the community. The survey would be beneficial, but asked how the funds would be spent. He asked what the Council's priorities were since the project was being funded through the Contingency Fund.

Paula Skokowski, 1319 Tasso Street, found the reconfiguration to be beneficial. The Main Library was able to service three different age groups in her family.

Council Member Mossar asked whether the LAC had discussed economic feasibility in relation to the survey.

Ms. Hirsch said the LAC wanted the community to understand the financial impact of the various options. They would use the professional survey to help advise and craft a survey to obtain the required data. Economic feasibility was not included in the survey.

Council Member Mossar said Council had envisioned upgrading and improving the libraries and not being faced with a wish list at the end of the survey.

Library Director Paula Simpson said survey firms and other libraries, which performed the survey, advised against having too many dimensions to the survey. Education and additional surveys would be needed to determine the feasibility of funding and moving towards funding measures.

MOTION: Council Member Morton moved to accept staff's recommendation to approve the Library Advisory Commission's request for funding, not to exceed \$35,000, for a survey to assess community priorities for library service; and that this funding be provided from the Council's Contingency Fund with clear indication that the survey includes feedback on facilities and clearly polls the community on funding options.

MOTION FAILED FOR LACK OF SECOND

MOTION: Council Member Beecham moved, seconded by Morton, to accept the staff recommendation approving the Library Advisory Commission's request for funding, not to exceed \$35,000, for a survey to assess community priorities for library services; and that this funding be provided from the Council's Contingency Fund.

Council Member Morton said the community needed to understand they would

need to fund the agreement. He asked that questions regarding funding be included in the survey.

Council Member Beecham said it was permissible.

Vice Mayor Kleinberg asked how the \$35,000 funding cap was derived and what it covered.

Library Advisory Commission Vice Chairperson Sanford Forte, said the LAC had spoken to two groups with extensive expertise in conducting surveys for public libraries. One group said they were experts in collecting data for multi-uses in building libraries and returning with information for the community. Both groups implied the estimated cost could be up to \$35,000.

Library Advisory Commissioner Valerie Stinger said the LAC provided the firms with a list of objectives, specifically with the segmentation and population to be covered. The recommendation was based on the firms' information. The cost for a straightforward, normal survey was between \$8,000 - \$10,000. A survey requiring the LAC's user segmentation to include geography, special needs, different school districts, and age populations could cost up to \$35,000.

Vice Mayor Kleinberg asked whether cultural demographics would be included.

Ms. Stinger said they would be included.

Vice Mayor Kleinberg expressed the importance of an economic analysis.

Ms. Stinger said it would be better to test on the margin and return to staff and ask to cost it within the realities of the current budget situation.

Mr. Forte spoke of a matrix and how it represented a large possibility for services. He said the survey would help the Library Director and LAC determine the community's needs, match it against the matrix, and return the information back to the Council and the community. The survey firm said results would be less accurate if people were asked to pay.

Council Member Morton asked whether the community would be willing to fund improvements through a bond or parcel tax.

Vice Mayor Kleinberg asked whether it was a telephone survey.

Ms. Stinger said probably.

Vice Mayor Kleinberg had concerns about conducting the survey by telephone. She said a majority of young people and professionals used cell phones only, and numbers were difficult to obtain.

Ms. Hirsch said the survey firms were aware of the problem and would provide methodologies to include that population.

Vice Mayor Kleinberg said she was interested in hearing the public's response and feedback regarding public-private partnerships with other institutions, and between the City and the Palo Alto Unified School District (PAUSD). She wanted to know the communities' willingness for use of the libraries after school hours.

Ms. Hirsch said it would be included in the survey.

Council Member Freeman was in favor of upgrading the libraries, but suggested postponing the survey for six months. Citizens would get a better feel of the library reconfigurations and gain better results from the survey. She said Vice Mayor Kleinberg's idea regarding partnerships with schools was a good idea but she had concerns regarding security issues.

Council Member Mossar requested adding a definition of the work product to the motion to assure the Council it would not be a wish list, but an informed report, which would include financial data and realistic constraints.

Council Member Beecham said he would accept the amendment but to omit the request for financial data since it was not available.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that an informed report would be returned to the Council giving realistic constraints.

Council Member Kishimoto agreed to not having a wish list and asked whether the survey would help determine distribution points for library services. She had concerns regarding the transition and expressed the importance of not losing customers during the two-year transition period.

Vice Mayor Kleinberg addressed Council Member Freeman's security issues when using library facilities; she indicated the facilities were to be used after school hours.

Council Member Cordell said she would like the survey to include what the public was willing to pay to achieve the vision for libraries.

Council Member Morton said the word "financial" was more confining than "realistic constraints."

Council Member Mossar said the intent of her amendment was to ensure the survey did not generate a wish list.

Council Member Freeman asked when the survey would be completed and
08/01/05

results made available to the public.

Ms. Hirsch said upon approval of the Request for Proposal (RFP), the survey would take place during the fall with an analysis to follow. The results and analysis would be discussed with the library groups in November and December and recommendations brought back to Council in March 2006.

Ms. Simpson said the LAC understood the RFP was a staff process and the project would not be performed exclusively by the LAC.

Council Member Freeman asked whether there was sufficient library staffing to complete the survey process and the reconfiguration of the libraries.

Ms. Simpson said there was a staff shortage but they would do their best in completing the work.

Council Member Freeman addressed correspondence from the Library Director regarding funds and the use of resources devoted to the delivery of library services, or the capital cost of improving and expanding library facilities. She understood the survey would be for future use and raised concern of funding it now and having to complete the survey with a staff shortage.

Ms. Simpson said she understood Council Member Freeman's concerns but felt it was necessary to complete the long-range project. She reassured Council it would get completed.

MOTION PASSED 7-1, Freeman no, Ojakian absent.

REPORTS OF OFFICIALS

8. Authorize the City Manager to Execute a Purchase Order in an Amount Not to Exceed \$200,000 with Kustom Signals, Inc. for the Police Vehicle Mobile Audio Video Recording System - Capital Improvement Program Project Number PD-05010

Police Chief Lynne Johnson said research had been done to determine which Mobile Audio Video Recording System (MAV) would fill the department's needs. She asked Council to authorize the City Manager to execute a purchase order to Kustom Signals, Inc. for the purchase of a MAV Recording System.

Police Technical Services Coordinator Sheryl Contois said there were a number of factors put in place in the department and outlined in the staff report (CMR:341:05). The MAV would include a zoom lens cameras, wireless audio transmitter, monitor control panel, and recording media (hard drive). The server and software would store, search, and copy audio and videotape files. Vehicle equipment would include high quality cameras that were durable and

able to sustain rapid movement. The MAV media was digital to record and store data and capable of transmitting recorded information from the patrol vehicle to the police station. Removable hard drives would be used to move information to media storage. The technology had a system the department could grow with and capable of adapting to evolving changes. The MAV would be operational at all times to capture and store information on a hard drive. To demonstrate the stability of the equipment and how the system operated in ambient or natural low light, a video presentation was provided. The video system had a 30-second duration time that would be pre-stored and captured, as a permanent record and the amount of footage captured in advance prior to recording an incident-taking place. On the post-event side, the system would continue to record for 15 seconds beyond the point of when the video was turned off.

Ms. Johnson said the system's policy was consistent with the International Association of Chiefs of Police (IACP) model policy and of the other agencies using video cameras. The MAV would capture information when an officer activated the emergency equipment in a police vehicle. The Human Relations Commission and the public requested the equipment be activated at all times. There were two primary reasons for not running the equipment continuously: 1) police responding to calls that were non-enforcement oriented; and 2) the cost. Upon approval of the recommendation, a camera would be installed in one patrol car for 30 days to get familiar with the technology and its function and to fine-tune policy changes. Each officer would receive eight hours of training, as well as technical services training. The Public Works Equipment Management staff would perform the installation of the system and the cameras in cars and motorcycles. She believed Palo Alto was the only agency to have the equipment on motorcycles. Installation and training would be completed by November 2005.

Aram James stated his concerns regarding not having a use policy in place prior to executing purchase of the MVA system. He asked Council not to not approve the request until a policy was in place.

Shauna Wilson requested that the policy include the handling of a situation where an event occurred and the event was not on videotape.

City Manager Frank Benest said there was a draft policy ready for his approval, but first he wanted Council feedback and concerns.

Council Member Mossar said she interpreted the statement to be an invitation for Council Members to give private feedback, which was not appropriate.

Mr. Benest said a model proposal drafted by the IACP was presented to the Human Relations Commission (HRC). Modifications were made and a meeting took place to confer with the Police Union. Based on the Police Chief's recommendation, the policy was ready for approval. He had the authority to

approve the policy but, due to the sensitivity of the subject, he wanted to be responsive to the Council's concerns prior to approving the policy.

Mayor Burch clarified what was before the Council was a procurement issue.

Mr. Benest said that was correct.

Vice Mayor Kleinberg said she thought the policy was supposed to be brought back to the Council for feedback. She asked whether it was permissible to discuss the policy since it was not agendaized, but was an attachment to the staff report (CMR:341:05).

City Attorney Gary Baum said the Council was allowed to provide formal guidance and comments since it was attached to the agenda and part of a prior agenda item.

Vice Mayor Kleinberg said she would be registering a "no" vote if the policy could not be discussed.

Mayor Burch clarified what was set before the Council was a purchase request authorization to purchase material for installation in one patrol car for a 30-day test period.

Ms. Johnson clarified the request was to approve purchase of an entire system.

Mayor Burch said he understood but a portion of the 30-day test was to be further refined in the policy.

Ms. Johnson said only from a technological aspect.

Mayor Burch said the policy dictated how and when cameras would be used, but it did not change the fact of installing cameras in police vehicles.

Ms. Johnson said that was correct.

Mayor Burch clarified what was before the Council was a request to approve a purchase and could go forward concurrent with a policy.

Council Member Cordell said the public should have been notified regarding discussion of the policy to allow public input on the issue.

Council Member Beecham clarified the Council was the decision-making body for community policies and the City Manager for operational policies. The Council could provide input on operational policies but Council action was not required.

Mr. Baum said that was correct.

Council Member Morton clarified the Council was asked to approve a purchase contract and the City Manager suggested the contract was subject to the policy outlined in staff report (CMR:341:05, Attachment C). The Council was allowed to discuss the contract but could not establish a policy.

Mr. Baum said that was correct. The Council was not adopting, implementing, or approving the policy.

Council Member Mossar said the item was being presented in a strange manner. A Council Member could express their concerns regarding the draft policy and their comments would only be viewed as comments. The Council Member would have to register a "no" vote on the contract because there were no prior discussions and acceptance of the policy.

Mr. Benest said he wanted to be responsive to the Council's concerns and issues in developing the policy. If he were to adhere to his authority in approving the policy, he would not have brought the policy forward to the Council. He was willing to postpone moving forward on the recommendation and consider Council comments and input in fine-tuning the policy.

Vice Mayor Kleinberg acknowledged there had been a disconnection between the Council's authority and the City Manager's authority. She said when a request for budget approval was set before Council a discussion took place on how the funds would be spent. Council was asked to approve \$200,000 for this use. The Council wanted to respect the City Manager's expertise, but there were times when the Council was, or was not, allowed to talk about a policy. Due to the sensitivity of the subject and the responsibility to the public, she felt the Council was struggling to do the right thing.

Mr. Benest said if the Council still had concerns regarding the draft policy after listening to the Police Chief, he recommended they not act on the issue. He would go back to the Police Chief and discuss the Council's issues and concerns.

Vice Mayor Kleinberg said with the Mayor's approval she would like to ask questions regarding the policy.

Mayor Burch gave his approval and advised to ask questions and to move forward in authorizing the contract. The City Manager would decide on how it would be done.

Mr. Benest said the City Manager's constitutional role was under the City Charter. He would be open to the Council's comments regarding the issue.

Vice Mayor Kleinberg said Section 446.6 of the draft policy stated, "The
08/01/05

remote audio portion must be activated manually and was independent of the video, except when the audio was activated the video would start.” She asked if there was an incident when the misbehavior was verbal, why was there not a policy for the audio to be running continually during the incident.

Ms. Johnson explained both the audio and the video would go on simultaneously when the lights went on.

Vice Mayor Kleinberg needed further clarification of Chief Johnson’s explanation.

Ms. Contois said the intent of the policy was to distinguish to police personnel that the two systems operated independently. It meant when the system was turned on, either manually or automatically, the lights went on and both the audio and video were operating with the exception of the pre-event recording. Pre-event recording was video only, not audio. The audio was separate. If an officer had to silence the audio recording for a brief period, the video recording would continue but the audio portion would be off or silenced temporarily.

Vice Mayor Kleinberg asked what would constitute silencing the audio.

Ms. Contois said it would be if an officer was having a confidential conversation with an informant or another officer, the audio would be silenced, but the video would continue to record.

Vice Mayor Kleinberg asked what was meant by “the remote audio portion must be activated manually.”

Ms. Contois said an officer outside the police vehicle could activate the system.

Vice Mayor Kleinberg asked what “Code 3 driving” meant under Section 446.61 Required Activation of MAV.

Ms. Johnson said it meant that the red lights and siren were turned on.

Vice Mayor Kleinberg asked under Section 446.61 (c) who decided when the contact became adversarial.

Ms. Johnson said it was up to the officer’s discretion. Some officers carried digital recorders and, in the event a person started a verbal tirade, the recorder could be activated.

Vice Mayor Kleinberg asked in the language under Section 446.61, “Exceptions are as follows: 1) in the event of an extended incident or detail, the officer may deactivate the system to conserve recording time,” what if it

was a loophole.

Ms. Johnson said the language was included as an example and was not a loophole. For example, in a major injury accident, the system would be activated when the officers responded to the initial call of the accident. By policy under normal circumstances, the camera would not be turned off and recording until the event was completed. An officer might not leave a scene of an accident for two to three hours where there was not a need to capture the activity occurring in that particular accident investigation. A major injury accident was referred to as a Code 3 response.

Vice Mayor Kleinberg asked whether there were any recommendations made to the City Manager that resulted from the HRC meeting.

Ms. Johnson said the post-recording feature was included; removal of language regarding officers to not record another officer without their permission; and clarity regarding disciplinary action taken on an officer.

Vice Mayor Kleinberg asked whether there were other HRC recommendations that were Union or law-related limitations, other than the 24/7 issue.

Ms. Johnson said she believed the 24/7 was the only issue.

Vice Mayor Kleinberg asked whether the model policy resulted from joint collaborations between cities and police departments.

Ms. Johnson said the policy was based on the IACP model policy and considered best practices for police departments installing video systems.

Council Member Kishimoto needed clarification on the HRC's recommendation regarding the 24/7 issue.

Ms. Johnson said it was a split. Some wanted the 24/7 issue and one former member asked that it not go forward due to the \$300,000 cost per year. HRC provided feedback but could not approve a policy. All the HRC recommendations were incorporated into the policy, except for the 24/7 issue.

Council Member Kishimoto asked other than the economic issue, were there other concerns surrounding the 24/7.

Ms. Johnson said other concerns included: 1) not recording non-enforcement interaction with the public; 2) officers dealing with confidential informants; 3) taking a victim's statement; 4) statements considered as evidence only accessible by a court order; or 5) to record or capture anything of relevance.

Council Member Kishimoto asked whether there were any Union objection issues.

Ms. Johnson said the Union had concerns regarding the 24/7 issue that affected change in working conditions. She was unaware of any other police department operating the cameras 24/7.

Council Member Kishimoto said if a policy change occurred, could the same cameras be used to operate 24/7 or would it necessitate an equipment change.

Ms. Johnson said added staffing and equipment would be required, but the \$200,000 equipment purchase could be used.

Council Member Kishimoto asked if the recommendation would be postponed until the expert review group could review the policy.

Council Member Morton asked whether the \$200,000 covered the basic equipment and storage system.

Ms. Johnson said the storage system was included.

MOTION: Council Member Morton moved, seconded by Beecham, to approve the staff recommendation to authorize the City Manager to execute a purchase order in an amount not to exceed \$200,000 with Kustom Signals Inc. for the procurement of an in-vehicle police mobile audio video (MAV) system following the successful completion of the required 30-day trial period.

Council Member Morton felt the American Civil Liberties Union (ACLU) concern regarding 24/7 was a possible privacy violation if cameras were operated continuously. The City Manager's proposal of adding two new panels and an outside legal counsel to review policies was costly. The City Manager had the authority to approve operational policies. The purchase order did not necessitate waiting for a review group to approve the HRC's recommendations. Approval of the purchase agreement meant Council approval with the understanding that the policy, as defined in CMR:341:05, Attachment C and D, was the operational policy.

Council Member Freeman asked for point of order. She thought the Mayor had directed Council to discuss the actual policy and to move forward with the purchase agreement. She wanted input into the policy.

Mayor Burch said that was permissible.

Council Member Beecham said the contract was to place cameras in police cars, and he found no reason not to go forward with the recommendation. The policy surrounding the recommendation was reasonable.

Mayor Burch said the recommendation, provided protection to the public and the Police Department. It was important to make the purchase, and the 08/01/05

policy could be refined over time as required.

Council Member Freeman said it was made clear during the Study Session that under the City Charter, the Council was unable to participate in police policies. The only mechanism the Council had in shaping police policies was to handle the purse strings. She found it troublesome that by approving the \$200,000 purchase, leverage on the police policy would be lost. She read excerpts from the Council Meeting Minutes of November 8, 2004, that referenced returning the policy to the Council for discussion. She had concerns: 1) the policy was not agendaized, which left the public out of the discussion process; and 2) the HRC meeting minutes were not available. She previously had presented seven questions to staff and was not satisfied with the answers and asked to review them.

Mayor Burch asked whether the questions would help determine her final vote.

Council Member Freeman said yes.

Mayor Burch said she had the right to ask the questions.

Council Member Freeman stated Section 446.2, Training, did not indicate the required number of training hours prior to letting an officer use the system. Staff's answer was eight hours. She asked that the required number of training hours be incorporated into the policy.

Council Member Morton asked Council Member Freeman if she proposed a substitute motion.

Council Member Freeman said she had several questions and asked the Mayor how they should be handled.

Mayor Burch said issues could be raised and requested to be incorporated into the policy, but policy changes would not be made at the meeting.

Council Member Freeman said she would state her comments for the record and colleagues could decide whether they were important or not, but she would need to cast a "no" vote for the recommendation since a decision had not been made to incorporate her issues into the policy.

Mayor Burch said no policy would be included in what was being voted on at the meeting. The vote was to authorize a purchase.

Council Member Morton said he understood the draft policy, under Attachment C, would be included in the vote.

Mr. Benest said he was satisfied with the draft policy as recommended. If the

Council had issues, he would be willing to go back and work with Police Chief to deal with the concerns.

Mayor Burch asked whether the policy was on the agenda for the evening.

Mr. Benest said no. It was not for the Council's approval.

Council Member Freeman asked if under Section 446.3 Officer Responsibilities, the DVD and Flash Card were removed during a shift, would an officer be required to retest the equipment at the beginning of their shift to ensure the system was working. Also, what disciplinary action would be taken if an officer not activate the manual remote audio portion. Section 446.92 stated, "No disciplinary action for violation of this policy will be proposed except for the covert recording of other police personnel, the unauthorized review or release of recordings, or the employees refusal, either actively or passively, to use the MAV system."

Mayor Burch requested Council Member Freeman present her questions in writing.

Council Member Freeman said she did but was not satisfied with the answers.

Ms. Johnson said she interpreted Council Member Freeman's statement as, what disciplinary action would be taken if an officer did not activate the camera during an incident, an alleged misconduct, and was not recorded. She clarified if it was an inappropriate action, the officer would be placed on one-day leave. The Police Department followed progressive discipline. If the incident was misconduct, the officer was rude, and a first time offender, the officer would get a written reprimand. Incidents with excessive use of force and nothing recorded, would require a higher level of discipline. Procedures were given to officers to let them know what was expected in using the system.

Vice Mayor Kleinberg asked since the policy was not being voted on at the meeting, would it be appropriate to limit the session to questions to help clarify the policy and provide the City Manager with feedback after the meeting was concluded.

Council Member Cordell asked since the policy was not being voted on, would it be acceptable to list the concerns for the record so they could be heard and feedback given at a later time.

Council Member Freeman said she read the media was not public record and if so, why was there such concern about turning off the recordings for discussion of issues around an investigation. She asked whether the discussions added to the systems promotion of officers' responsibility. Also, for clarity Section 446.62 should have the word "not" inserted in front of
08/01/05

"actively on patrol." Under what circumstances would exchanging information with officers not be recorded. Why were recordings not allowed to be viewed by supervisors for officers' performance evaluations, and where in the policy was it stated, "Adequate media is on-hand." It was specifically stated in the IACP policy and the Palo Alto Police Department policy the responsibility to have the media on-hand.

Council Member Cordell was in favor of the video cameras and asked that Council Member Freeman's issues be considered and incorporated into the policy. The policy should specify the minimum of eight hours of training. She said the public was notified of the HRC meetings giving citizens the opportunity to provide input. She supported the motion.

Mr. Benest said if an expert review panel were established, the MAV policy would be first on their agenda.

Vice Mayor Kleinberg supported the motion. She raised concern about how the issue was brought forward to Council. The policy was discussed at an HRC meeting and presented to Council without the meeting minutes. It came in a preapproved manner requesting input from Council. She suggested having a session to clarify where Council's authority ended and staff's authority began regarding policy issues where Council did not have the training in making the call.

Council Member Kishimoto stated she appreciated that the City Manager is willing to bring the MAV policy back for discussion, but since the maker of the motion would not agree to incorporation of that provision, she could not support the motion.

MOTION PASSED 6-2, Freeman, Kishimoto no, Ojakian absent.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Mossar noted the San Francisquito Creek Joint Powers Authority (JPA) would be presented with a scope of work for the feasibility stage of the Army Corps of Engineers study on the Creek Watershed. The JPA would be required to sign a cost sharing agreement, which must have approval of the various agencies' governing bodies. In early October, there would be a joint study session for all agencies to learn about what they were being asked to do.

Council Member Freeman noted from her perspective, directions given to the staff regarding the Human Relations Commission and the Police Oversight Committee had not been addressed. In addition, the minutes of the Council meeting of November 8, 2004, stated the policy for the in-vehicle police mobile audio video system would be brought back to the Council prior to vendor selection, which had not occurred. Therefore, she could not vote yes

on the police mobile audio video system contract.

Council Member Beecham reported the Northern California Power Agency (NCPA) would have its annual meeting the end of September and all were invited.

Council Member Cordell and Vice Mayor Kleinberg asked the Mayor to present a proclamation at the next Council meeting to James Kim for his many years of community service as proprietor of the Cook Book Restaurant in the Town and Country Shopping Center, which was being forced to close.

ADJOURNMENT: The meeting adjourned at 11:00 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

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