

Special Meeting
December 12, 2005

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The City Council of the City of Palo Alto and the Planning and Transportation Commission met on this date in the Council Chambers at 6:03 p.m.

COUNCIL MEMBERS

Present: Beecham, Burch, Cordell (arrived at 6:40 p.m.), Freeman, Kishimoto, Kleinberg, Morton, Mossar, Ojakian

PLANNING & TRANSPORTATION COMMISSIONERS

Present: Burt, Cassel, Garber, Holman, Lippert, Sandas

Absent: Bialson

1. Joint Meeting with Planning and Transportation Commission (P&TC)

A. Action Plan from Mayor's Retail Attraction Committee

City Attorney Gary Baum said there were two issues which might result in conflicts, wireless communications and the Stanford Shopping Center; however, staff had figured out a system of handling them which would allow a majority of the Council and the Planning and Transportation Commissioners the opportunity to participate.

Council Member Mossar asked whether the body was prevented from bringing up the issue of wireless communications.

Mr. Baum said yes they were. Three of the Council Members were conflicted on wireless issues, which was not central to the discussion that evening.

Mayor Burch presented a brief introduction, overview and history of the Action Plan of the Retail Attraction Committee (RAC). He said the goal of the RAC was to identify and examine policies and administrative actions appropriate to enhancing Palo Alto's retail sales tax base by attracting the right mix of new retail businesses to the City.

Roxy Rapp said retail concerns indicated Palo Alto was not perceived as a business friendly environment by retailers, nor were they actively courting retailers the way other major cities did. Sales tax revenues were off by 27 percent or \$6.7 million over the past five years due to the economy, the loss of jobs, and competition from the surrounding cities.

Director of Administrative Services Carl Yeats said the major sectors that made up Palo Alto's sales tax base were department stores, miscellaneous retail apparel stores, office and equipment supplies, auto sales, restaurants and business services. Since 2001, Palo Alto's sales tax by economic sector had been relatively flat. Sales tax dollars were the single largest source of

revenue in the General Fund, and was how the City provided services in the community.

Council Member Beecham said one obstacle was competition from surrounding cities and from around the Bay. New businesses have indicated Palo Alto's unfriendliness in contrast to other cities, and there was a sense that some of the out-of-town landowners had an overly optimistic understanding of rental rates in Palo Alto. The RAC's objective was to discuss ways to attract and retain appropriate retail in the City.

Annette Glanckoff identified key issues, actions, responsible parties and the timeframe of the Mayor's RAC Action Plan. The key issues included actively working to attract and retain local businesses, and continue business outreach visits to sales tax generators and neighborhood-serving businesses.

Council Member Mossar stated she would not participate in the item referring specifically to Stanford due to a conflict of interest because her husband was employed by Stanford University.

Planning and Transportation Commissioner Phyllis Cassel said she would not participate in the item referring specifically to Stanford due to a conflict of interest because her husband was employed by Stanford University.

City Manager Frank Benest said there were two areas related to Stanford which needed to be brought forward while the conflicted parties were out of the room.

Ms. Glanckoff said one key issue involved exploring ways to help both Stanford and Town and County Shopping Centers become more competitive while focusing on the immediate needs of the centers for ingress and egress, traffic lights, and access to the centers from Cal train or downtown.

Council Member Freeman asked whether there were any statistics on Stanford's sales tax generation and did it decrease an equivalent percentage of the overall sales tax previously mentioned.

Mr. Yeats said when the Stanford Shopping Center (Shopping Center) was tracked against other regional shopping centers the total sales tax dollars generated declined while their competitors had picked up their exact loss.

Council Member Freeman asked for the difference in percentage.

Mr. Yeats said individual sales tax dollar values were confidential. He did not have the percentage.

Council Member Freeman said the Shopping Center was a beautiful destination location and should not be compared to Santana Row or Valley Fair.

Mr. Yeats said that was correct. The thought of the RAC was to enhance and expand upon something that was already successful.

Council Member Freeman asked whether the Shopping Center was the largest generator of the total sales tax dollars.

Mr. Yeats said it was and, in the past, when staff tracked the Shopping Center's growth it was the leading mall in the Bay Area. Palo Alto had now experienced direct competition with Santana Row and Valley Fair.

Mr. Benest said discussions with the RAC centered on how to take a well performing asset and help it improve.

Council Member Freeman said perhaps the focus should shift from the Shopping Center, which was doing well, had a good management company, and was thriving, to the areas which needed attention, such as Downtown and California Avenue.

Council Member Kishimoto asked whether the RAC was considering a mixed use approach in looking at the Shopping Center, or the dream team concept of bringing the Shopping Center and downtown together.

Council Member Beecham said the RAC did not discuss what to do about the Shopping Center; however, the sentiment was Palo Alto had an asset whose revenues had declined, whose market share in the Bay Area had been taken by others, and staff had begun open discussions of what could be done.

Mr. Benest said there had been preliminary discussions regarding a connection between the Shopping Center and the Caltrain Station.

Council Member Kishimoto said traffic continued to be a top concern of the City.

Vice Mayor Kleinberg referred to the graph of major sales tax and 10-year history and asked whether the line referring to office equipment and manufacturing related to the Stanford Research Park (SRP).

Mr. Yeats said it was a combination of several retailers including Fry's Electronics, the SRP, as well as other locations.

Vice Mayor Kleinberg asked how much related to the SRP.

Mr. Yeats said it was not a high percentage. It had grown in terms of business-to-business, but it was the majority of one sales tax generator.

Vice Mayor Kleinberg asked whether the City worked with the SRP businesses for point of sale business-to-business.

Mr. Yeats said yes.

Vice Mayor Kleinberg concurred with the points made by her colleagues. She said the mix found at the more upscale malls was specifically designed for a certain clientele. She commented Santana Row had a hotel which encouraged longer stays and more shopping. She was unsure whether the RAC could encourage a hotel on the Stanford campus or establish a relationship between the hotels on El Camino Real that were near the Shopping Center. She asked whether there was any relationship with the City and the Shopping Center management regarding retail decisions.

Manager of Economic Resources Susan Arpan said the City had worked closely with the Shopping Center; however, Simon Property Group made the retail decisions.

Vice Mayor Kleinberg asked for details about the relationship between the City and the Shopping Center.

Ms. Arpan said the RAC had met with the Shopping Center's management through Simon Property Group (SPG), had arranged additional meetings with their regional representative, discussed ways in which to work together to do outreach and determine what was going on in the downtown area.

Vice Mayor Kleinberg asked what specifically did staff do with respect to the Shopping Center.

Mr. Benest said he recently sent a letter to the SPG suggesting if they were going after any retailers, the RAC would form a red team to help with facilitation. In addition, the City had a long term relationship with the Shopping Center regarding particular community events, which would continue.

Vice Mayor Kleinberg suggested a holiday shuttle to transport people between the Shopping Center and the downtown retailers, as a joint promotional effort.

Planning and Transportation Commission Chair Patrick Burt said he hoped for a long term plan to build a hotel community instead of just one possible location for a hotel. Palo Alto, Stanford University, and the Shopping Center

represented a great regional attraction. He suggested the development of a visitor's bureau as an action item for the RAC.

Planning and Transportation Commission Vice-Chair Karen Holman asked whether there been any consideration to help the businesses, who had left the Shopping Center to relocate to the downtown area.

Ms. Arpan said it depended on the specific circumstances, but staff had worked with a few businesses to relocate to Town and Country. Staff did not normally work with the businesses at the Shopping Center unless they were made aware of the desire to relocate.

Vice-Chair Holman asked whether it was possible to enhance that communication.

Ms. Arpan said yes. Staff regularly met with businesses at the Shopping Center to make sure they received what they needed.

Planning and Transportation Commissioner Lee Lippert asked whether the RAC looked at the traffic impacts on Sand Hill and Alpine Road improvements, which may have contributed to the declining sales at the Shopping Center.

Mr. Benest said the decline in sales tax dollars was the result of the economy and neighboring competitors, and started before the road improvements.

Ms. Glanckoff said other key issues of the Mayor's RAC included: 1) proposed actions that would limit housing on certain industrial and commercial sites as part of the Zoning Ordinance Update (ZOU) which were appropriate for retail; 2) develop the California Avenue Area Development Association (CAADA) master plan and adopt suitable elements of the downtown model; and 3) support the Downtown Business Improvement District (BID) and other business associations in marketing retail. The City had added content to its website to attract and support businesses in Palo Alto, and staff anticipated specific incentives to assist businesses in improving their façade through a Façade Improvement Program or the use of redevelopment monies for businesses on El Camino Real. The RAC agreed on the need for more accurate data about businesses in Palo Alto; however, the need for a business registry was controversial. If a plan came forward to raise revenue it would be considered a tax and required a vote of the people.

Council Member Beecham said Fry's Electronics was a major single component of the sales tax dollars and provided a lot of services to the residents and the SRP community. The RAC did discuss developing a strategy for the retention and/or expansion of Fry's in Palo Alto. One issue noted in previous meetings with businesses in the SRP was the fact they

were research and development (R&D) companies, and did not typically have sales offices. He believed it would be useful to have a dedicated program that found ways of pulling R&D operations into Palo Alto for sales tax revenues.

Council Member Kishimoto understood the area around Fry's Electronics (Fry's) was designated for housing. She asked whether there would be any clarification of looking at the entire 14 acres or just the part that was occupied by Fry's Electronics.

Council Member Beecham said Fry's location was zoned to revert to housing by 2018. There was the possibility of relocating Fry's prior to that time through the Redevelopment Agency (RDA) or another mechanism.

Council Member Kishimoto agreed the City could do a better job of communicating and supporting retail businesses. Although the RAC's focus was on retail, it was important for the City to study the overall revenue sources.

Council Member Morton said it was important to realize a good part of the sales tax revenue in Palo Alto was due to the admirable employment levels.

Council Member Freeman said although continuing sales tax revenues were needed to fund community libraries and other services, one should keep in mind Palo Alto was not San Jose. She suggested the RAC seek out the retail sectors that fit the City profile, as opposed to just accepting those businesses that wanted to locate in Palo Alto. She encouraged a follow-up from the visits to the retail companies with periodic reports to the Council.

Planning and Transportation Commissioner Daniel Garber said it was important to recognize in the follow-up report the strengths Palo Alto had for any retailer. He suggested a supplement under the five elements to capture the enhancement of the existing streetscape, cleanliness and use.

Commissioner Lippert asked whether parking impacts had been detrimental to Downtown during the building of the two parking garages, and whether valet parking had a negative impact on downtown businesses. He wondered if there was a way to leverage curbside parking into metered spaces in order to generate more revenue.

Chairman Burt said the P&TC had a brief discussion regarding a metered parking plan through a study session and asked staff to agendaize such a discussion.

Mayor Burch expressed his appreciation to the RAC for their work.

NO ACTION REQUIRED.

ORAL COMMUNICATIONS

Karen White spoke regarding the Retail Committee.

Roger Smith, 270 Tennyson Avenue, spoke regarding the Stanford Shopping Center, the hotel tax, and venture capitalists locating to Palo Alto.

CONSENT CALENDAR

Council Member Beecham registered a no vote on Agenda Item No. 4.

Council Member Mossar registered a no vote on Agenda Item No. 4.

Council Member Mossar said the recommendation in the staff report (CMR:453:05) for Agenda Item No. 2 was unclear. She asked whether staff's recommendations were in opposition to the Policy and Services (P&S) Committee recommendation or were they complementary.

Mr. Benest said staff's recommendation was complementary to that of the P&S Committee.

Council Member Mossar asked whether staff's recommendation was redundant or were they asking for something different from the full Council.

Mr. Benest said staff was asking for something different.

Council Member Mossar asked the City Attorney what was meant by an affirmative vote on Item No. 2.

City Attorney Gary Baum said it meant the Council would approve the City Manager's response to the audit recommendations.

MOTION: Council Member Mossar moved, seconded by Freeman, to pull Agenda Item No. 2 to become 19A.

Aram James spoke regarding agenda item number 4. He expressed support for the adoption and resolution of the creation of a Federal Department of Peace.

Shauna Wilson, Chair Human Relations Commission, spoke regarding agenda item number 4. She said the Human Relations Commission (HRC) unanimously voted to pass a resolution for a Federal Department of Peace. She urged the Council to forward to Congresswoman Eshoo and State Senators Boxer and Feinstein the encouragement to sign on to the

Legislation before the U.S. Senate and U.S. Congress a Department of Peace on the Federal level.

Mike Abkin, 177B Everett Avenue, spoke regarding agenda item number 4. She expressed support for the resolution.

Ramola Georgia, 3445 Tippawingo Drive, spoke regarding agenda item number 4. She urged to Council to vote in favor of the resolution.

Samina Faheem Sundas, spoke regarding agenda item number 4. She expressed support for the creation of a Federal Department of Peace and urged to the Council to approve the resolution.

Phil Plymale, Chapter Chair of SEIU Local 715, spoke regarding agenda item number 7. He expressed appreciation for the outcome from labor negotiations related to hourly workers.

MOTION: Council Member Morton moved, seconded by Ojakian, to approve Item Nos. 3 through 13 on the Consent Calendar.

- ~~2. Policy and Services Committee (P&S) Recommendation Regarding Council Review of Responses to Audit Report Recommendations on Restructuring Efforts and Management Span of Control~~
3. Policy and Services Committee (P&S) Recommendation to Adopt the City Attorney/City Manager Code Enforcement Approach
4. Resolution 8574 entitled "Resolution of the Council of the City of Palo Alto Supporting the Creation of a Federal Department of Peace"
5. Resolution 8575 entitled "Resolution of the Council of the City of Palo Alto Declaring Weeds to be a Nuisance"
6. Resolution 8576 entitled "Resolution of the Council of the City of Palo Alto to Adopt a Memorandum of Agreement for SEIU Represented Hourly Personnel Amending the Merit System Rules and Regulations and Adopting a New Compensation Plan for Represented Hourly Employees (SEIU Hourly Unit)"
7. Resolution 8577 entitled "Resolution of the Council of the City of Palo Alto Adopting a Compensation Plan for Limited Hourly Personnel"
8. Ordinance 4887 entitled "Ordinance of the Council of the City of Palo Alto to Convert Four Public Employee Retirement System (PERS) "Exempt" Hourly Positions to SEIU Classified Positions"



9. Approval of a Contract with Hung Minh To in the Amount of \$328,000 for Parking Lot R Supplemental Lighting Project - Capital Improvement Program Project PE-95030
10. Resolution 8578 entitled "Resolution of the Council of the City of Palo Alto Declaring the Results of the Consolidated General Municipal Election Held on Tuesday, November 8, 2005"
11. Delegation of Authority to the City Manager to Execute Certain Documents for the City of Palo Alto Under the Settlement Agreement and Master Water Sales Contract with San Francisco When the City Acts as a Suburban Representative
12. Resolution 8579 entitled "Resolution of the Council of the City of Palo Alto to Adopt the 2005 Urban Water Management Plan"
13. Ad Hoc Committee Recommendation on Selection of Parks and Recreation Commission Applicants for Council Interview

MOTION PASSED 9-0 for items 3, 5-13.

MOTION PASSED 7-2 for item 4, Beecham, Mossar no.

Council Member Beecham spoke regarding his no vote on Item No. 4. He had previously indicated he would not vote on issues that were not implemented within the City, but it was not an indication of whether he approved or disapproved the issue.

Council Member Mossar spoke regarding her no vote on Item No. 4. She said her no vote was aligned with Council Member Beecham's comments.

Mayor Burch said he voted yes on Item No. 4 because he believed it was something everyone had to stand for. He respected the decisions of his colleagues.

PUBLIC HEARINGS

14. Resolution 8580 entitled "Resolution of the Council of the City of Palo Alto Adopting a Palo Alto Annex to "Taming Natural Disasters", a Multi-Jurisdictional Local Government Hazard Mitigation Plan for the San Francisco Bay Area, prepared by the Association of Bay Area Governments (ABAG)."

Council Member Mossar questioned the timeline for approval of the Local Hazard Mitigation Plan (LHMP).

Chief Building Official Fred Herman said there was no specific deadline for approval. The only stipulation was if a disaster occurred and the City became eligible for grant funds from the Federal Emergency Management Agency (FEMA), those funds would not be available until a LHMP was in place.

Council Member Mossar asked whether the Council could approve the document that evening and ask that it return to the Council in amended form in the ensuing months.

Mr. Herman said yes. The LHMP must be reviewed and potentially updated annually with a full plan adoption every five years.

Assistant City Manager Emily Harrison asked whether the item would go to the P&S Committee for an in depth discussion or to the full Council.

MOTION: Council Member Mossar moved, seconded by Morton, to approve the following actions: 1) Conduct a public hearing regarding the Local Hazard Mitigation Plan (LHMP); and 2) Adopt a Resolution approving the Palo Alto Annex to the regional LHMP prepared by the Association of Bay Area Governments (ABAG) to return to Council within six months for an in depth conversation with the Mayor, Vice Mayor and staff to determine the appropriate review.

Council Member Mossar stipulated the Mayor, Vice Mayor and staff would determine the appropriate mechanism for review of the document, but it would return to the full Council within six months for reconsideration.

Council Member Morton expressed support for the motion.

Public hearing was opened and closed with no speakers.

MOTION PASSED 9-0.

15. Consideration of the Police Chief's Request for Funding Frontline Law Enforcement Programs.

Consider and Approve the Acceptance of Citizen Options for Public Safety (COPS) for the Purchase of Mobile Audio Visual (MAV) Systems for Police Motorcycles, Upgrade and Purchase of a Covert Vehicle Tracking System, Upgrade of Light Bars for Patrol Vehicles, Upgrade of the Patrol Vehicle Program and Adopt a Budget Amendment Ordinance (BAO) to Appropriate COPS Funds in the Amount of \$100,000 for Deposit in the City's Supplemental Law Enforcement Services Fund (SLESF)

Council Member Morton believed the item was an add-on to a decision already made.

Public hearing opened and closed with no speakers.

MOTION: Council Member Morton moved, seconded by Cordell, to approve the following:

1. Acceptance of Citizen Options for Public Safety (COPS) for the Purchase of Mobile Audio Visual (MAV) Systems for Police Motorcycles, Upgrade and Purchase of a Covert Vehicle Tracking System;
2. Upgrade of Light Bars for Patrol Vehicles, Upgrade of the Patrol Vehicle Program; and
3. Ordinance 4888 entitled, "Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal year 2005-06 to Accept Grant funding from Citizens for Public Safety (COPS) in the Amount of \$100,000 in the Supplemental Law Enforcement Services Special revenue Fund (SLESF) for Purchase of Mobile Audio Visual (MAV) Systems for Police Motorcycles, Upgrade and Purchase of a Covert Vehicle Tracking System, Upgrade of Light Bars Patrol Vehicle, and Upgrade of the Patrol Vehicle Program"

MOTION PASSED 9-0.



16. Ordinance 4889 entitled "Ordinance of the Council of the City of Palo Alto to Adopt an Ordinance Amending Chapter 18.65 of Title 18 for the Purpose of Allowing the Auto Dealership Overlay Zone (Combining District) in Two Limited Manufacturing (LM) Districts Located on the East and West Side Adjacent to Highway 101 at the San Antonio Interchange"

Council Member Mossar said the ordinance referred to the Baylands Master Plan (BMP) and the Site Assessment and Design Guidelines, which was not included in the Council's Packet. She requested, and was provided, a copy of the document in draft form, which the Council had not seen before nor approved. She requested the item be continued to a date certain.

Mayor Burch said he was comfortable letting the public speak that evening and then defer the item to another date.

Public Hearing opened at 7:40 p.m.

Edward Freiberg, 726 E. Charleston Road, urged to Council to preserve and enhance aspects of the community that continued the quality of life in Palo Alto. He expressed opposition to the proposed plan.

Sheri Furman, 3094 Greer Road, asked the Council to exempt the whole West Bayshore Road frontage area from the ordinance since it backed up onto residential housing. She also asked the Council to reconsider whether the Municipal Services Center (MSC) was an appropriate location for an Auto Dealership (AD) because the area was being utilized by bicyclists and pedestrians.

Betsy Allyn, Willmar Drive, believed development along the San Antonio/Charleston/Arastradero Corridor on West Bayshore Road would further impact the traffic congestion. She expressed opposition to the proposed plan.

Emily Renzel, 1056 Forest Avenue, believed the AD initiative by the Council was not well thought out. She hoped the Council would be protective of the Baylands resources.

Deborah Ju, 371 Whitclem Drive, expressed surprise at the inclusion of an AD at San Antonio Road and Highway 101 when the only site discussed with specificity was the MSC.

Bob Moss, 4010 Orme Street, said he found some of staff's recommendations inconsistent. While they suggested not putting auto dealerships at Embarcadero Road and Highway 101, there were already two auto dealerships there. If the Council chose to move forward, he suggested the Light Manufacturing (LM) zone be taken out of the Auto Dealership (AD) overlay zone.

Penny Ellson, 513 El Capitan Place, said she was confused by the language of the ordinance in the staff report (CMR:425:05), and asked whether the Council would request staff to include a map or list of parcel numbers or addresses which would specify the affected area. While she did not argue that an auto dealership should not be in South Palo Alto, she did argue it was uncertain whether there would not be environmental impacts in South Palo Alto and would be at Embarcadero Road. She would like the same set of standards applied at both locations.

MOTION: Council Member Mossar moved, seconded by Cordell, to continue the discussion of this agenda item to January 30, 2006.

Council Member Kishimoto asked when Council would consider the future vision for East Meadow Circle, and whether it was appropriate to keep the AD overlay.

Mayor Burch asked his colleagues to submit questions to staff in writing.

MOTION PASSED 9-0.

COUNCIL MATTERS

17. Mayor Burch to Appoint Blue Ribbon Task Force for the Police Building

Mayor Burch said he appointed a Blue Ribbon Task Force at the direction of the Council. Council Members Cordell, Ojakian and himself assisted in the process.

Council Member Ojakian said the Blue Ribbon Committee (Committee) used a criteria-based method in selecting people on which emphasis was placed on activity in a particular community group. He and former Mayor Lanie Wheeler had conducted a site visit to a police building in the Bay Area, discussed the tentative agenda, and met with City management. The intent was to begin meeting in early January 2006, with a report for Council's consideration in early July 2006.

Council Member Cordell said the selection of individuals was sought to be a balanced one, including persons from law enforcement, and those of color. The agenda of the Task Force was to determine whether or not there was a need for a new police building, and, if so, what the need were, the cost, and the proposed location.

City Attorney Gary Baum said under Government Code Section 54952(b), all Committee meetings were open to the public, as well as the sub-committee meetings.

Herb Borock expressed his appreciation to Council Member Cordell and the City Attorney for clarifying his concerns that the Committee was not being asked to arrive at a pre-selected answer, and the Committee meetings were subject to the Brown Act. He anticipated receiving an independent analysis and recommendation from the Committee.

Council Member Freeman asked for clarification of how the Committee meetings would be noticed and if they would they be noticed in the *Palo Alto Weekly*.

City Clerk Donna Rogers said the Council meetings were the only ones required to be published in the *Palo Alto Weekly*. She requested that notice of the Committee meetings be posted at the library and included in the Council packet.

Council Member Freeman suggested posting the Committee meeting notice and agenda on the City's website. She expressed concern about the name Blue Ribbon Committee for Police Building, and to further emphasize the independence by modifying the name to Blue Ribbon Committee to Determine the Need for the Police Building. She asked why Dick Placone, who was a member of the Grand Jury when the report was developed for the

City, who lived in Palo Alto, and had background in the area, was not selected for participation.

Council Member Cordell said the process involved discussion of all the names, including Mr. Placone's. The Police Building Committee looked at the needs and types of experience. They were concerned about having people who could be as fair as possible and had not staked out a position.

MOTION: Vice Mayor Kleinberg moved, seconded by Mossar, to approve the Mayor's recommendation to the Police Building Blue Ribbon Committee.

MOTION PASSED 9-0.

Council Member Morton suggested under the financing approach, the Committee also include the potential impact on other facility needs in the community.

17a. Colleagues Memo from Vice Mayor Kleinberg and Council Members Cordell and Mossar re Report and Recommendations of Ad Hoc Committee Regarding Police Review Functions

Council Member Cordell said three members of the Ad Hoc Committee appointed by the Mayor met and discussed the two issues before them: the proposed Independent Review of Internal Investigations and Citizen Complaints Panel; and the proposed Independent Panel of Experts. Preliminarily, in no way did the recommendations reflect adversely upon the Police Department, the Police Chief, or the City Manager. She asked on behalf of the Ad Hoc Committee that the recommendations be adopted by the Council.

MOTION: Council Member Cordell moved, seconded by Morton, to approve the following recommendations:

1. The City Council not adopt the proposed Independent Review Panel.
2. The City Council directs the City Attorney, City Manager, and Police Chief together to explore the hiring of an Independent Police Auditor to review internal investigations and citizen complaints where allegations of police misconduct were raised. When exploring this model, they consider the implementation of a pilot program in which an Independent Police Auditor is retained for a one-year period, on an as-needed basis. They will evaluate the projected costs for such a program. (In light of the fact that fewer than three or four such investigations are undertaken annually, it is anticipated the cost to the City of retaining an Independent Police Auditor will not be substantial.)

This inquiry may include a determination of whether or not a change in the Palo Alto City Charter is warranted.

3. The City Attorney, City Manager and Police Chief will submit a written report to the City Council within 90 days.
4. The City Council will hold a Study Session in early 2006, where there would be a discussion of the following: 1) the legalities of City Council oversight of police policies and procedures; 2) whether or not there should be any Council oversight of police policies and procedures; and 3) if there is to be such oversight, the extent of that oversight.

Council Member Morton expressed support for the work of the Ad Hoc Committee and the consideration given to staff.

Aram James applauded the Committee's recommendation not to adopt the proposed Independent Review Panel, but did not understand the directive to have the City Manager and Police Chief explore the hiring of an Independent Police Auditor. He was opposed to the recommendation to adopt the proposed Independent Panel of Experts and encouraged the Committee to rethink some of their recommendations.

Council Member Ojakian asked who would conduct the hiring of an Independent Police Auditor and who would that person report to.

Council Member Cordell said the Committee was asking the City Attorney, City Manager and Police Chief to determine the process, and where such a person would be positioned in the City. The answers would come from looking at a model that already existed.

Council Member Ojakian said the intent was to develop a concept not to say how it would be.

Council Member Cordell said the idea was to look at existing models in cities where it had worked or had not worked, and return to the Committee with recommendations to bring before the Council.

Council Member Ojakian asked whether the Council could hire an Independent Police Auditor.

City Attorney Gary Baum said based on staff's initial analysis, a Charter Amendment was needed in order to have an actual Police Auditor.

Council Member Ojakian clarified the matter would end up on the ballot.

Mr. Baum said that was correct.

Council Member Ojakian asked whether the people doing the hiring had an idea of when the Police Auditor would be in place.

Mr. Baum said the election could not be any sooner than November 2006.

Council Member Ojakian asked what would be done in the interim.

Council Member Morton said he believed nothing was being proposed. Staff was being asked to explore the possibility of utilizing a Police Auditor and bring back a report.

Council Member Ojakian believed the hiring of the Police Auditor would require a Charter Amendment, which would take a period of time. He expressed concern the Police Department had lost a number of top police officers during the last several months. He asked whether the possibility existed for the City Manager to conduct an anonymous survey of police personnel to determine the state of the morale.

Council Member Freeman said the City had an independent Council Appointed Officer (CAO) with no relationship with the Police Department or the City Manager, and wondered whether the City Auditor would be the independent body to conduct the research.

Council Member Morton expressed his support for the motion.

Council Member Kishimoto asked whether the Committee had considered including the City Auditor in the proposed Independent Review Panel.

Council Member Cordell said the Committee did discuss including the City Auditor; however, two issues arose: 1) the Committee wanted the City Manager, Police Chief, and City Attorney because they were well versed in the area, and had more experience; and 2) it was unclear whether the City Auditor could be privy to certain information and files.

Council Member Kishimoto agreed the body of three were most knowledgeable about the Police Department, but the issue involved an audit process.

Council Member Cordell said it was not just an auditor, but a Police Auditor with very different responsibilities.

Council Member Kishimoto concurred with Mr. James' previous recommendation to explore the Police Resources Assessment Center in Los Angeles. She suggested the Committee look at that option and expressed support for the motion.

Vice Mayor Kleinberg said the Committee was aware of models where the Police Auditor was not independent, such as San Jose. In the interim of a possible vote in November 2006, there was already a process in place which would continue until the Committee was convinced there was something that should be done. The recommendation had asked for a study session where the Council would be engaged and educated in the various models and opportunities to enhance police protection and activities within the community. The Committee would disband after the vote that evening. They had confidence in the body of three to bring back the needed information.

Council Member Freeman believed the City Manager, Police Chief and police force would appreciate the proposed process. If the department looked at it from a positive perspective, it was a good thing to do.

MOTION PASSED 8-1, Ojakian no.

Council Member Ojakian expressed concern the Committee had not taken into consideration input from the police force. He asked whether an anonymous survey of police personnel could or should be conducted.

City Manager Frank Benest said in terms of providing feedback on the proposal, staff would consider how to provide perspectives from the Police Department and its personnel. The Police Department believed the problem should be addressed incrementally. Staff was directed to put together a report with an objective look at the legal, financial, and governance issues.

Council Member Ojakian said on the one hand the public had the right to vet issues in public about police services and, on the other hand, it is necessary to make sure police officers were content and doing a good job. He asked whether any sort of survey of the officers had been conducted, and was there anything prohibiting one being done.

Mr. Baum said no. Measuring moral was difficult, while measuring responses to proposals or policies would be more practical.

MOTION: Council Member Ojakian moved to direct the City Manager to conduct a survey of police personnel to get an understanding of their perspective of current policies and practices related to their jobs.

MOTION FAILED FOR LACK OF A SECOND

Vice Mayor Kleinberg asked for clarification of a statement made by the City Manager regarding an analysis of how the Police Department felt about this option.

Mr. Benest said in addition to an objective report on the legal, financial, and governance issues, the Council would receive the professional judgment of the staff.

Vice Mayor Kleinberg recalled a comment about having the report be a part of, and reflect how, the Police Department felt about this option. She believed the Council wanted to learn what it could, what options were available, and possibly pursue an alternative.

Council Member Cordell said if such a survey was conducted, it would not set a good precedent for the City. She asked the City Attorney, City Manager, and Police Chief not to make the survey of police personnel a part of the inquiry.

REPORTS OF COMMITTEES AND COMMISSIONS

18. Recommendation to Approve Contract Change and Salary Adjustments for City Auditor Sharon Erickson and City Clerk Donna Rogers

MOTION: Council Member Mossar moved, seconded by Beecham, to adopt the following recommendations of the Ad Hoc CAO Committee; 1) that the basis for calculating vacation accrual for both Erickson and Rogers be changed to total years of PERS service; 2) that Sharon Erickson receive a \$2,000 incentive award in recognition of her outstanding performance; and 3) that Erickson and Rogers each receive a 2 percent salary adjustment.

MOTION PASSED 9-0.

REPORTS OF OFFICIALS

19. Authorization for the City Manager to Enter Into Discussions with the Palo Alto Unified School District (PAUSD) on Constructing a 2.5 Million Gallon Underground Emergency Water Reservoir, Pump Station and Well at Palo Alto High School Pending the 8-Hr Emergency Water Supply Project Environmental Impact Report Process

Council Member Mossar stated she would not participate in the item due to a conflict of interest because her husband was employed by Stanford University.

Council Member Cordell stated she would not participate in the item due to a conflict of interest because she was employed by Stanford University.

Council Member Freeman asked whether her employment as a substitute teacher for the Palo Alto Unified School District (PAUSD) precluded her from participation.

City Attorney Gary Baum said under the regulations of the Political Reform Act of the Fair Political Practices Commission (FPPC), income from another governmental entity was not deemed to be a conflict. Should the Council enter into a contract with the PAUSD, Council Member Freeman could not participate under Government Code Section 1090.

Council Member Kishimoto asked for the source of the \$600,000 for a permanent easement and \$1.8 million for a temporary construction easement.

Interim Assistant Director for Utilities Engineering Tomm Marshall said those numbers came from an appraisal done through the City's real estate office. The temporary easements had a higher rent value on the land because once the reservoir was completed, it would be underground causing less impact on the operations of the school, and having a lower value.

Council Member Kishimoto asked whether it was the highest and best used type of analysis.

Mr. Marshall said the easements would have less impact on the use of the property in the future. Once the reservoir was in place, the use would remain a field.

Council Member Kishimoto asked how long the construction would last.

Mr. Marshall said approximately 20 months.

MOTION: Council Member Kishimoto moved, seconded by Morton, to authorize the City Manager or his designee to enter into discussions with the Palo Alto Unified School District on constructing a 2.5 million gallon underground emergency water reservoir, pump station and well at Palo Alto High School (Paly), as part of identifying preferred sites for study in the 8-hour Emergency Water Supply Project Environmental Impact Report (EIR) process.

Council Member Morton said the easement had to be appraised and valued. He asked since Stanford would benefit from the emergency water supply project, would it be possible they might grant the easement at less than the fair market value assuming there was nothing preventing them from doing so.

Mr. Marshall said that was correct. Most of the reservoir would be on the school owned portion of the site.

Council Member Freeman asked whether there were alternative options other than El Camino Park.

Assistant City Manager Emily Harrison said other potential reservoir sites under consideration were listed on Page 2 of the staff report (CMR: 454:05).

Council Member Freeman said an answer to Council Member Kishimoto's question was it would be in addition to El Camino Park. She asked whether that was correct.

Ms. Harrison said staff's intent would be to come up with a preferred site and alternative sites for the Environmental Impact Report (EIR). It was not to say Palo Alto High School (Paly) would be the site for the reservoir. It was to get Council's approval to move forward with the PAUSD to find out if they were open to partnering with the Paly site.

Council Member Freeman expressed concern about the Paly site for the emergency water supply project. At Stanford University, the water storage tanks were on a hill to take advantage of gravity for necessary use of the tanks, and were not submerged underground.

Mayor Burch said what was before the Council was whether to authorize the City Manager to enter into discussions with the PAUSD not for the Council to explore preferred sites.

Council Member Freeman expressed opposition to the motion. The Paly site did not take advantage of gravity and would require the pump station to be located on the site. If anything went wrong with the underground reservoir, it would cause disruption to the school. The disruption site was a large area that separated the playing fields and other areas from the rest of the school. There were other options including the Stanford Shopping Center or working with Stanford University versus PAUSD for a location that took advantage of gravity.

MOTION PASSED 6-1 Freeman no, Cordell, Mossar not participating.

Vice Mayor Kleinberg clarified her vote did not indicate support for the site. It was to allow staff to conduct exploration for a site.

19a. (Formerly Item 2) Policy and Services Committee (P&S)
Recommendation Regarding Council Review of Responses to Audit
Report Recommendations on Restructuring Efforts and Management
Span of Control

MOTION: Council Member Mossar moved, seconded by Kleinberg, to accept the recommendation of the Policy and Services Committee that staff return to the full Council prior to the 2006 budget process with Restructuring Efforts and Management Span of Control, Items 2, 3 and 5.

Vice Mayor Kleinberg concurred with the previous comments made by Council Member Mossar.

Council Member Kishimoto clarified prior to the budget when staff brought the matter back to the Council, they would not have the City Manager's response to review.

Council Member Mossar said the City Manager's response would be a part of the discussion, but her intention was not to accept those responses but include them as part of the discussion.

Council Member Freeman expressed support for the motion. She inquired if the audit report returned to the Council prior to the next budget, how should comments be made.

Council Member Mossar said nothing prevented the Council from making comments in writing. She believed it was a referral to a future discussion.

Council Member Freeman said her concern was the Council would get the report without any comments from the Council. She did recall the P&S Committee agreed go forward with the recommendation.

MOTION PASSED 9-0.

THE CITY COUNCIL ADJOURNED TO A SPECIAL MEETING AS THE PALO ALTO REDEVELOPMENT AGENCY AT 9:08 P.M. AND RECONVENED AS THE CITY COUNCIL AT 9:10 p.m.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Mossar spoke regarding a mini-library model she recently saw at a conference in Charlotte, North Carolina.

Council Member Freeman noted there is residue with the new blue garbage bins. She also mentioned this is the last full Council meeting she will be attending as a Council Member and noted her appreciation of the staff.

Council Member Kishimoto thanked Mayor Burch for his efficient job as Mayor this year and she invited her colleagues and the public to the opening of the Palo Alto Transit Center tomorrow afternoon at 4 p.m.

Mayor Burch thanked everyone for their support this past year while he was Mayor.

FINAL ADJOURNMENT: The meeting adjourned at 9:20 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.