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FINAL ADJOURNMENT: The meeting adjourned at 10:48 p.m. ....23

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:08 p.m.

CITY COUNCIL

Present: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar

UTILITIES ADVISORY COMMISSION

Present: Dawes, Melton, Rosenbaum

Absent: Bechtel, Keller

STUDY SESSION

1. Joint Meeting with the Utilities Advisory Commission Regarding City Utility Issues

**No action required.**

ORAL COMMUNICATIONS

ADJOURNMENT: The meeting adjourned at 6:58 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:08 p.m.

Present: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar

SPECIAL ORDERS OF THE DAY

1. Award of Continued Excellence (ACE) for Long-Term Commitment to Research and Development Projects aimed at Improving Efficiency and Renewable Resources for Public Power Systems

Council Member Beecham said the American Public Power Association (APPA) presented the Demonstration of Energy Efficiency Development Award to the City of Palo Alto. It was based on the City's long-term energy efficiency and renewable resources and was an annual award given to one utility.

Assistant Director of Utilities Girish Balachandran accepted the award on behalf of all City Utilities employees for their work in energy efficiency that began in the late 1970's. The City had an effective solar program with over 100 solar installations throughout the City. Palo Alto was rated number one across the Country for their participation in the Palo Alto Green Program. The City also offered scholarships to students working on Research and Development projects and had several energy efficiency programs for customers.

2. Vote and Appointment of Applicants to the Public Art Commission (PAC)

FIRST ROUND OF VOTING FOR PUBLIC ART COMMISSION

VOTING FOR TERRY ACEBO-DAVIS	Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar
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VOTING FOR TENLEY BICK	Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar
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VOTING FOR MICHAEL JACOBY	Beecham
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VOTING FOR PAULA KIRKEBY	Barton, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar
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City Clerk Donna Rogers announced Terry Acebo-Davis and Tenley Bick with 9 votes, and Paula Kirkeby with 8 votes, were appointed to the Public Art Commission for three-year terms ending April 30, 2009.

#### ORAL COMMUNICATIONS

Jan Terry, 925 Laurel Glen Drive, spoke regarding restoring funding for Fire Station No. 8.

Tom Wyman, 546 Washington Avenue, spoke regarding the Palo Alto Historical Association report on Stanford University after the 1906 earthquake.

Chris Catlin, 3106 Bandera Drive, spoke regarding her concern for the lack of fire protection in the area of Fire Station No. 8.

Akos Szoboszlay, President Modern Transit Society, 1701 Civic Center Drive, Santa Clara, spoke regarding repealing Section 10.32.050 of the Palo Alto Municipal Code, Pedestrians Prohibited – Foothill Expressway.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Morton moved, seconded by Barton, to adopt the minutes of April 3, 2006, as submitted.

**MOTION PASSED** 9-0.

#### CONSENT CALENDAR

**MOTION:** Council Member Beecham moved, seconded by Kishimoto, to remove Agenda Item No. 6 from the Consent Calendar to the end of the agenda, as Agenda Item No. 10A.

~~6. Human Relations Commission Recommendation to the City Council to Direct the City Attorney to Draft a Voter Confidence Resolution~~

**MOTION PASSED** 9-0.

**MOTION:** Council Member Morton moved, seconded by Barton, to approve Consent Calendar Items Nos. 3 through 5.

3. Resolution No. 8605 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Vince Hernandez upon His Retirement"

4. Resolution No. 8606 entitled "Resolution of the Council of the City of Palo Alto Adopting the Assembly Bill 1234 Compliance Plan"

5. Resolution No. 8607 entitled "Resolution of the Council of the City of Palo Alto Endorsing Measure C in the Foothill/De Anza Community College District"

**MOTION PASSED** 9-0

**MOTION:** Council Member Klein moved, seconded by Morton, to reconsider the vote for Consent Calendar Items Nos. 3 through 5 to hear public comment.

**MOTION PASSED** 9-0

Gary Wesley, 707 Continental Circle, Mountain View, said Item No. 5 should not have been approved. Ballot material for Measure C was not in the staff report (CMR:208:06) because the Resolution did not list specific projects for funding and violated Proposition 39.

Cheryl Lilienstein, 4050 Manzana Lane, spoke in support of Item No. 6. She presented a Digital Versatile Disc (DVD) that contained agencies across the Country in support of paper ballots and verified elections. She urged Council to support the Resolution and stressed the importance of city agencies speaking to County officials who were responsible for elections.

Emily Levy, 137 Plateau Avenue, Santa Cruz, spoke in support of Item No. 6 and urged the Council to encourage higher officials in the Country to support the Help America Vote Act.

Shauna Wilson, Human Relations Commission Chairperson, said the Commission felt the current voting system was unreliable and did not instill confidence in State, Federal, and local residents. She asked the Council to pass the Resolution.

**MOTION:** Council Member Morton moved, seconded by Klein, to approve Consent Calendar Items Nos. 3 through 5.

**MOTION PASSED** 9-0

#### REPORTS OF OFFICIALS

7. Approval of Job Description and Implementation Timeline for Police Auditor Contract Position

Police Chief Lynne Johnson said a revised job description was put at places to clarify the Council would hire and evaluate the Police Auditor, provide reports to the Council, and make recommendations to the Police Chief.

Council Member Cordell said she envisioned the Police Auditor would be hired and called on an as needed basis. She asked that the task "to produce quarterly reports" be removed from the job description.

Council Member Beecham asked what the protocol was for the Police Auditor on interacting with staff and the Council.

Council Member Cordell said the Police Chief would refer the cases to the Police Auditor. The Police Auditor would make recommendations to the Police Chief and meet with the Council bi-annually to discuss issues as needed.

Ms. Johnson said it was reasonable.

**MOTION:** Council Member Cordell moved, seconded by Mossar, to approve the job description for the one-year trial contract for a Police Auditor and the associated implementation timeline, with one correction to remove from the job description the essential functions, as follows:

Produces quarterly reports to the City Council and City Manager analyzing trends and patterns of complaints and providing statistical breakdown of the number of complaints/investigations filed/initiated, the disposition of them, and the number and type of recommendations made to the Chief of Police.

Furthermore, to add the words "as needed" to the essential functions, as follows:

Formally meets with the City Manager and Police Chief once a quarter to discuss any issues, as needed.

Formally meets with the City Council twice a year to discuss issues, as needed.

John K. Abraham, 736 Ellsworth Place, said the plan was set up to protect the Police Department and not the residents. He suggested establishing an elected Police Commission with authority independent of the Council.

Mayor Kleinberg asked what measures could be used for consistency in evaluating the program.

Council Member Cordell referred to the "Evaluation Measurements" outlined on page 2 in the staff report (CMR:209:06). The Police Department could maintain the data for the Council. Less objective measures could come directly from the nature of the investigations and whether the Police Department was opposed to the recommendations or not.

Council Member Morton suggested having quarterly meetings occur to discuss issues on an as needed basis and to schedule meetings with the Council only if there were items for discussion.

Council Member Cordell agreed.

Mayor Kleinberg asked whether Council was adopting the timeline listed in staff report (CMR:209:06.)

City Manager Frank Benest said it would be to adopt the timeline, job description, and the one-year trial contract.

Vice Mayor Kishimoto asked whether the job description should include review of a demographic data report.

Council Member Cordell said she did not want it included because it required someone who was well versed and trained to review demographic data or the information could be misinterpreted.

Vice Mayor Kishimoto said she understood the Police Auditor would not be a statistical expert and hoped the demographic data would be reviewed by the Human Relations Commission (HRC) and Police Chief to ensure it's validity.

Council Member Morton said the City did not have a history of serious complaints for review and felt public funds could go towards better use. He was not in favor of the motion.

**MOTION PASSED** 8-1, Morton no.

8. Transmittal of Planning and Transportation Commission comments on the Restructuring Plan for the Department of Planning and Community Environment

City Manager Frank Benest said the Council was asked to approve a modified Table of Organization to allow implementation of the Planning and Community Environment Department's restructuring plan. The following topics were covered: 1) the City Manager's assignment; 2) identified concerns; 3) outcomes to be achieved; and 4) specifics on the restructuring plan. He said the Council had concerns regarding the performance of the Planning and Community Environment Department and had requested the City Auditor to evaluate the department's performance and make recommendations in 2004. The City Manager was given the task to develop and implement a restructuring plan for the department. There were four concerns addressed: 1) the role of the Development Center; 2) a disconnect between Land Use and Transportation Planning; 3) a lack of management support for technical staff; and 4) the need



for more streamlining of processes. The Auditor noted significant progress had been made, but more work was required. Outcomes to be achieved by the restructuring plan: 1) to integrate Land Use and Transportation Planning; 2) a commitment to make the Development Center a more service-oriented department and create a problem-solving orientation within the rules; 3) provide the department with general management support to allow the Director to ensure policy followup, help staff focus on technical work, and continue processes and improvements in working with the Auditor; and 4) enhance the Planning & Transportation Commission's (P&TC) role as a deliberative body for Land Use and Transportation Planning. On May 17, 2006, the P&TC would be considering a number of suggestions at a retreat and would follow-up with recommendations to the Council.

Director of Planning & Community Environment Steve Emslie said a number of pages from the P&TC minutes of April 19, 2006, were omitted from the packet and were electronically sent to the Council with hard copies put at places and in the back of the Council Chambers for the public. Attachment H of the staff report (CMR:225:06) was an organization chart representing an overview of the Department's reorganization. The chart noted the administrative staff would report directly to the Deputy Director after vacancies were filled. Staff had made two changes to the original recommendations: 1) the Deputy Director would be required to be certified by the American Institute of Certified Planners (AICP), a national organization that provide professional standards to individuals practicing city and regional planning in the Country. It was a lifetime certification once membership was attained by the candidate, and 2) to provide the Auditor with complete annual status reports on the outcome of the reorganization and metrics in tracking permit turn-around. Preliminary findings would be presented at year-end by having vacancies in place and returning to the P&TC and the Council after one year for an overview in meeting the goals. A major component of the reorganization was to integrate the Planning and Transportation Divisions as one work group. With the pending retirement of the Chief Building Official, the department was working to secure his replacement. There were no other proposed changes aside from possibly filling the Building Official position with an interim person until permanently filled.

Mr. Benest said with five management positions becoming vacant, there was a great need to move forward immediately. They included the Chief Planning Official, the former Chief of Transportation Official, and the Chief Building Official, an Assistant Building Official and a Planning Manager. The department's workload for the past ten months included: Alma Plaza, Edgewood Plaza, the Auto Dealerships, a Police Building site, the Elks Project, the Campus for Jewish Life, the Mayfield Project, the Baylands Master Plan, Pedestrian Transit-Oriented Development, the Charleston Arastradero Corridor Trial, traffic signal upgrades, traffic-calming projects, the Maybell/Donald Drive Bicycle Boulevard, and the Safe Routes to School program. In addition, the

Department anticipated 3,250 building permits, 12,700 inspections, and 330 planning applications. Filling the vacancies and making changes to the reorganization plan would allow better performance in meeting the Council and the community expectations. Staff recommended the Council amend the Table of Organization to allow the City Manager to implement the restructuring plan, adopt the Resolution Amending the Compensation Plan for Classified Personnel (SEIU) and the Resolution Amending the Compensation Plan for Management Professional Employees, direct staff to prepare a status report with the assistance of the City Auditor one year after implementation of the restructuring plan.

Planning and Transportation Commissioner Lee Lippert said the item was discussed at the P&TC meeting on April 19, 2006. All the P&TC members reviewed the finalized copy of the minutes and their comments outlined in the staff report (CMR:225:06) pages 3 through 7. The P&TC had concerns regarding the authority and qualifications of the Deputy Director, which were addressed in the staff report (CMR:225:06), page 7, under Staff Response. More discussion was needed on the definition of professional certification.

Council Member Drekmeier asked for comments on the 1998 Zucker Study and how it applied to the current situation.

Mr. Lippert said the P&TC received the report but had no comments at that time.

Council Member Klein said he had two versions of the Deputy Director's job description, one dated March 2006 and the other May 2006. He asked whether professional certification in Planning and Transportation within two years of employment was the only difference between the two versions.

Mr. Emslie said the reporting relationship was deleted from the May 2006 version. The March 2006 version had the two division heads reporting to the Deputy Director and was eliminated in the May 2006 version.

Council Member Klein asked whether the candidate could qualify for the position without having a planning degree or having worked in professional planning.

Mr. Emslie said the AICP would evaluate the candidate's background to determine eligibility to take the exam.

Council Member Klein said his question was not for AICP's qualification but for the City's qualification.

Mr. Benest said staff was looking for a candidate with general management experience. Technical and professional experience in Land Use or

Transportation Planning was not required.

Council Member Klein asked where in the job description was that noted since it was not listed in the minimum qualifications.

Mr. Emslie said a candidate who previously was involved in public planning and could achieve the AICP certification had the management skills to qualify.

Council Member Klein asked whether the job would be posted in the competitive manner the City had for jobs.

Mr. Emslie said there was a list of qualified candidates for the Deputy Director's position. The position was created in the 2005 budget and combined with the Chief Planning Official's position. The City could not find candidates to fulfill the dual role. The City's personnel guidelines allowed making appointments and not assigning all the duties to one individual. The intent of the proposal was to assign one of the qualified candidates to the role of the Deputy Director, post the newly created position for both the Chief Transportation and Planning Officials, and proceed with the recruitment process. Mr. Emslie said the posting for the position was completed.

Council Member Klein asked what would happen if there were two candidates; one, a certified planner with years of working in another city's planning department, the other, with the same background and experience except with no planning experience.

Mr. Benest said three recruitment attempts were made in trying to find a Deputy Director with general management experience and a technical background in Land Use Planning and Transportation. The third attempt was with an executive recruiter. All attempts failed. The executive recruiter strongly recommended separating the two functions: A Deputy Director as a general management person; and a Chief Planning and Transportation Official with technical expertise.

Council Member Klein asked whether recruitment was done for the general management position.

Mr. Benest said no.

Council Member Klein asked whether the Deputy Director would be assigned to the Department's Acting Director position in the absence of the Director.

Mr. Benest said it would depend on the City Manager's decision at that time.

Council Member Klein said the job description states, "Acts as Director of

Planning & Community Environment in his or her absence.”

Mr. Benest said the City had prior experience hiring a general manager with no background in Planning, Land Use, Transportation, or Building and Safety, who served as Interim Director. The interim appointment was successful and he would be comfortable in making the same decision again.

Council Member Klein asked who would be covering the expense in getting the candidate certified.

Mr. Benest said it would be the candidate’s responsibility.

Council Member Klein queried with the integration of Land Use Planning and Transportation would the expense for consultants for various projects be above and beyond the current Planning Department’s budget.

Mr. Benest said there were existing funds for transportation studies. He did not foresee a need for additional monies to supersede the fund, but if necessary he would find the monies within the existing budget to handle the expense.

Council Member Klein asked what current or future projects would need to be handled by an outside consultant. For example, would an outside consultant be used to determine an added traffic light at the Alma Plaza Project.

Mr. Emslie said traffic development review normally required outside resources.

Council Member Klein asked what type of projects were formally handled in-house by former Chief Transportation Official Joe Kott and would now require the use of an outside consultant.

Mr. Emslie said the City regularly used outside consultants in annual traffic counts, major development projects, signal systems and other work done by outside resources.

Council Member Klein asked what projects Mr. Kott would have done that would now require an outside consultant.

Mr. Emslie said the Midtown Traffic Study was a good example for pedestrian signal and lane reduction, and the review of the 2300 Bayshore Road development project.

Council Member Morton asked why the Code Enforcement position did not remain in the professional portion of the organization.

Mr. Emslie said it was for the interim and would be moved back after vacancies

were filled.

Council Member Cordell said in order to qualify for taking the AICP certification exam, the emphasis was based on professional planning experience.

Fred Balin, 2385 Columbia Street, said the new proposed position was never authorized, not advertised, and not adequately described until the meeting that evening. There were no applicants for the position. If approved, it would be filled with someone who already had been determined. He urged the Council to stipulate the qualifications and that the position be posted for candidates.

Sandra Lonquist, 122 Hamilton Avenue, Chamber of Commerce, said the Chamber of Commerce recognizes the complexity of the Planning Department and urged the Council to provide their support in making the department more user-friendly, better customer service, coordinate the department, make the P&TC more of an advisory board to the Council and create measurable objectives. She urged the Council's support to help the department streamline their challenges.

Joy Ogawa urged the Council not to eliminate the Transportation Division and the Chief Transportation Official position.

Betsy Allyn, Willmar Drive, raised concerns regarding a candidate's competency and authority, job notification, and the area the recruitment covered. She asked what contributions had the Management Specialist made to the reorganization and questioned why so many employees left the Planning and Transportation Department within a 12-month period.

Annette Glanckoff, 2747 Bryant, was not in favor of the restructuring plan. Spending \$180,000 on a management position was not required in solving departmental issues and could possibly worsen the situation. She asked the Council to place the reorganization plan on hold pending an outside audit .

Heba El-Guendy, 3181 Louis Road, spoke regarding the unfair treatment she received that resulted in her resignation from the position of Transportation Engineer in the Planning Department. She asked her case investigation be made available to the Council. She questioned the Deputy Director's position requiring managerial capacity. She said consultants had many clients and interests and were not public servants and she had to revise their work. She urged the Council to carefully review the proposal because the consequences could be great for the organization and the City.

Elaine Meyer, 609 Kingsley Avenue, spoke of the incumbent Deputy Director's involvement with Stanford's development of Sand Hill Road and felt the City should not place itself in a vulnerable position to be charged with conflict of

interest.

Ellen Fletcher, 777-108 San Antonio Road, had concerns regarding a candidate with expertise in Land Use Planning and not having the expertise in transportation planning issues. She urged the Council not to eliminate the Chief Transportation Official's position.

Herb Borock, P.O. Box 632, said the Council was asked to act on two resolutions that were not agendaized, which violated the Brown Act. He spoke of the inappropriate hiring process of the proposed Deputy Director's position and had the impression that someone had been picked for the position while removing the public from the process. He asked the Council to reject the proposal and to realize the changes in the reorganization plan were too extreme.

Douglas Moran, 790 Matadero Avenue, spoke regarding the reorganization plan being destined to fail and the Deputy Director position as being an impossible position to fill. The process was false streamlining. It created a situation of eliminating people from the process through lack of notification and abbreviated hearings. The Council would face a situation where large numbers of contentious people would be attending Council meetings.

Tom Jordan, 474 Churchill Avenue, raised concerns about the distribution of the Deputy Director's job description prior to the meeting and noted the lack of notification and posting for the position. The staff report indicated the position would be filled within a month upon approval of the proposed position. He asked the item be rejected and to get an outside person to investigate the situation.

Karen Holman, 725 Homer Avenue, addressed the truncated version of the April 19, 2006, P&TC meeting minutes included in the packet and asked whether the Council received and had the opportunity to read the full text of the minutes. She did not see a copy in the Chambers and expressed the importance of having full public information made available.

Vice Mayor Kishimoto said she believed the proposed plan in concept addressed issues raised by the Council. She said her intent was for the Council to provide general policy direction and her motion was made to address the public's concerns.

**MOTION:** Vice Mayor Kishimoto moved, seconded by Council Member Klein, to direct staff to return expeditiously with a revised proposal to include the following elements: 1) rewritten job description for either Deputy or Assistant Director, which would include AICP certification as a requirement, and experience in land use and transportation management; 2) adding a Senior

Transportation Projects Manager position under the Chief Planning and Transportation Official; and 3) to include timely and effective evaluations at six-months and 18 month periods for the new hires.

Vice Mayor Kishimoto said the City Manager and the Director of Planning were given direction to restructure the Planning Department and to focus on the permitting and entitlement process. She raised concerns regarding the lack of technical expertise in the department's number two position. It was important to find a candidate with expertise in management, transportation, and land use and to not lower the standards in the Land Use and Transportation Division. The person should be able to step into the Director's position, if necessary.

Council Member Klein said he was in favor of part 1 and 3 of the motion and they should be voted on separately. He raised concerns regarding the Deputy Director's job description requiring professional qualifications and to be capable of filling in as the Acting Director in the absence of the Director. He questioned the efficiency of adding a Senior Transportation Projects Manager position, but was willing to give it a try. He favored part 3 of the motion that stipulated the monitoring of new hires.

Council Member Morton said what he was seeing was duplicity; a Deputy Director that had the same qualifications as the Chief Planning and Transportation Official's position. According to the Auditor's recommendation, the Department needed an individual with internal management experience to deal with processing problems. A person with transportation and planning expertise would not be a solution in delivery problems of the department. The department needed two types of people; one with technical expertise and one with management skills.

Council Member Beecham concurred with Council Member Klein in separating the votes to the motion. He said throughout his years on the Council and on the P&TC, the Department Director worked with applicants and the community and did not manage the day-to-day operations. He felt a professional should be required for the number two position with managerial skills. He was in favor of the proposal on the issue of transportation and evaluation periods required on new hires. He asked at what point would the evaluation period begin.

Vice Mayor Kishimoto said it would start at the date of hire since new hires were on a six-month probationary period.

Council Member Beecham clarified it was not the intent of the Council to direct staff to return with their review of an employee at that level, but to return to Council with an overall report of the Department.

**SUBSTITUTE MOTION:** Council Member Barton moved, seconded by Mossar,

to approve staff's recommendation to:

- Adopt the Budget Amendment Ordinance (Attachment E) to implement a reorganization in the Department of Planning and Community Environment, as follows:
  - a. Amend the Table of Organization as provided in Attachment E.
  - b. Adopt a resolution (Attachment F) amending the Compensation Plan for Classified Personnel (SEIU).
  - c. Adopt a resolution (Attachment G) amending the Compensation Plan for Management and Professional Employees.
  
- Direct staff to prepare a status report with the assistance of the City Auditor one year after implementation of the restructuring plan, including metrics from the Citizen Survey, processing time, and level of service.

Council Member Barton spoke on the governance component of the issue. He said the City Manager was directed to develop and implement a restructuring plan for the department and returned with a plan. It was reasonable for the Council to advise and comment on his accomplishment, but not appropriate for the Council to step down three levels below the City Manager to state qualifications. The Council could not hold the City Manager accountable if they stepped into the process. He was in favor of the plan. He asked the Council to support his recommendations and to support the City Manager in achieving the task he was asked to do.

Council Member Mossar concurred with Council Member Barton. She noted the lack of management in the Department and the need for administrative support. It was important to find a manager and not a technician. She favored combining the Planning and Transportation Division's functions and wanted to have a planning staff with transportation always on their checklist, such as bicycle and pedestrian access, proximity to transit. Problems were created when the two areas were disconnected.

Council Member Beecham requested clarification from the City Attorney on Council Member Barton's comment regarding the authority to specify the qualifications for the position.

City Attorney Baum said the City Charter stated "The City Manager shall appoint all officers, heads of departments and employees of the department under his or her control, remove the same for cause, have general supervision and control overseeing subject to the rules and regulations established by the Council for the Merit System of Appointments provided however that all officers and heads of departments shall be subject to approval of the Council." The City Manager appointed the department heads and the Council ultimately approved them. His understanding was the Council generally did not review job



descriptions. However, since the job description was placed before the Council, the Council could comment on the qualifications.

Council Member Morton supported the motion to move forward with the restructuring plan to help correct long-standing problems.

**SUBSTITUTE MOTION FAILED** 4-4, Cordell, Kishimoto, Klein, Kleinberg, voting no, Drekmeier abstained.

Council Member Drekmeier said his reason for abstaining was he approached the item with an open mind and found it was a difficult decision to make. He recognized the Department's problems and had concerns regarding the number of people leaving the Planning Department.

Council Member Klein requested to separate the three parts of Vice Mayor Kishimoto's motion.

Council Member Cordell asked for clarification on the requirements needed for the applicant in obtaining the AICP certification.

Vice Mayor Kishimoto said Council is asking staff to return with a revised job description to include AICP certification at the time of application and not two years later.

Mr. Benest asked for the Council direction, but found it inappropriate to bring back a job description for Council's approval that was within the purview of the City Manager. He did not want to create that type of precedent for the future.

Mr. Baum said he agreed with the City Manager's statement.

Council Member Beecham understood the motion to ensure the candidate be a professional. He supported the motion.

Council Member Cordell asked whether an applicant had to have an AICP certification when they applied.

Mr. Benest said it was typical that cities hired a professional planner with emphasis on professional certification. A fourth recruitment would need to take place to seek a professional planner with AICP certification or one who could easily get certified.

Mayor Kleinberg asked for the City Attorney's clarification on a statement made by Senior Deputy City Attorney noted in staff report (CMR:225:06) Attachment B, Page 2 and 3: "The Commission has a somewhat limited role in the discussion partly because the Council has absolute discretion over job

descriptions, Table of Organization, and the City Manager has sole authority over Administrative Services and over personnel decisions."

Mr. Baum said the entire statement was correct except for the job description portion. Job descriptions were approved by the Council in other cities but in Palo Alto job descriptions were not approved by the Council.

Vice Mayor Kishimoto suggested the following change to her motion. Move to direct staff to return expeditiously with a revised proposal with the following elements, Deputy or Assistant Director to have substantial planning professional credentials.

Mayor Kleinberg asked whether Vice Mayor Kishimoto's part 2 and 3 of her original motion were to remain the same.

Vice Mayor Kishimoto said yes. She raised a concern that the candidate being considered for the position did not have a planning background and was not capable of obtaining the AICP certification in two years.

Council Member Mossar said she did not feel strong management skills were being focused on in the discussion and because a particular individual had been considered for the position, one could fault the Council for making certain the language crafted for the position excluded that individual.

Council Member Barton did not support the motion. He said he did not know what the substantial qualifications were and did not feel the Council was giving direction. He felt it was a classic example of why the Council should not move forward on the job description.

Council Member Morton requested clarification on what was going to be coming back to Council if it was not a job description.

Vice Mayor Kishimoto said staff was being asked to return with clarification that the number two position in the department have substantial planning credentials widely recognized in the community.

Council Member Cordell clarified she believed the City Manager would do whatever was being asked of him. Additionally, the candidate for the position either had an AICP certification or was a planning professional as defined by the AICP.

Mr. Benest said it was a job that should be done by city management and the Department in conjunction with the Human Resources Department (HR). Approval of the motion meant giving direction to the City Manager for implementation.

Mayor Kleinberg said the item was confusing but wanted to give the City Manager and the Department Director an opportunity for the proposal to work within the context of suggested improvements made by the Council. She asked what part of the original motion was the Council to vote on first.

Vice Mayor Kishimoto said to consider adding a Senior Transportation Projects Manager position under the Chief Planning and Transportation Official.

Council Member Beecham clarified part 1 was to vote on the requirements for the Deputy Director position. Part 2 was to vote on the Transportation issue as defined, and part 3 to vote on the timely evaluation process. A fourth motion was to approve Items 2 a. b. and c. that were not inconsistent with the three previous actions.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to take the motion in three parts, as follows:

**MOTION:** Vice Mayor Kishimoto moved, seconded by Council Member Klein, to direct staff to revise the proposal for the job description for either Deputy or Assistant Director to have substantial planning credentials, which would include AICP certification as a requirement, and experience in land use and transportation management.

**MOTION PASSED** 6-3, Barton, Morton, Mossar voting no.

**MOTION:** Vice Mayor Kishimoto moved, seconded by Council Member Klein, to consider adding a Transportation Projects Manager position in the Transportation section under the Chief Planning and Transportation Official.

**MOTION FAILED** 3-6, Drekmeier, Kishimoto, Kleinberg voting yes.

Council Member Klein suggested performing exit interviews on employees leaving the Planning Department and individuals who turn down offers to join the Planning Department, and do random surveys on people using the Department's services; professionals, Palo Alto citizens, and opposing neighborhoods to a particular projects.

Council Member Morton asked whether Council Member Klein's comments were part of the motion.

Vice Mayor Kishimoto said they were suggestions and not part of the motion.

Council Member Klein said he did not want to rely on the National Citizens Survey but was looking for feedback from people who had interacted with the Department.

Mr. Benest said staff was committed to provide an evaluation of the Department's performance based on the restructure plan and modifications particularly in the Development Center.

**MOTION:** Vice Mayor Kishimoto moved, seconded by Council Member Klein, to include timely evaluations of new hires at six-month periods and at 18 months, as well as an evaluation of the Department performance based upon the restructuring subsequent to bringing on new positions.

**MOTION PASSED 9-0**

**MOTION:** Council Member Beecham moved, seconded by Morton, to approve Item 2a, b and c, from staff recommendation, which are not inconsistent with previous actions, as follows:

Ordinance No. 4898 entitled "Ordinance of the City of Palo Alto Amending the Budget for Fiscal Year 2005-06 for Reorganization of the Department of Planning and Community Environment, Including Changes to the Table of Organization"

Resolution No. 8608 entitled "Resolution of the Council of the City of Palo Alto Amending the Compensation Plan for Classified Personnel (SEIU) Adopted by Resolution No. 8452, By Changing One Classification"

Resolution No. 8609 entitled "Resolution of the Council of the City of Palo Alto Amending the Compensation Plan for Management and Professional Personnel and Council Appointees Adopted by Resolution No. 8554 to Add Two New Classifications, Modify One Classification and Amend Compensation of One Classification"

**MOTION PASSED 9-0.**

**Council Break:** 10:01 p.m. to 10:11 p.m.

#### PUBLIC HEARINGS

9. Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Adding Chapter 18.90 to the Palo Alto Municipal Code to Allow the Creation of Easements Through the Execution and Recordation of Covenants"

**MOTION:** Council Member Barton moved, seconded by Mossar, to approve staff recommendation to adopt the proposed Chapter 18.90 of the Municipal Code, allowing the creation of easements through the execution and recordation of covenants.

Herb Borock, P.O. Box 632, said the resolutions voted on in Item No. 8 were not agendized and violated the Brown Act, and procedures required for Item No. 9 were not met. He asked the Council to refer to the procedure for amending Title 18 and whether it was appropriate to have either Title 18 or Title 21. He also inquired whether it was appropriate for the Planning Commission to have a hearing as a sub-division ordinance amendment when it was a Title 18 amendment.

Mayor Kleinberg asked the City Attorney for comments.

Mr. Baum said all legal and procedural requirements were followed. It was a procedural requirement that would assist sub-divisions that do not belong in the section. It was a codifying issue and would be reexamined prior to it being codified.

**MOTION PASSED 9-0.**

#### COUNCIL MATTERS

10. Colleagues Memo from Vice Mayor Kishimoto and Council Member Morton re: Endorsement of a Resolution Supporting the Formation of the Santa Clara County Regional Public Employee Health Benefits Coalition

Vice Mayor Kishimoto said the item was the first step to creating a coalition amongst agencies. Santa Clara County, the cities of San Jose, Mountain View, Los Altos Hills, and the Mid-Peninsula Open District adopted the resolution. The cities of Cupertino, Santa Clara and Sunnyvale were in the process of adopting the resolution. The amount of \$2,000 from 2004-05 Contingency Fund was used to write a grant in getting additional funds.

Council Member Morton said the attempt was to bring public agencies together to strengthen their ability in dealing with the high cost of insurance companies.

Council Member Mossar asked if the \$2,000 was from the current year's contingency fund.

Vice Mayor Kishimoto clarified it was from the 2004-05 Council Contingency Fund.

**MOTION:** Vice Mayor Kishimoto moved, seconded by Morton, to direct staff to bring back a resolution in support of the formation of the Santa Clara County Regional Public Employee Health Benefits Coalition.

**MOTION PASSED 9-0.**

10A. (Old Item No. 6.) Human Relations Commission Recommendation to the City Council to Direct the City Attorney to Draft a Voter Confidence Resolution

**MOTION:** Council Member Beecham moved, seconded by Mossar, to deny the recommendation requesting the City Council to direct the City Attorney to draft a Voter Confidence Resolution.

Council Member Beecham said he was not in agreement with several of the items in the resolution and denied the recommendation.

Council Member Mossar denied the recommendation and found the resolution troublesome.

Council Member Drekmeier said it was a bipartisan issue and favored voter verified paper ballots. He asked for the Council's support in moving forward on the resolution.

Council Member Klein concurred with Council Member Drekmeier's comments but found the following items in the resolution to be bothersome: support of clean money laws and references made to national standards. He cautioned referencing national standards since California did things better than national standards. He said voter verified paper ballot may or may not be the way to go, and disagreed with equal time provisions, preferential voting and proportional representation.

Shauna Wilson, Chairperson of the Human Resources Commission, said the resolution was written by combining items from the cities of Arcadia and Berkeley's resolutions and a few items added from the HRC's findings.

Vice Mayor Kishimoto concurred with Council Member Drekmeier's comments and wanted to see a more refined version of the resolution and to focus more on the lack of a verifiable voting system.

Council Member Barton concurred with Vice Mayor Kishimoto's concerns but noted he did not have a problem with Section 1 (8) but questioned as to where the funds would be coming from to pay employees. Section 1 (11) may have had places for it but to uniformly say that was the way to go with the election system would border on being irresponsible without further thought. He disagreed with electronic voting devices being the cause of inconclusive counts, re-counts, and inconclusive results.

Council Member Drekmeier supported the resolution but advised the HRC to return with a version that would make it easier for the Council to accept.

Council Member Cordell suggested pulling the resolution and referring it back to the HRC to rework, taking into consideration the feedback from the Council.

Mr. Baum said the resolution had been agendized and could not be pulled but could be tabled.

Council Member Morton asked if the resolution could be referred back to the HRC.

Mr. Baum said yes.

**SUBSTITUTE MOTION:** Council Member Morton moved, seconded by Kishimoto, to refer the Draft Voter Confidence Resolution back to the Human Relations Commission.

Council Member Morton said the Resolution required significant adjustments in order for Council's approval.

Mayor Kleinberg said she was interested in seeing how the HRC could help the City and inspire government leaders to vote.

**SUBSTITUTE MOTION PASSED** 8-1, Beecham voting no.

Ms. Wilson said it took more than three months to get the resolution before the Council, and asked if there was a procedure to expedite the process.

Mayor Kleinberg suggested working with staff.

#### COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Drekmeier requested revisiting the closure of Fire Station No. 8 and suggested the possibility of an assessment district for the fire station.

Mayor Kleinberg referred to a Notice included in the agenda packet regarding the Yellow Checker Cab Company request to increase the number of cabs operating in Palo Alto. She recommended they consider driving hybrid vehicles if cabs were added.

FINAL ADJOURNMENT: The meeting adjourned at 10:48 p.m.