TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DATE: JUNE 20, 2005

SUBJECT: APPROVAL OF RESOLUTION DELEGATING AUTHORITY TO THE CITY MANAGER AND THE DIRECTOR OF HUMAN RESOURCES ON BEHALF OF THE CITY WITH REGARD TO DISABILITY RETIREMENTS FOR CITY EMPLOYEES AND ESTABLISHING A PROCEDURE FOR INDUSTRIAL DISABILITY RETIREMENT DETERMINATIONS OF LOCAL SAFETY OFFICER EMPLOYEES WHO ARE MEMBERS OF THE PUBLIC EMPLOYEES’ RETIREMENT SYSTEM

RECOMMENDATION
Staff recommends Council approve the attached resolution delegating authority to the City Manager and the Director of Human Resources to act on behalf of the City with regard to disability retirements of city employees; establishing a procedure for industrial disability retirement determinations of local safety officer employees who are members of the Public Employees’ Retirement System (PERS); and rescinding Resolution No. 7157.

BACKGROUND
Article 5, Division 5, Title 2 of the California Government Code establishes the circumstances under which an employee who is a member of PERS may be granted a disability retirement. Procedures for the consideration of applications for disability retirement of City employees who are local safety members require the Director of Human Resources to make a determination whether the employee is incapacitated from performing the usual duties of their position, and whether the incapacity is a result of industrial disability. The City adopted the original procedure in 1973. It was amended with minor changes in 1992.

Due to a recent 2004 California Supreme Court decision, Steven W. Nolan v. City of Anaheim, public agencies are now required to include in their resolutions additional information that reflects the holding of the Nolan case. In Nolan, the court required the City of Anaheim to determine not only the level of incapacity or disability, but also whether an employee who was substantially incapacitated from performing his or her current position and duties would be eligible for a similar available position in another California agency.

In addition, the relevant Government Code sections relating to disability retirement have been renumbered since 1992, when the City’s disability policy was last amended. This resolution includes the updated code sections.
DISCUSSION
Following the filing of an application for disability retirement of a City local safety officer employee, the Director of Human Resources will determine whether the employee is substantially incapacitated from performing the usual duties of their position. As a result of the Nolan case, the State Supreme Court concluded that to qualify for a disability retirement, a PERS member must now be substantially incapacitated to perform the usual duties of their current position and also substantially incapacitated to perform the usual duties of a similar position for other California public agencies in PERS. An employee who is incapacitated from his or her position at the current agency will be denied disability retirement if the agency finds that there is a similar position available in another public agency for which the employee is able to perform the usual duties of that position. A qualifying similar position would include similar duties, pay, benefits, and advancement opportunities. This resolution adds consideration of the Nolan requirements to the City’s disability procedure.

RESOURCE IMPACT
There will not be a resource impact.

POLICY IMPLICATIONS
The existing City procedure for determining industrial disability retirements will be changed to include the new requirements.

ENVIRONMENTAL REVIEW
This is not a project under the California Environmental Quality Act (CEQA).

ATTACHMENTS
Attachment 1 – Resolution of the Council of the City of Palo Alto delegating authority to the City Manager and the Director of Human Resources to act on behalf of the City with regard to disability retirements of city employees; establishing a procedure for industrial disability retirement determinations of local safety officer employees who are members of the Public Employees’ Retirement System; and rescinding Resolution No. 7157.

PREPARED BY: Sandra T.R. Blanch, Risk and Benefits Manager

DEPARTMENT HEAD: ____________________________
RUSS CARLSEN
Director of Human Resources

CITY MANAGER APPROVAL: ____________________________
EMILY HARRISON
Assistant City Manager