Attachment A

TO: HONORABLE CITY COUNCIL

ATTN: POLICY AND SERVICES COMMITTEE

FROM: CITY MANAGER DEPARTMENT: COMMUNITY SERVICES

DATE: NOVEMBER 14, 2007 CMR: 415:07

SUBJECT: RECOMMENDATION FROM THE HUMAN RELATIONS COMMISSION TO ADOPT A RESOLUTION ENCOURAGING THE U.S. DEPARTMENT OF HOMELAND SECURITY IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY UNDER “OPERATION RETURN TO SENDER” TO ENFORCE THE U.S. IMMIGRATION AND CUSTOMS LAWS IN A MANNER THAT COMPLIES WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS, INCLUDING THE CONSTITUTIONAL PROTECTION AGAINST UNREASONABLE SEARCHES AND SEIZURES

RECOMMENDATION
Staff is forwarding the City of Palo Alto’s Human Relations Commission’s (HRC) request that the City Council direct the Policy and Services Committee to review the HRC’s recommendation that Council approve the adoption of a resolution encouraging the U.S. Immigration and Custom Enforcement Agency, under “Operation Return to Sender,” to enforce the immigration and customs laws in a manner that complies with all applicable laws, rules and regulations and the constitutional protection against unreasonable searches and seizures and is in accordance with principles of fair play and substantial justice.

BACKGROUND
During the April 12, 2007 HRC meeting, the commissioners discussed the raids, arrests, detentions and deportations that have occurred in the community under “Operation Return to Sender.” Federal Immigration and Custom Enforcement agents are identifying themselves as police and entering homes and businesses without warrants. The attached resolution demands that the Immigration and Custom Enforcement agents identify themselves as “federal agents” when carrying out “Operation Return to Sender.” The HRC believes that “Operation Return to Sender” conflicts with the City of Palo Alto’s Anti-Discrimination Ordinance and the City’s Anti-Discrimination Policy, Palo Alto Municipal Code Section 9.73.010, Statements of Policy:

a) Human Rights. It is the policy of the City of Palo Alto to affirm, support and protect the human rights of every person within its jurisdiction. These rights include, but are not limited to, equal economic, political, and educational opportunity; equal accommodations
in all business establishments in the City; and equal service and protection by all public agencies of the City.

b) Freedom from Arbitrary Discrimination. It is the policy of the City of Palo Alto to protect and safeguard the right and opportunity of every person to be free from arbitrary discrimination on the basis of their race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height.

The City of Palo Alto’s Anti-Discrimination Ordinance bans discrimination against people on the basis of their national origin. The HRC believes that the City Council should go on record adopting a resolution encouraging the U.S. Immigration and Custom Enforcement Agency under “Operation Return to Sender” to enforce the immigration and customs laws in a manner that complies with all applicable laws, rules and regulations and the constitutional protection against unreasonable searches and seizures and in accordance with the principles of fair play and substantial justice and communicate the Council’s concerns, in writing, with a copy of the adopted resolution to the congressional delegation.

RESPONSES TO THE POLICY AND SERVICES COMMITTEE QUESTIONS
On September 11, 2007, the Policy and Services Committee reviewed a draft resolution from the City Attorney and asked that it be revised to include more specificity by identifying sources and dates of the local incidents that are contained in the resolution. The Policy and Services Committee asked staff to address the following questions:

1. Has the Palo Alto Police Department taken a position on the Immigration and Customs Enforcement Agency’s (ICE) Return to Sender Program?

Staff Response: Yes, the department has a policy not to conduct or participate in sweeps completed by ICE. The Palo Alto Police Department will only participate in traffic control, but not in the ICE sweeps themselves. The Palo Alto Police Department specifically prohibits officers from participating in any federal operations as part of an ICE detention team unless approved by a Watch Commander.

2. Has the Palo Alto Police Department received any recorded complaints?

Staff Response: No.

3. Does the Palo Alto Police Department know of any interrogations or detentions of people residing here or passing through Palo Alto under the Return to Sender Program?

Staff Response: The only one involved a family about six months ago. It received considerable publicity when the family was deported. The Police Department was not informed by ICE nor did any members of the Department participate in the event.

4. Has the Palo Alto Police Department communicated either to the HRC or the public its role with the regard to the activities of the ICE?
Staff Response: No.

5. What does our Police Department know about ICE activities? Is ICE informing the Palo Alto Police Department about its activities?

Staff Response: The Palo Alto Police Department occasionally will receive information about ICE activities.

The Policy and Services Committee asked staff to agendize the resolution for a future meeting when the revisions to the resolution were completed and its questions were addressed. Additionally, the Committee asked that the Human Relations Commission review and approve the resolution prepared by the City Attorney’s Office. This occurred at a special HRC meeting on Wednesday, October 24, 2007.

RESOURCE IMPACT
The impact to City Staff will be drafting a letter with a copy of the resolution to the City’s congressional delegation. This does not represent a significant impact on staff time.

ATTACHMENTS
Attachment A: City Attorney’s Resolution regarding the U.S. Immigration and Custom Enforcement Agency’s “Operation Return to Sender” program.

PREPARED BY: KATHY ESPINOZA-HOWARD  
Division Manager, Cubberley & Human Services

DEPARTMENT HEAD: RICHARD JAMES  
Director of Community Services

CITY MANAGER APPROVAL: EMILY HARRISON  
Assistant City Manager
Chairperson Barton called the meeting to order at 6:00 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Barton, Cordell, Drekmeyer

Absent: Kleinberg

1. Oral Communications

None.

2. Approval of a Mutual Cooperation and Support Agreement with the Friends of the Palo Alto Junior Museum and Zoo

MOTION: Council Member Cordell moved, seconded by Drekmeyer, that the Policy and Services Committee recommends to the City Council the approval of a mutual cooperation and support agreement with the Friends of the Palo Alto Junior Museum and Zoo.

AMENDMENT: Council Member Barton moved to remove references to Exhibits A, B, and C from the agreement.

MOTION PASSED 3-0.

3. Human Relations Commission Recommends to the City Council to Remove the Palo Alto Mediation Program from the Human Services Resource Allocation Process Along with its Current Funding and be Funded Through a Contract with the City of Palo Alto

MOTION: Council Member Cordell moved, seconded by Drekmeyer, that the Policy and Services Committee recommends to the City Council to approve the removal of Palo Alto Mediation Program from the Human Services Resource
Allocation Process along with its current funding and be funded instead through a contract with the City of Palo Alto as part of the upcoming budget process.

**MOTION PASSED 3-0.**

4. Recommendation From the Human Relations Commission to Adopt a Resolution Encouraging the U.S. Department of Homeland Security Immigration and Customs Enforcement Agency Under “Operation Return to Sender” to enforce the U.S. Immigration and Customs Laws in a Manner that Complies with all Applicable Laws, Rules and Regulations, Including the Constitutional Protection Against Unreasonable Searches and Seizures

**MOTION:** Council Member Drekmeyer moved, seconded by Cordell, that the Policy and Services Committee recommends that the City Council approve the adoption of a resolution encouraging the U.S. Immigration and Custom Enforcement Agency, under “Operation Return to Sender,” to enforce the immigration and customs laws in a manner that complies with all applicable laws, rules and regulations and the constitutional protection against unreasonable searches and seizures and is in accordance with principles of fair play and substantial justice.

**MOTION PASSED 3-0.**

5. Modification of the Existing Policy on Naming City-Owned Land and Facilities to Accommodate Capital Fundraising Campaigns for the Construction or Renovation of City Facilities

**MOTION:** Council Member Cordell moved, seconded by Drekmeyer, that the Policy and Services Committee recommends that the City Council consider the issue of exchanging facility naming rights in exchange for monetary donations before the Committee further discusses and recommends changes to the existing City naming policy.

**MOTION PASSED 3-0.**

6. Discussion for Future Meeting Schedules and Agendas

Next meeting scheduled for December 11, 2007

**ADJOURNMENT:** Meeting adjourned at 6:59 p.m.
ATTACHMENT C

Special Meeting
December 10, 2007

STUDY SESSION

1. Debrief from Golden Guardian Exercise and Update on Disaster Preparedness Efforts

ORAL COMMUNICATIONS

SPECIAL ORDERS OF THE DAY

2. Resolution 8774 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation for Administrative Services Director Carl Yeats Upon His Retirement"

4. Vote and Appointment of Candidate to the Public Art Commission

First Round of Voting for Public Art Commission

CONSENT CALENDAR

5. Approval of a Purchase Order with Western States Oil for a Period of up to 3 Years in the Amount of $944,000 Per Year for a Total Amount Not to Exceed $2,832,000 for Provision of Automotive Fuel

6. From Policy and Services Committee: Human Relations Commission Recommendation to the City Council to Designate the Palo Alto Mediation Program as a City Contractor for Mediation Services

7. From Policy and Services Committee: Human Relations Commission Recommendation to the City Council to Adopt Resolution xxxxx entitled "Resolution of the Council of the City of Palo Alto Encouraging the U.S. Department of Homeland Security Immigration and Customs Enforcement Agency Under Any Ongoing "Operation Return to Sender" Initiative to Enforce the United States Immigration and Customs Laws in a Manner that Complies with All Applicable Laws, Rules and
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9. Resolution 8775 entitled “Resolution of the Council of the City of Palo Alto Declaring Weeds to be a Nuisance and Setting January 14, 2008 for a Public Hearing for Objections to Their Proposed Destruction and Removal”.................................................................6

10. Request for Authorization to Engage Executive Recruiting Firm for City Manager Search and Direction to Return with Budget Amendment Ordinance for $30,000........................................................................6

11. Approval of Amendment to City Manager’s Employment Agreement Regarding the Sharing of Costs of Home Improvements in Advance of Home Sale........................................................................6

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11A. (Old Item 7) From Policy and Services Committee: Human Relations Commission Recommendation to the City Council to Adopt Resolution 8776 entitled “Resolution of the Council of the City of Palo Alto Encouraging the U.S. Department of Homeland Security Immigration and Customs Enforcement Agency Under Any Ongoing “Operation Return to Sender” Initiative to Enforce the United States Immigration and Customs Laws in a Manner that Complies with All Applicable Laws, Rules and Regulations, Including the Protection Against Unreasonable Searches and Seizures, and the Principles of Fair Play and Substantial Justice” ..............................................................................6

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12. Approval of Workplan and Timeline to Respond to Council Colleagues Memo Regarding Integrated Policy Discussion of Landfill Closure and Byxbee Park Phase II .................................................................7

13. Policy and Services Committee Recommendation Regarding Creation of an Environmental Commission .............................................................8

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16. Approval of a Tentative Map and a Record of Land Use Action to Subdivide the Elks Lodge Site into Two Lots, for a New Lodge and a Multi-Family Residential Project, Located at 4249 and 4251 El Camino Real ................................................................. 13

17. Approval of the Acceptance and Expenditure of Citizens Options for Public Safety (COPS) Funds in the Amount of $120,403 and the Approval of $29,597 in Prior Year’s COPS Funds for Purchase and Outfitting of a Crime Scene Evidence Collection Vehicle, Equipment for the Designated Rifle Officer (DRO) Program, Replacement of the Digital Imaging Management System (DIMS), and Upgrade of Digital Video Camera Equipment ......................................................... 13

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19. Colleagues Memo from Council Members Cordell, Kleinberg, and Mossar, Requesting Referral of Permitting Foothills Park Entry for Non-Resident Business Owners to Policy & Services Committee ......................... 15

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21. CONFERENCE WITH CITY ATTORNEY-POTENTIAL/ANTICIPATED LITIGATION .. 17

ADJOURNMENT: The meeting was adjourned at 11:05 p.m. ......................... 17
The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 p.m.

Present: Barton, Beecham arrived at 6:07 p.m., Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Mossar, Morton

STUDY SESSION

1. Debrief from Golden Guardian Exercise and Update on Disaster Preparedness Efforts

Staff provided an overview of the November 14 Golden Guardian emergency preparedness exercise along with key successes of the exercise and key improvements recommended from the After Action Report. Staff also presented an update on emergency planning efforts, one of the Council’s top 4 priorities for the year. Members of the Palo Alto/Stanford Red Ribbon Task Force on Disaster Planning discussed their participation in the exercise and identified key lessons learned.

No action required.

Sandra Lohnquist, Chamber of Commerce, 122 Hamilton Avenue, spoke regarding the appreciation for Red Ribbon Task Force.

Mayor Kishimoto moved agenda Item No. 3 forward to be heard.

3. Proclamation Recognizing the Efforts of the Palo Alto/Stanford Red Ribbon Task Force on Disaster Planning

No action required.

ORAL COMMUNICATIONS

Mark Petersen-Perez, spoke regarding “Return of the Maniacal Son” Part II corruption in the Palo Alto Police Department.

Aram James, spoke regarding tasers in the Palo Alto Police Department.

Geoff Nicholls, 667 Marion Avenue, spoke regarding solar panel funding program.

Herb Borock, P.O. Box 632, spoke regarding LAFCO revisions to the Palo Alto Sphere of Influence.

Bob Moss, 4010 Orme, spoke regarding personal attacks on staff and Council by members of the public.

12/10/07
SPECIAL ORDERS OF THE DAY

2. Resolution 8774 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation for Administrative Services Director Carl Yeats Upon His Retirement"

City Manager Frank Benest spoke on behalf of staff in appreciation for Carl Yeats upon his retirement.

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

MOTION PASSED: 9-0.

Director of Administrative Services Carl Yeats spoke regarding his appreciation of his staff, the City staff, and the Council over his tenure.

4. Vote and Appointment of Candidate to the Public Art Commission

First Round of Voting for Public Art Commission

Voting for Einar Sunde: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar

City Clerk Donna Rogers announced on the 1st ballot, Einar Sunde, with 9 votes, was appointed to the Public Art Commission for a term ending April 30, 2009.

CONSENT CALENDAR

Vice Mayor Klein moved, seconded by Council Member Beecham to pull Item 7 from the Consent Calendar to become Item 11A.

Mayor Kishimoto asked for policy clarification on Item 5 regarding the City paying for vehicles driven to employee’s homes.

Director of Public Works Glenn Roberts stated the policy for taking vehicles home was being eliminated effective January 1, 2008.

MOTION: Council Member Mossar moved, seconded by Drekmeier, to approve Consent Calendar Items 5, 6, and 9-11.

5. Approval of a Purchase Order with Western States Oil for a Period of up to 3 Years in the Amount of $944,000 Per Year for a Total Amount Not to Exceed $2,832,000 for Provision of Automotive Fuel
6. From Policy and Services Committee: Human Relations Commission Recommendation to the City Council to Designate the Palo Alto Mediation Program as a City Contractor for Mediation Services


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10. Request for Authorization to Engage Executive Recruiting Firm for City Manager Search and Direction to Return with Budget Amendment Ordinance for $30,000

11. Approval of Amendment to City Manager’s Employment Agreement Regarding the Sharing of Costs of Home Improvements in Advance of Home Sale

MOTION PASSED: 9-0.

AGENDA CHANGES, ADDITIONS, AND DELETIONS

11A. (Old Item 7) From Policy and Services Committee: Human Relations Commission Recommendation to the City Council to Adopt Resolution 8776 entitled “Resolution of the Council of the City of Palo Alto Encouraging the U.S. Department of Homeland Security Immigration and Customs Enforcement Agency Under Any Ongoing “Operation Return to Sender” Initiative to Enforce the United States Immigration and Customs Laws in a Manner that Complies with All Applicable Laws, Rules and Regulations, Including the Protection Against Unreasonable Searches and Seizures, and the Principles of Fair Play and Substantial Justice”

Vice Mayor Klein stated his lack of support for the resolution.

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Council Member Beecham made a Motion to Table the Item.

**MOTION TO TABLE:** Council Member Beecham moved, seconded by Klein, to table this item.

**MOTION TO TABLE PASSED:** 5-4 Drekmeier, Cordell, Barton, Morton no.

**UNFINISHED BUSINESS**

12. Approval of Workplan and Timeline to Respond to Council Colleagues Memo Regarding Integrated Policy Discussion of Landfill Closure and Byxbee Park Phase II

Council Member Mossar stated a Colleagues Memo had been presented to Council which resulted in staff returning with estimated time and energy in a workplan.

**MOTION:** Council Member Mossar moved, seconded by Kishimoto that the workplan for Byxbee Park be presented to the Parks and Recreation Commission prior to returning to the Council.

Mayor Kishimoto stated the plan submitted to the state did not match the Master Plan approved by Council in 1991. She asked whether there were any irreversible landfill actions being taken which would foreclose Council options prior to returning in July 2008.

Director of Public Works Glenn Roberts stated in terms of the grading plans for Byxbee Park in the Master Plan, there will not be any irreversible actions taken.

Mayor Kishimoto asked whether the full set of options would be brought to Council in July 2008.

Mr. Roberts stated yes, consistent with the adopted Master Plan.

Mayor Kishimoto asked whether Hargreaves Associates would be involved in each step of the process.

Mr. Roberts stated yes.

Mayor Kishimoto asked whether Hargreaves Associates would return to the Council and Planning Commission meetings in July 2008.

Mr. Roberts stated it was possible.

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