The Honorable City Council  
Palo Alto, California

Recommendation from the Policy & Services Committee Regarding Electronic Packet for Council

RECOMMENDATION FROM THE POLICY AND SERVICES COMMITTEE:

MOTION: Council Member Klein moved, seconded by Council Member Burt that the Council policy would encourage but not require Council Members purchase and use their own electronic reading devices, the City would purchase any applications required to allow the Council Members to read the packet on their device. The City could choose to pay any applicable monthly fees incurred by the Council Member to receive the packet. These charges would fluctuate based upon the Council Member having either Wi-Fi or 3G access. Staff would support the accessibility of the electronic packet.

MOTION PASSED: 3-1 Price no

BACKGROUND

The Policy and Services Committee have met on June 14, 2011 and July 14, 2011 to discuss and make a recommendation on electronic packets for the City Council. Distributing the packet to Council Members electronically fits into the City’s overall sustainability goals through the reduction of paper use and other resources used to distribute the packet.

The City Clerk has taken the lead in identifying technology solutions that help make Council processes be more efficient, and achieve cost savings. In conjunction with the City Manager, the City Attorney, the Information Technology Division, and the Administrative Services Director, Staff has explored moving toward a paperless packet for the City Council. Beginning last fall, the City Manager and his department along with the City Clerk department piloted a program to receive the Council packet electronically.
Staff produces weekly packets for the upcoming City Council Meetings. These packets can be anywhere from a couple hundred pages to over 1,000 pages and are produced approximately 46 times a year. Each packet is copied 22 times and distributed to Council, the Libraries, and the public in the Chambers. Once the packets are complete they are delivered via City vehicle to the Council Member’s homes and the libraries in a special delivery that evening.

The current process is to produce a total of 22 packets:

- Nine for Council
- Six for the public in the Chambers
- Three for the libraries
- Two for media (KZSU, Palo Alto Weekly)
- One for Staff
- One for the City Clerk

Moving to an electronic packet would reduce the number of paper packets produced by 50%. Staff would only distribute 11 paper packets:

- Six for the public in the Chambers
- Four for the libraries (increased for Downtown Library reopening)
- One for KZSU

The paper packets should still be completed for the public and the libraries to comply with the Americans with Disabilities Act. Additional paper packets may still be provided by request for a charge of $35.00 per packet as found in the Municipal Fee Schedule. Staff actively encourages members of the public to access the packet on-line and subscribe to the agenda notification program, GovDelivery (http://www.cityofpaloalto.org/knowzone/agendas/council.asp). If a Council Member preferred, a paper packet would still be produced for them.

If Council directs Staff to proceed with the implementation of the electronic packet, Staff would notify Council via email when their packet is ready each week. Council Members would then download the packet to their electronic device.

DISCUSSION
Committee Discussion
The Policy & Services Committee reviewed various options from the City purchasing the electronic devices to the Council Member using their own electronic devices, including having (1) the City purchase devices for all Council Members, (2) the Council Members purchase their own devices with the City providing support for the packet and other City uses, or (3) a combination of the two options. At the first meeting on the issue, the Committee asked the City Attorney to provide additional information regarding whether a policy governing use of electronic devices is required and whether Council Members would be able to use the devices for personal purposes.

The final motion was a recommendation that Council Members should purchase and use their own devices if they wish to receive the packet electronically. Because state law prohibits council members from using City-owned resources for personal use, Council Members supporting the motion expressed concern about issuing City-owned electronic devices.

Financial Issues
Administrative Services Staff prepared a cost analysis showing the current cost of producing and delivering paper packets versus the distribution of an electronic packet to Council. An electronic packet can be read on just about any type of computer or e-reader. The calculated break-even point would occur in the second year.

The budget savings would include dramatically reduced printing costs as the number of packets printed could be reduced from 22 to 11. There still will periodically be a need for delivery to Council Members when there are large documents such as plans and EIR’s.

Legal Issues

The Committee raised two potential legal issues that were addressed in detail in the July 12 report to the Committee and summarized briefly below.

The first issue is the city does not currently have a policy specifically addressing electronic communications (or other uses of electronic devices) during Council meetings. The Committee asked whether a policy revision was required to
address transparency issues associated with use of electronic devices during Council meetings. No policy revision is legally required, so long as Council Members avoid using the devices to develop a collective concurrence on an item before the Council, which could violate the Brown Act, and do not use the devices to communicate and receive evidence to which other Council Members or parties to a quasi-judicial proceeding do not have access, which could create potential due process issues by creating a perceived or actual challenge to a fair hearing. Outside of these two considerations, it is not illegal to communicate with others during a meeting, whether through an electronic device or any other means. A policy revision is therefore not legally required, as these limitations exist whether or not the Council adopts a policy specifically addressing electronic communications. In addition, existing protocols already address these concerns generally by providing that Council Members “should comply with both the letter and spirit of the laws and policies affecting the operation of government.”

The second issue was whether Council Members would be able to use City-issued electronic devices for personal use. Public employees and officials in California are subject to stringent requirements regarding use of City resources; any personal use of City-owned equipment beyond that which is incidental, occasional, and minimal, is prohibited by Government Code section 8314(a), which provides that “It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.” “Personal purpose” under this law is very broadly defined to include activities resulting in personal gain or generally unrelated to City business, as well as any activity for “personal enjoyment.” (Gov’t. Code § 8314(b)(1)). The Council Protocols also address this rule by providing that “Members shall not use public resources, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes. Under these rules, using a city-issued device to either conduct non-City business or for any general use that contributes to personal enjoyment could be viewed as creating a “private advantage” in violation of the law.

At the meeting on July 14, 2011, the committee’s discussion focused on the following issues:

- Based upon the City Attorney’s research, Committee Members expressed concern that it might be too easy for Council Members to use an electronic
device for personal use in violation of Government Code section 8314, prompting the recommendation that Council Members should purchase their own devices.

- Council Member Klein also noted that personal information on a City-issued device might be more likely than a personal device to be subject to disclosure could subject the city to claims for discoverability.

- Council Member Burt asked whether the Council Members could be given an additional stipend in an amount sufficient to purchase an electronic device. Such a stipend would be considered compensation and would exceed the maximum amounts allowed for council members under the charter, municipal code, and state law.

- Council Member Burt also asked whether the City could reimburse members for the personal purchase of an electronic device. However, the law limits reimbursement to actual and necessary expenses incurred in the performance of official duties such as travel, meals, and lodging for city-related business. (Cal. Gov’t Code § 53232.2). Reimbursing for a device which could be used for non-official business would not meet these standards for reimbursement.

ATTACHMENTS:
- a: Cost Analysis 7-20-11 (XLS)
- b: Report to P&S June 14 (PDF)
- c: Report to P&S July 12 (PDF)
- d: PS 7-12-11 E Packet Excerpt (PDF)

Department Head: Donna Grider, City Clerk
### Current Annual Cost Estimate

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### Post Tablet Annual Cost Estimate

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<th>Service</th>
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<td>Annual Delivery Costs, Post Tablet</td>
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<td>Annualized Equipment Purchase Cost</td>
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### SUMMARY, QUARTERLY CASHFLOW BEFORE AND AFTER TABLET PURCHASE AND USAGE

#### "BEFORE" TABLET

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<thead>
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<th>Year 3</th>
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#### "AFTER" TABLET

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<td>Data Plan</td>
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### Marginal Cumulative Savings ("BEFORE" minus "AFTER")

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<th>Year 2</th>
<th>Year 3</th>
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</thead>
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<td>Delivery</td>
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<td>$558</td>
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<td>Equipment</td>
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<td>Data Plan</td>
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<td><strong>Total</strong></td>
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The Honorable City Council  
Attention: Policy & Services Committee  
Palo Alto, California

**Discussion and Recommendation for Approval of an Electronic Packet for Council**

As directed by the City Council, the City Clerk has taken the lead in identifying technology solutions that help Council processes be more efficient, and to achieve cost savings. In conjunction with the City Manager, the City Attorney, the Information Technology Division, and the Administrative Services Director, staff has explored moving toward a paperless packet for the City Council. Beginning last fall, the City Manager and his department along with the City Clerk department piloted a program to receive the Council packet electronically on iPads.

**BACKGROUND**

Staff produces weekly packets for the upcoming City Council Meetings. These packets can be anywhere from a couple hundred pages to over 1,000 pages and are produced approximately 46 times a year. Each packet is copied 22 times and distributed to Council, the Libraries, and the public in the Chambers.

In an effort to reduce the amount of paper used and increase efficiency, Staff is proposing options for Council to receive their packets electronically. Mayor Espinosa noted the goal of producing electronic packets in his 2011 State of the City Address. Distributing the packet to Council Members electronically fits into the City’s overall sustainability goals through the reduction of paper use and other resources used to distribute the packet.

The current process is to produce a total of 22 packets:

- Nine for Council  
- Six for the public in the Chambers  
- Three for the libraries  
- Two for media (KZSU, Palo Alto Weekly)  
- One for Staff  
- One for the City Clerk

Once the packets are complete they are delivered via City vehicle to the Council Member’s homes and the libraries in a special delivery that evening. The current annual cost for printing and delivering paper packets is $29,810 (Attachment A: Year 1, Quarter 4).
The Finance Committee had the following Motion regarding iPads on May 24, 2011. The excerpted minutes are Attachment B.

**MOTION**: Vice Mayor Yeh moved, seconded by Chair Scharff to not expend City funds on the iPad in Fiscal Year 2012.

**MOTION FAILED**: 2 - 2 Scharff, Yeh yes - Schmid, Shepherd no

Recently there was a City Clerk listserv question circulated regarding paperless agenda packets utilizing iPads. Some Cities such as Mountain View, Redwood City, Moreno Valley, Portola Valley, Sacramento, Corona, Huntington Beach, Livermore, and Sacramento have all switched to distributing their packets through iPads and report successful transitions.

**ELECTRONIC PACKETS**

If the Policy and Services Committee recommendation is to direct Staff to distribute the packets electronically, Staff would only distribute 11 paper packets:

- Six for the public in the Chambers
- Four for the libraries (increased for Downtown Library reopening)
- One for KZSU

The paper packets should still be completed for the public and the libraries to comply with the Americans with Disabilities Act. Additional paper packets may still be provided by request for a charge of $35.00 per packet per the Municipal Fee Schedule. Staff actively encourages members of the public to access the packet on-line and subscribe to the agenda notification program, GovDelivery (http://www.cityofpaloalto.org/nowzone/agendas/council.asp).

If Council directs Staff to proceed with the implementation of the electronic packet, Staff would notify Council via email when their packet is ready each week. Council Members would then download the packet to their electronic device. The process Staff has been testing for iPads includes the use of Dropbox and Goodreader. Dropbox is a cloud-based program to which Staff uploads the packet each week. Goodreader is one of many reader programs that can be purchased to pull the packet out of Dropbox and onto the iPad for reading. Staff uses Goodreader because it has the functionality we believe Council would want: the ability to highlight text, save annotations to the document, bookmark pages, and search for text.

**FINANCIAL**

Administrative Services Staff prepared a cost analysis showing the current cost of producing and delivering paper packets versus the distribution of an electronic packet to Council using the Apple iPad as the electronic distribution device (See Summary in Figure 1). An electronic packet can be read on just about any type of computer or e-reader. The City Manager’s Office and the City Clerk’s Office began a pilot program using the iPad to test the electronic process for packets in the fall of 2010.

Updated: 6/7/2011 5:14 PM by Beth Minor
Figure 1

<table>
<thead>
<tr>
<th>Post-iPad Annual Cost Estimate</th>
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</thead>
<tbody>
<tr>
<td>Printing Costs</td>
</tr>
<tr>
<td>11 packet copies per week for 46 weeks (marginal cost only)</td>
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<tr>
<td>Monthly selected document printing</td>
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<tr>
<td>Subtotal Printing Costs</td>
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<tr>
<td>Delivery costs</td>
</tr>
<tr>
<td>iPad equipment Costs, annualized</td>
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<tr>
<td>Cost of wiring Dais for iPads, annualized</td>
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<tr>
<td>iPad annual data plan costs</td>
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<tr>
<td>Total Costs of iPads and Packets</td>
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</table>

<table>
<thead>
<tr>
<th>Current Annual Cost Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printing</td>
</tr>
<tr>
<td>Delivery</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Annual Savings with iPads</td>
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</tbody>
</table>

The cost analysis indicates that if the City purchased iPads for Council and paid for the monthly data plan, the City would break even in the first year. Over the expected three-year life span of the devices the City would save approximately $27,500.

The budget savings would include dramatically reduced printing costs as the number of packets printed is reduced from 22 to 11. The savings would also include the elimination of the delivery costs as the 11 packets would be delivered to the libraries with the regularly scheduled deliveries the morning after they are printed instead of a special delivery as is the current practice. There still will periodically be a need for delivery to Council Members when there are large documents such as plans and EIR’s, but these are assumed to be deliverable during normal business hours, not requiring overtime.

POLICY DECISIONS
Staff is recommending Council review the following options:

**OPTION A**
City Purchases 9 iPads for the Council Members to receive and read the packets. The City installs the appropriate applications, pays for the monthly data services fees, and provides all maintenance and service. Council Members will return the devices to the City when they leave office. Option A will cost the City approximately $16,942 at onset of the project, and $61,419 over the life of the devices (3 years). The annual savings for the City in year one will be
approximately $9,333, and over the life of the devices will be $28,000. This option allows City Staff to offer training for Council Members because the process will be consistent. The City will be able to maintain City owned devices. Staff would be able to monitor the devices for needed updates and repairs. Staff would be able to provide a backup device in the event one is needed. Program functions associated with the iPad would include the ability to highlight text, save annotations to the document, bookmark pages, and search for text. The City Clerk’s Office would work with the IT department to design a training program for Council Members. Council Members would follow City Policy 1-08, the Employee Telephone, Cellular Phone, and Wireless Device Use Policy (Attachment C) and City Policy 1-40, the Employee Computer Use Policy: Passwords, Internet, Intranet, E-Mail, and Information Resources Policy (Attachment D).

OPTION B
Council Members purchase and use their own electronic reading devices. The City would purchase any applications required to allow the Council Member to read the packet on their device. The City could choose to pay any applicable monthly fees incurred by the Council Member to receive the packet. These charges would fluctuate based upon the Council Members having either wi-fi or 3G access. Staff would support the accessibility of the electronic packet.

OPTION C
Council Members purchase and use their own electronic reading devices and pay all fees associated with the packet. The City would provide an electronic copy of the packet to Council Members to download into the device of their preference. There is no quantifiable cost associated with this option for the City.

Council Members who do not wish to receive an electronic packet may still have a paper packet delivered.

Staff respectfully requests the Policy and Services Committee to provide direction to Staff regarding paperless packets.

LEGAL
As part of increased use of electronic devices during council meetings, the Clerk noted that some cities have chosen to adopt policies addressing potential issues associated with such use, and reviewed and discussed these policies with the City Attorney’s Office. The City Attorney provided the following assessment for the Committee’s consideration:

The Council currently does not have a policy addressing Council Members’ use of electronic communications such as text messaging during meetings. The Brown Act does not specifically prohibit text messaging or similar communications during meetings and there is no definitive case law on the subject. However,
because using electronic devices during meetings has the potential to create an appearance that officials are either not paying attention or are engaged in communications to which the public is not privy to about an item on the agenda, the Council may want to consider whether a policy regulating use during meetings is appropriate.

There are two primary legal issues related to use of electronic devices during meetings. First, while the Brown Act does not specifically prohibit text messaging or other electronic communications, communication that is used to develop a collective concurrence is prohibited. Thus, text messages or e-mails among members during meetings on a matter within the Council's purview create the risk of a collective concurrence and Brown Act violation. Second, these types of communications are particularly problematic during adjudicative proceedings because the potential to communicate and receive evidence that other members or parties to the proceeding do not see could raise due process concerns.

Cities handle electronic communication during meetings in a variety of different ways. Several have not adopted a policy and leave the use of electronic devices during meetings to the discretion of individual council members. A few cities have adopted policies banning all electronic communication during meetings (with limited exceptions for family emergencies). For example, the City of Saratoga has a policy that provides:

Use of E-Communication during Meetings. City Council members shall not use E-Communication at any time during a meeting of the City Council at which he or she is in attendance. No Commissioner may use E-Communication at any time during a meeting of the Commission of which he or she is a member at which he or she is in attendance. The foregoing limitation shall not apply to the receipt of telephone calls or text messages from family members in the event of an urgent family matter; a Council member or Commissioner wishing to respond to such a message during the meeting shall do so during a recess or shall excuse him or herself from the meeting to place the return call or text in a manner that does not disrupt the meeting.

Policy revisions are not legally required; as long as Council Members ensure that their communications do not violate the Brown Act or the due process rights of parties to quasi-judicial proceedings, the legal standard is met. Whether to require new standards of conduct that go above this legal "floor" is a policy decision for the Council.
ATTACHMENTS:

- Attachment A-Summary Cashflow (PDF)
- Attachment B-Excerpt Minutes (PDF)
- Attachment C- Policy 1-08 (PDF)
- Attachment D- Policy 1-40 (PDF)

Department Head: Donna Grider, City Clerk
### SUMMARY, QUARTERLY CASHFLOW BEFORE AND AFTER IPAD PURCHASE AND USAGE

#### Before iPad Purchase

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<thead>
<tr>
<th>Year</th>
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<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
<th>Year</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
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</thead>
<tbody>
<tr>
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<td>$5,753</td>
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<tr>
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#### Break-Even Calculation

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<tr>
<th>Year</th>
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<th>Q2</th>
<th>Q3</th>
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### Summary Cashflow Before and After iPad Purchase and Usage

#### Before iPad Purchase

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<th>Year</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
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<th>Year</th>
<th>Q1</th>
<th>Q2</th>
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<td>Cum. Total</td>
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#### After iPad Purchase

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<tr>
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<th>Q3</th>
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<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
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#### Marginal Cumulative Savings

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<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
</tr>
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<td>$27,538</td>
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</table>
Attachment B

MOTION: Vice Mayor Yeh moved, seconded by Chair Scharff to tentatively approve the Council budget with the detail that there would not be an expenditure of City funds on the iPad in Fiscal Year 2012.

City Manager, James Keene stated there were two parts to the iPad expenditure; 1) the purchase or acquisition cost and 2) the ongoing monthly service charge.

Vice Mayor Yeh stated his understanding was with Wi-Fi there would not be a need for a data plan on a monthly basis to be able to access the online services.

Mr. Perez stated the concern would be the interruption of Wi-Fi if the system has an issue or the abundance of Wi-Fi equipment in use in the Council Chambers during a given meeting; the City had procured a few iPads for test purposes.

Chair Scharff asked for confirmation there was a Wi-Fi connection in the Council Chambers.

Mr. Perez stated that was correct; there were both secured and public accesses.

Chair Scharff stated when the Council received their packets it would not be the night of the meeting. He asked why would Council need to access the Wi-Fi while in the Council Chambers. He stated once the packet was released it could be downloaded to the device of choice. Therefore, he was uncertain as to why there needed to be a 3G connection at a cost of $5,000 as a back-up to Wi-Fi.

Mr. Keene stated the assumption by Staff was the Council would access the packet from their chosen device in different locations and there was the ability to instantaneously update the packet if there was a supplemental.

Chair Scharff argued no matter when a supplemental was received the user would still need to click on a link and download the item which could be done utilizing Wi-Fi. He stated the question was why would you want the City to pay for an item that could be perceived by the community as abuse of City funds.

Mr. Keene stated that seemed to be more of a political policy question for the full Council.

Chair Scharff stated the technical question was whether it was needed or not and then there was the policy issue.

Mr. Keene stated there were times where Wi-Fi was unavailable when he was working and the 3G would be an available back-up.

Assistant City Manager, Pamela Antill stated in her residence there were 3 iPads, 1 with 3G service and that one downloads items quickly, it is usable on an airplane or in the car, when the iPad was not configured with the 3G the service was slow and the user needed to search for Wi-Fi service.

Chair Scharff stated the Wi-Fi service in his residence was faster than the 3G he had on his personal iPad therefore he did not see the importance of the extra cost to the City. He clarified if Council was utilizing

FIN 05/24/11
the device for City business as it was intended, which was downloading and reviewing the Council packet, the Wi-Fi service was more than sufficient.

Vice Mayor Yeh stated the conversation was being driven away from the Council budget into political commentary. He stated his preference was to proceed slowly in terms of increasing the costs as it related to supporting the City Council. He felt the issue was he was uncertain as to whether the full Council would be accepting of the iPad. He noted the proposed information indicated a $4,000 per Council Member cost and assuming the maximum was a $35,000 cost for the entire Council. If a Council Member opted into the iPad process, the Wi-Fi level should be tested for adequacy before determining the monthly plan was necessary.

Mr. Keene clarified the $4,000 cost was for the full Council not an individual cost. The 3G cost was based on $30.00 per month. He noted in one month the cost of creating a paper packet with Staff time and delivery was higher than a full year of 3G service.

Council Member Shepherd stated she had heard there was an expectation for individual Council Members to purchase their own iPad device which she was uncertain she agreed with that policy. She felt the decision should be with the full Council. The $30 monthly service fee it was not a large amount the other option was not having access to your email for the entire day. She recommended the item be continued to the full Council unless the recommendation from Staff was for the Finance Committee to make a decision regarding the iPad.

Vice Mayor Yeh stated it was not a Staff recommendation although he included it in the Motion.

Council Member Shepherd stated she would not be supporting the Motion for the purposes of the iPad.

Council Member Schmidth stated he did not feel any Council Member should pay a fee for access to information. He stated if there was a hint that Council Members, as a representative of the public, needed to buy and to information he would vote against it.

Chair Scharff stated in terms of the iPad, why would there be a determined use of that specific device.

Mr. Keene stated it was possible to use different types of devices. He noted there needed to be standardized software or platform used to distribute the information.

Mr. Perez stated there was no Staff recommendation for iPads at this time.

Vice Mayor Yeh stated Chair Scharff had split the Motion into two separate questions; 1) tentative approval of the City Council budget and 2) the issue of iPads.

**MOTION:** Vice Mayor Yeh moved, seconded by Chair Scharff to tentatively approve the City Council budget.

**MOTION PASSED:** 4-0

FIN 05/24/11
Attachment B

Vice Mayor Yeh stated his concerns with all Council Members preferring an electronic interface. The question was in the future if someone chose not to have an electronic device, would there be an option to receive a paper packet.

Mr. Keene stated his understanding was the City Clerk’s department would produce paper packets.

Vice Mayor Yeh stated for purposes of public access there needed to be paper copies available.

Mr. Keene stated there were and would continue to be paper packets available at the City libraries. The policy question was how much access to information, in what formats, and how much of that would the City underwrite.

Vice Mayor Yeh stated that was where he saw the iPad item as a choice and if Council Members chose that type of an interface that was the basis where his discomfort arose. It was not mandatory for City Council Members to interface electronically and therefore the basis for the Motion was if it was a choice it should not involve City funds.

Council Member Schmid stated his basic belief was good information was key to good decisions by the Council. He felt valid questions had been raised regarding the electronic access, especially the search options available on the City website. If the City was moving in that direction he was in favor of a budget that assisted the City prepare for a transition where search ability in an electronic format was as good as what could be done in a paper format.

Chair Scharff stated the first issue was if the City supplied iPads. The lifespan of the device was 3 to 4 years at most. The second issue was Wi-Fi and was it necessary to have 3G or should there be a slow move to determine the need.

**MOTION:** Vice Mayor Yeh moved, seconded by Chair Scharff to not expend City funds on the iPad in Fiscal Year 2012.

**MOTION FAILED:** 2 – 2 Scharff, Yeh yes

FIN 05/24/11
POLICY AND PROCEDURES 1-08/ASD
Revised: April 2011

EMPLOYEE TELEPHONE, CELLULAR PHONE, AND WIRELESS DEVICE
USE POLICY

POLICY STATEMENT

City telephones are to be used to transact City business. Personal use of City telephones, cellular phones, and other wireless devices is discouraged and employees must accept the financial responsibility for non-City calls.

Personal use of such City devices is prohibited. Use of personally-owned wireless devices shall not interfere or cause distraction from work.

The City reserves the right to monitor and review any and all billing statements, data, information, files, pictures, and other communications stored in or sent to or from cellular phones and wireless devices owned or supplied by the City. Employees should not have an expectation of privacy or confidentiality in using these resources.

The City desires to protect the well-being of City employees and to preserve the City's human and economic resources by minimizing losses due to motor vehicle, City maintenance or construction equipment accidents and injuries resulting from the use of cellular phones and wireless devices during the course and scope of employment.

Users with personal devices capable of accessing the City's network (e-mail, etc.), must lock their devices using a password to minimize unauthorized access risk to the City's systems.

To ensure that City telephones are properly used by City employees, the following use policy for telephones, cellular phones, and other wireless devices (collectively referred to in this policy as "phones") is established.

GENERAL PROCEDURE FOR ALL PHONES AND ELECTRONIC DEVICES

1. As a general rule, the regular work time of employees should not be used for non-City calls or communications such as text messages, internet usage, or similar uses on City or personal electronic devices. If the need arises for an employee to make a non-City call or electronic communication, judgment should be used by the employee so that the communication occurs at a time when it does not interfere, cause distraction from or otherwise occupy time instead of work. Such communications should be brief and infrequent. Incoming personal calls or other electronic communications on personal or City phones shall not interfere with or cause distraction from work and are discouraged. The immediate supervisor has the authority and responsibility to exercise judgment in this matter. If a call, any type of message, or other communication is placed on a City phone for personal, non-City purposes, the employee violates City policy. Reimbursement to the City for the cost of the call, message, or communication shall not
excuse noncompliance with this policy. Department heads may authorize uses of cellular phones or other wireless devices made to communicate work schedule changes, emergency situations or other work-related information which have a business use and are not considered personal uses under this policy.

2. If a call, any type of message, or other communication is placed on a City phone for non-City purposes, the employee is expected to make the call collect, bill the call to a personal credit card or reimburse the City for the amount of the call.

3. Review of Bills and Reimbursement to City. All employees shall review City phone bills, highlight, and initial any personal calls. If the employee has no personal calls, the employee shall note that fact on the bill. Employees with personal calls shall timely reimburse the City for those calls at the rate stated on the bill for land.

Departments/divisions who receive phone bills are responsible for distributing or otherwise making bills available for employee review, and for maintaining records of bills reviewed, highlighted, and initialed by employees.

Reimbursement to the City for personal telephone calls is to be made to Revenue Collections on the "Telephone Use Reimbursement" form (City of Palo Alto Stores Item 02916) attached to this policy. Payments can be made using cash, check or credit card and must be hand-carried to Revenue Collections and not routed through the City mail. Departments are encouraged to develop procedures for aggregating payments for individual monthly bills to minimize the volume of payments to Revenue Collections.

4. Employees have no expectation of privacy or confidentiality in using City phones. Data, information, files, pictures and other communications stored in, or sent to or from cellular phones and other wireless devices owned or supplied by the City are the property of the City. The City reserves the right to monitor and review any and all data, information, files, pictures, and other communications stored in, or sent to or from cellular phones and other wireless devices owned or supplied by the City.

5. Without any prior showing of cause or suspicion of misconduct, supervisors or IT staff may periodically review phone reports to determine if an employee is utilizing his or her City phone(s) appropriately.

6. Phone bills may be public records subject to disclosure under the California Public Records Act.

7. Each department head has the full responsibility for administering this policy within his/her department.
CELLULAR PHONE AND WIRELESS DEVICE PROCEDURES

In addition to the requirements listed above, use of City or personal cellular phones and wireless devices while on City time and/or provided by the City shall be subject to the following requirements:

A. Eligibility for City Cellular Phone or Wireless Device

Department Directors may recommend the provision of a City cellular phone or wireless device to an employee. This capability will be provided on an “as needed” basis and is a revocable privilege.

B. General Policy

1. Employees who have been provided City cellular phones or other wireless devices are responsible for use and shall not allow others to use the devices except in instances of specific authorization.
2. Directory Assistance (411) should only be used after first attempting to information on the internet. Free websites such as, www.411.com can be used instead.
3. New phone line request must be submitted by a supervisor or manager to the helpdesk at x2211 or email at; its.helpdesk@cityofpaloalto.org. IT will determine with the requestor the needs of the request and implement an appropriate solution.

C. Hands Free Policy

1. Effective July, 1 2008, California Vehicle Code section 23123 prohibits adult drivers from using a cellular phone while operating a motor vehicle unless the cellular phone is specifically configured to allow hands-free listening and talking, and the cellular phone is used in that manner while operating the motor vehicle.

2. Vehicle Code section 23123.5 prohibits drivers from writing, sending, or reading text-based communications while driving. Text based communications include but are not limited to text messages, instant messages, and electronic mail.

3. All employees operating City or personal vehicles within the course and scope of their employment shall comply with the provisions of California Vehicle Code sections 23123, 23123.5 and 23124, as may be amended from time to time, and which are incorporated herein by this reference as though set forth at length.
4. All employees operating City or personal vehicles within the course and scope of their employment shall additionally refrain from internet use or any other uses of personal or City owned or supplied cellular phones or wireless devices that are not hands-free.

5. Use of any cellular phone or other wireless device (including hands-free devices) is prohibited while sitting at the controls of or while operating motorized maintenance or construction equipment.

6. All employees are permitted to use cellular phones to summon emergency assistance. Sworn public safety employees are permitted limited use of cellular phones in the course of their duties. When responding to a call, the non-driving Firefighter/Paramedic may use a cellular phone to coordinate a response. When on Patrol, a Police Officer may use a cellular telephone in the hands free mode only.

D. IMAP and Non-Supported Devices

1. IMAP provides a means for transferring e-mail messages and other information from a server to allow an individual remote access to his or her e-mail messages, contact information and calendar. Some cellular phones and other devices can use IMAP to download information such as e-mails. A City employee with a personal cellular phone owns a non-supported device. If an employee wants access to his or her City e-mails and other information via IMAP on the non-supported device, the employee must comply with the requirements of this section.

2. An employee desiring IMAP access from a non-supported device must register with the Helpdesk for IMAP access. Registration requires an employee’s name and information about the device(s) the employee will use to connect via IMAP. To connect via IMAP, A registered employee is required to ensure the security of his/her device(s) by:

a. Enabling the device locking feature so that use of the device and access to its contents are password protected. By implementing the device locking function an employee will both protect his or her personal information stored on the device, and protect the connection the device represents to the City’s Microsoft Exchange Server. Employees connecting personal phones via IMAP must set their devices to utilize the locking feature when not in use.

b. Immediately reporting to the Helpdesk at (650) 329-2211 any loss or theft of a device.
c. Immediately reporting to the Helpdesk if a device used for IMAP access becomes infected with any type of virus. The City requires that an employee with an infected device immediately disable the IMAP account. The employee must clear and reset the device to ensure the removal of any and all viruses before the Helpdesk will reactivate an employee’s IMAP access.

3. Personal devices are not supported by the IT Division beyond assistance with IMAP services. The employee using a non-supported device is responsible for configuring his or her own device.

Note: Questions regarding this policy should be referred to the Administrative Services Department or IT Department, as appropriate.

Attachment: Telephone Use Replacement Form, CPA Stores #02916
POLICY AND PROCEDURES 1-40/ASD
Revised: April 2005

EMPLOYEE COMPUTER USE POLICY: PASSWORDS, INTERNET, INTRANET, E-MAIL AND INFORMATION RESOURCES

POLICY STATEMENT

Computers are essential research and communications resources provided to City of Palo Alto (CPA) employees for uses related to municipal business. The intent of this policy is to ensure the responsible and acceptable use of computers, and their applications, consistent with municipal policies, all applicable laws and the individual user's job responsibilities; and to establish basic guidelines specifically for appropriate use of the Internet, Intranet and e-mail.

This policy applies to all employees, contractors, volunteers and other individuals who have computer access through the CPA. Each individual user is responsible for the appropriate use of this resource as described in this document.

The CPA reserves the right to review any and all data, information or computer files stored in or sent to or from computers owned or supplied by the CPA. This includes any type of Internet, e-mail or subscription service.

Individual users should be aware that the CPA has no control over the content of the Internet. Therefore the City is not responsible for the validity of the information available on the Internet or the use of offensive material.

The CPA City Manager, or his designee, has the right to change this policy at any time with notice. Any questions about the Computer Use Policy should be directed to the Administrative Services Department.

PROCEDURE

A. Eligibility

Department Directors may recommend computer access for employees. This capability will be provided on an "as needed" basis and is a revocable privilege.

B. General Policy for Passwords

The purpose of this password use policy is to enhance the security of City computer systems through the appropriate use of passwords within the City of Palo Alto. Additionally, this policy will ensure that City employees and other individuals using computers and accounts controlled by the City of Palo Alto follow appropriate password procedures when using City computer systems. Implementation of this policy shall be the
responsible of every individual using computers, systems, and applications within the City of Palo Alto.

1. **Confidentiality**
   Passwords shall be private information and shall not be shared. All use of the user ID (or file associated with it) is assumed to be performed by the person assigned to that user ID. Each individual is responsible for safeguarding his/her user ID.

2. **Passwords Shall Consist of:**
   a. 6-8 characters.
   b. At least two alphabetic and one numeric character.
   c. Shall be significantly different from previous passwords.

3. **Passwords Shall Not:**
   a. Be the same as the user ID.
   b. Be the employee’s date of birth.
   c. Start or end with the initials of the person issued the user ID.
   d. Include the first, middle, or last name of the person issued the user ID.
   e. Include information easily obtainable about the person using the password. This includes license plate, social security, telephone numbers, or street address.

4. **Password Changes Shall Occur When:**
   a. A newly activated user ID is first used.
   b. There is a belief that the password is compromised.
   c. An employee changes departments.
   d. Every six months when all passwords are renewed.

5. **Failure to Conform**
   Failure to conform to these restrictions may lead to suspension of user ID (loss of computer access privileges) or other action indicated by the City Manager or designee.

C. **General Policy for Internet Usage**

1. Only the CPA’s Internet provider may be used to access the Internet unless otherwise authorized in writing by the CPA City Manager or his designee.

2. Internet resources are to be used primarily to conduct CPA business. Only incidental and occasional personal use is permitted. Permitted personal uses
include reading and posting of City-related news items and classifieds for recycling of personal items on THE LOOP, the City’s Intranet.

3. Users must abide by copyright, contract, and any local, state and federal laws, and CPA administrative directives and policies.

4. Users shall not download or use any unlicensed commercial software.

5. The CPA staff is prohibited from downloading or installing on CPA computers any software from the Internet unless authorized by the IT Division.

6. Appropriate anti-virus software must be installed and operational before any Internet use is authorized. If a virus is detected, the Network Administrator and the user’s immediate supervisor should be notified immediately. In the event of a serious virus outbreak, any infected equipment may be disconnected from the Internet and the CPA’s other computer systems until the problem is resolved.

7. Users shall not share passwords for Internet access with any unauthorized person, nor obtain any other’s user’s password by unauthorized means. Users should not construe the use of passwords as an expectation of privacy.

8. The CPA may, at any time, without cause, use Internet monitoring software that restricts users from accessing inappropriate sites; log Internet usage by user; and create reports based on the information it logs. Users who have been provided with Internet access are responsible for Internet usage logged with their Internet login. Therefore users shall not allow others to use their account except through specific authorization.

9. There shall be no participation in web-based surveys without authorization from the Department Director.

D. Prohibited Activities

The following are specific examples of prohibited activities. An activity not listed here may still be a violation of other rules in this policy.

1. Any illegal, illicit, improper, unprofessional or unethical activity, or any activity that could reasonably be construed to be detrimental to the interests of the CPA, and/or in violation of City rules and policies.
2. Use of Internet resource for access to or distribution of sexually explicit or obscene material, child pornography, inappropriate text or graphic files.

3. Use of Internet resources for commercial use or profit, or in any unauthorized manner, with the exception of posting classified ads on THE LOOP, for recycling of personal items.

4. Personal use of Internet resources on other than an occasional or incidental basis.

5. Interference with another user’s legitimate access to CPA computer equipment.

6. Creation or distribution of a computer virus of any kind, regardless of whether any demonstrable harm results.

7. Alterations or enhancements to the CPA’s Web Pages without prior approval of the IT Division and/or Department head.

8. Installation of any modem on any CPA computer.

9. Any alteration, damage or deletion to any City data, files, or computer software, or any action causing the disruption of the City’s computer system or network.

10. Any unauthorized use of City owned software including unauthorized copying, transfer or reproduction.

E. General Policy for Intranet and E-mail use

1. Preface

The City considers e-mail as an important means of communication and recognizes the importance of proper e-mail content and speedy replies in conveying a professional image and delivering good customer service. Therefore, staff must be aware that their electronic communications by nature represent and reflect on the City as a government institution and shall ensure their messages do not harm or contradict the City’s reputation or obstruct its work in any way.
2. **Access**

E-mail addresses are assigned to personnel by completing the appropriate request form and forwarding it to the Information Technology Division for processing. City Internet addresses are created according to the following scheme:

firstname.lastname@cityofpaloalto.org

3. **E-mail content**

Write well-structured e-mails and use short, descriptive subjects. Signatures may include your name, job title, and city name, address and website address. Use of spell check is recommended prior to sending. Avoid unnecessary attachments or graphics since they require additional network capacity for delivery and storage. An alternative to using attachments is setting up links in the e-mail to a shared drive where the attachment resides.

4. **Maintenance**

Delete any e-mail messages no longer needed and set your e-mail client to empty ‘deleted items’ on closing. Archive e-mail messages frequently, and delete any files accumulated in Sent Items so your mailbox doesn’t fill up.

5. **Privacy**

E-mail users shall not expect privacy regarding any aspect of business or personal e-mail correspondence or computer usage. All e-mail messages that are created, received, transferred to or from, or maintained on a City computer system are the property of the City. The City has the right to monitor mail, however, no person shall review another’s individual e-mail without legal authorization. Works in-progress, or drafts, which are not subject to public disclosure, should be clearly marked in the body of the text as “private/confidential” before being sent. Electronic mail which contains confidential attorney-client information may not be disclosed to non-City personnel or to City personnel who do not have a business need to know without authorization of the City Attorney’s Office or the City Manager’s Office, or unless required by law.

6. **Retention**

Users shall delete unwanted e-mail periodically, in a manner consistent with the requirements of the California Public Records Act. If a user has reason to retain an
POLICY AND PROCEDURES 1-40/ASD
Revised: April 2005

e-mail, the message should be printed, filed, archived and retained pursuant to the applicable department record retention policy. The Information Technology Division holds deleted messages for 7 days on tape backup.

7. **Extended Absence**

During periods of extended absences, staff with e-mail addresses should set up an "out of office" reply. The message should state the specific dates the employee will be away from the office and the name of a co-worker who can be contacted during the absence period.

8. **Viruses**

Staff should not open attachments in e-mails from senders unknown to them. Attachments can contain dangerous computer viruses. Anyone suspecting that they have a computer virus can call the Helpdesk for assistance.

9. **Prohibited Uses of E-mail**

In addition to the General Policies stated previously, prohibited uses of e-mail include, but are not limited to:

b. Transmittal of confidential information without first obtaining the authorization of the appropriate supervisor or department head.
c. Transmittal of attorney-client privileged information to non-employees or to non-authorized persons.
d. Initiating or forwarding chain e-mail.
e. Sending unsolicited non-city related e-mail.
f. Disguising staff identity name, or altering the From: line or any other indication of origin on e-mail.
g. Obtaining access to another person's e-mail without legal authorization.
h. Sending material that is fraudulent, harassing, profane, obscene, intimidating, or otherwise unlawful or inappropriate.
i. Any use of the City e-mail system, which causes unreasonable disruption to City business or places the City computer system at risk in any manner.

10. **Web Access**
Access to Electronic Mail through Web client software is subject to the same policies and procedures as e-mail obtained via a desktop client.

11. **Issuance of Citywide E-mail**

Citywide e-mail is to be distributed only with prior Department Head approval.

While e-mail is a great tool for communications, the use of City Staff e-mail should be reserved only for business matters pertaining to all City employees. Employees are encouraged to make use of the News or Classified section of the LOOP instead of sending citywide e-mail. Only authorized City representatives are permitted to communicate with non-employees on behalf of the City via the City computer system. If an employee is unsure whether a communication is authorized it is the employee’s responsibility to make inquiry to his/her supervisor or to the City Manager as appropriate.

12. **Responding to Resident E-mail**

Every department is responsible for establishing a process for responding to e-mail messages from residents. Department heads are responsible for ensuring that departmental procedures are followed.

13. **Departmental Contacts**

The City telephone and department directory is published on the City’s Web pages to encourage and enhance communication with the community. In addition to the phone directory, an Internet e-mail directory is available. Generic mailboxes should be established for significant tasks likely to generate public interest and high volumes of e-mail. Processing of incoming Internet mail is the responsibility of the department’s designee and must conform to all e-mail policies and procedures.

14. **Council Communication from Residents**

Responses to Internet e-mail messages addressed to City Council are considered “written communication” and must be processed according to Palo Alto Municipal Code section 2.04.200 titled “City manager authorized to process council mail.” Residents’ e-mail messages addressed to the full Council (city.council@cityofpaloalto.org) or the Mayor are automatically forwarded to the City Manager and shall be included in the next Council packet (or Council members’ mail) with the notation that staff will respond, as appropriate. A copy of the staff response will be included in a subsequent Council packet.
15. **Monitoring**

The CPA has access to an Internet monitoring software package that could record all Internet traffic and record all time spent utilizing the Internet if warranted. Without any prior showing of cause or suspicion of misconduct, supervisors or IT staff may periodically review reports to determine if an employee is utilizing Internet access appropriately.

16. **Violations**

Inappropriate, unauthorized, or excessive work time spent utilizing the Internet and any violation of this policy may be cause for disciplinary action.

F. **General Policy for Information Resources**

1. **Definition**

Information resources in this document are meant to include any information in electronic or audio-visual format or any hardware or software that make possible the storage and use of such information. As example, included in this definition are electronic mail, local databases, externally accessed databases, CD-ROM, recorded magnetic media, photographs, and digitized information.

2. **Policy**

Any City employee who, without authorization, accesses, uses, destroys, alters, dismantles or disfigures the City's information resources, properties or facilities, including those owned by third parties, thereby threatens the atmosphere of increased access and sharing of information, threatens the security and maintenance of records, and in light of the City's policy in this area, has engaged in unethical and unacceptable conduct, and is subject to discipline under the City's Merit System Rules and Regulations. Access to the networks and to the information technology environment at the City is a privilege and must be treated as such by all users of these systems.

The City characterizes as unethical and unacceptable, and just cause for taking disciplinary action up to and including termination, reduction in salary, reprimand, disciplinary probation or suspension, any activity through which an individual:

a. interferes with the intended use of the information resources;
b. seeks to gain or gains unauthorized access to information resources without authorization;

c. without authorization, destroys, alters, dismantles, disfigures, prevents rightful access to or otherwise interferes with the integrity of computer-based information and/or information resources;

d. without authorization invades the privacy of individuals or entities that are creators, authors, users, or subjects of information resources;

e. makes pre-emptive use of the system for personal gain;

f. uses information resources without proper authorization;

g. and releases confidential City or City employee information (except as required by the Public Records Act or other law) and without approval by a Department Head or their designee. This information includes, but is not limited to information contained in any of the City's computer systems, such as employee names, addresses and phone numbers.

Conduct such as that described in Section F could also constitute a violation of criminal law and could be cause for a criminal investigation and/or prosecution by appropriate authorities.
July 12, 2011

The Honorable City Council
Palo Alto, California

Continued Discussion and Recommendation for Approval of an Electronic Packets for Council

On June 14, 2011 Staff presented a proposal to the Policy & Services Committee that recommended changing from a paper based packet to an electronically delivered packet for the City Council Members.

At this meeting, the Policy & Services Committee requested that Staff return with information regarding the following items:

- The City Attorney was requested to review the policy of the City of Saratoga regarding electronic packets and bring back a recommendation if the City of Palo Alto should create a policy. Attached please find a memo from the City Attorney’s office.

- Staff was requested to return with information on policies other Cities have in place to govern the use of iPads. The City Clerk’s Office polled surrounding Cities and has attached a chart detailing the results.

- Staff’s original proposal included delivering the paper packets to the Libraries on Thursdays instead of Wednesdays to eliminate the overtime costs incurred by the Administrative Services Division with late Wednesday delivery. The Policy & Services Committee requested that Staff continue delivery on Wednesdays. A new cost analysis has been attached that accommodates this revised information. The new cost analysis indicates that if the City purchased iPads and paid for the monthly plan, the City would break even in the third year.

Attached please find the minutes from the last Policy & Services Committee meeting. The following Motion was approved by the Policy & Services Committee:
MOTION: Council Member Klein moved, seconded by Council Member Price to recommend to the City Council to adopt Option A of the iPad proposal as recommended by Staff.

OPTION A
City Purchases 9 iPads for the Council Members to receive and read the packets. The City installs the appropriate applications, pays for the monthly data services fees, and provides all maintenance and service. Council Members will return the devices to the City when they leave office.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER that the City Attorney evaluate if they need to provide Council with a policy addressing transparency issues heightened by having e-devices at the Dais.

MOTION PASSED: 4-0

Staff respectfully requests direction from the Policy & Services Committee regarding the implementation of electronic packets for the City Council.

REPORT PREPARED BY: Ronna Jojola Gonsalves, Deputy City Clerk

ATTACHMENTS:
- -a: Memo from City Attorney's Office (PDF)
- -b: Comparison Cities (PDF)
- -c: Cost Analysis 2 (PDF)
- -d: Excerpt 6-14-11 Policy and Services (DOC)

Department Head: Donna Grider, City Clerk

Updated: 7/6/2011 12:08 PM by Beth Minor
The Honorable City Council
Palo Alto, California

Follow Up Questions Regarding Recommendation for Approval of an Electronic Packet for Council

Background

On June 14, 2011, the Policy & Services Committee reviewed the City Clerk’s recommendation to implement a paperless packet that Council Members could access electronically on iPads or similar devices. At that meeting, the committee voted to recommend Option A (City purchase of iPads for council members), subject to follow-up information addressing:

a. The City Attorney’s evaluation on whether any revisions to Council policy are needed to address transparency issues that might be heightened as a result of increased use of iPads and similar electronic devices at the dais;

and

b. Recommendations on what, if any, non-city uses of these devices would be available to council members.

Discussion

a. Council Policy Regarding Wireless Communications

Policy revisions are not legally required. As discussed in the June 14 staff report, the City does not currently have a policy specifically addressing electronic communications (or other uses of electronic devices) during Council meetings. There are two legal issues related to the use of these devices during meetings. First, the Brown Act prohibits any kind of communication used to develop a collective concurrence on an item before the council. Thus, Council Members could not use electronic devices to communicate with a majority of members in a
manner that cannot be observed by the public. Second, quasi-judicial hearings require the Council to apply specific facts and evidence in the context of existing law. To the extent Council Members might use electronic devices to communicate and receive evidence to which other Council Members or parties to the proceeding do not have access, potential due process issues arise because such communications could create a perceived or actual challenge to a fair hearing.

Outside of these two considerations, it is not illegal to communicate with others during a meeting, whether through an electronic device or any other means. A policy revision is therefore not legally required, as these limitations exist whether or not the Council adopts a policy specifically addressing electronic communications. In addition, existing protocols already address these concerns generally by providing that Council Members “should comply with both the letter and spirit of the laws and policies affecting the operation of government.”

However, the public and the Council may nevertheless feel concerned about the opportunity for communication these electronic devices provide. If the Council wants a policy that specifically addresses electronic communications, it could choose one of two options: (1) a policy prohibiting all electronic communications during meetings, such as the Saratoga example discussed in the last staff report, or (2) a broader policy statement that electronic communications during council meetings must not violate the Brown Act or due process rights of parties to quasi-judicial hearings. The desired “level of transparency” is a policy question for the Council. If the Council wishes to specifically address electronic communications without prohibiting them altogether, the option to add a general statement that communications must comply with the law may provide the best balance between the legal minimum and the desire for a more public, transparent statement for Council Members and members of the public.

b. Issues Related to Non-City Use of City Issued Devices

The City’s use policies for city-owned devices such as computers and telephones properly restrict employees’ personal use. Public employees and officials in California are subject to stringent requirements regarding use of City resources; any personal use of City-owned equipment beyond that which is incidental, occasional, and minimal, is prohibited by state law. The Council Protocols also address this rule by providing that “Members shall not use public resources, such
as City staff time, equipment, supplies or facilities, for private gain or personal purposes."

Specifically, Government Code section 8314(a) provides that “It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.” “Personal purpose” under this law is very broadly defined to include activities resulting in personal gain or generally unrelated to City business, as well as any activity for “personal enjoyment.” (Gov’t. Code § 8314(b)(1)). The definition of “use” is similarly broad, including not just a use that would result in a monetary loss to the City, but also any use which is “substantial enough to result in a gain or advantage to the user.” (Gov’t. Code § 8314(b)(4)). The only exception to these limitations is for “incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.” (Gov’t. Code § 8314(b)(2)). Finally, the consequences of violating section 8314 are serious; the statute penalizes intentional and negligent violations, with a penalty up to one thousand dollars ($1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. (Gov’t. Code § 8314(c)). To the extent a public officer’s personal use of public resources is so extensive that it becomes embezzlement, it may be prosecuted as a felony.

Under these rules, using a city-issued device to either conduct non-City business or for any general use that contributes to personal enjoyment could be viewed as creating a “private advantage” in violation of section 8314. Therefore, revisions to the City’s existing policies to allow more expansive use of non-city use of city-owned devices are not appropriate because the policies accurately reflect state law. As the Institute for Local Government notes in its publication “Understanding the Basics of Public Service Ethics: Perk Issues,” (2009) available online at <https://www.ca-ilg.org/sites/ilgbackup.org/files/Basics_PerkIssues_watermark.pdf>, the “incidental personal use” exceptions “prevent traps for the unwary; they do not constitute an affirmative authorization for personal use of public resources.”

Therefore, City-owned electronic devices issued to any public official must be limited to City uses. Council Members who want to have the freedom to use iPads
for uses other than accessing the Council packet and conducting City business should choose to purchase their own.

The following chart summarizes the applicable rules and appropriate uses:

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<tbody>
<tr>
<td>City</td>
<td>Yes</td>
<td>Yes- see discussion above</td>
<td>No-limited by state law</td>
<td>City would be responsible for and control device, apps, updates, etc. CM should review ILG publication “Perk Issues” to avoid any issues related to personal use.</td>
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<tr>
<td>Council Member</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>CM’s own device can be used for any purpose. Apps necessary for council packets, other approved and necessary City uses may be reimbursed and IT can support packet-related use.</td>
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Department Head: Molly Stump, City Attorney

Updated: 7/5/2011 10:15 AM by Melissa Tronquet
# IPAD POLICY COMPARISON CITIES

<table>
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<tr>
<th>City</th>
<th>Electronic Equipment</th>
<th>Policy</th>
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<tbody>
<tr>
<td>Alameda</td>
<td>Mayor purchased iPad</td>
<td>No policy</td>
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<tr>
<td>Hayward</td>
<td>City purchased iPads for Council.</td>
<td>No personal use allowed, a memorandum offers Council guidance on proper usage that includes the following verbiage: &quot;Communications made via City-issued devices are subject to disclosure under the Public Records Act whether or not related to City business, unless a privilege exists that justifies withholding the information.&quot;</td>
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<tr>
<td>Redwood City</td>
<td>City purchased iPads/Laptops for Council based on Council Member’s preferences.</td>
<td>There is no policy regarding personal use of the equipment. Council Members may use the equipment as they see fit.</td>
</tr>
<tr>
<td>Mountain View</td>
<td>Council Members will provide their own equipment.</td>
<td>None Supplied</td>
</tr>
<tr>
<td>Saratoga</td>
<td>Council Members provide their own equipment.</td>
<td>* Policy prohibits personal use of city hardware or software. Council may not use personal accounts for electronic communication.</td>
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</table>

* Policy Attached
SARATOGA CITY COUNCIL

MEETING DATE: July 1, 2009

DEPARTMENT: City Attorney

PREPARED BY: Richard Taylor

AGENDA ITEM:

CITY MANAGER: Dave Anderson

DIRECTOR: Richard Taylor

SUBJECT: City Council and Commissions' Electronic Communications Policy

RECOMMENDED ACTION: Discuss the draft City Council and Commissions' Electronic Communications Policy and provide direction to staff.

REPORT SUMMARY:

City communications increasingly occur through electronic means. Over the years the City has followed various formal and informal procedures for effective use of electronic communications. The attached draft policy seeks to collect and coordinate those procedures into a single policy document for use by the City Council and City Commissions. While the primary objective of the draft policy is to promote effective use of electronic communications in conducting City business, an important secondary purpose is to create a system that allows compliance with state and federal laws governing electronic communications. Those laws include the Records Retention Act, the Public Records Act, the Brown Act, and state and federal rules of evidence. The attached policy facilitates compliance with those laws by the City, Council members, and Commissioners.

Under the policy, the City would issue e-mail addresses to all Commissioners and Council members (currently only the Council and Planning Commission have e-mail addresses). These addresses would be used for all City business. Personal business via City e-mail would be prohibited. The policy includes straightforward guidelines for use of City e-mail and the internet in a manner that does not violate the Brown Act or other laws (e.g., no policy discussions among Council members or Commissioners via e-mail or internet forums). The policy is drafted in a manner that applies to any type of electronic communication account issued by the City. If the City develops tools other than e-mail (e.g., instant messaging) the policy would apply to use of those tools as well.

The policy also formalizes existing procedures for responding to e-mails from the public addressed to the Council or a Commission as a whole and for responding to e-mails to less than a quorum. It also establishes as formal policy for all Commissions the existing practice for Council and Planning Commission of posting all agendas and minutes on the City website.

Finally, the policy addresses two relatively new matters. The first concerns use of e-mail during Council or Commission meetings. With increasing use of laptops for notes and paperless agendas there is a potential for use of e-mail during the meeting. To assure the public that their decision-makers are considering only the public information presented at the meeting the policy makes clear that e-mail may not be used by a decision-maker during a meeting. The second new matters concerns e-mail retention. Historically the City has printed all substantive e-mail for archival purposes. The City now has the capacity to electronically archive e-mails without printing. This is reflected in the policy.
FISCAL IMPACTS: None significant. There will be some staff time involved in establishing user accounts for all Commissioners and in Commissioner training but these costs will be offset in the long run through more effective recordkeeping and resident services.

FOLLOW UP ACTION:

The City Attorney will finalize the policy to reflect direction from Council and the policy will be set for formal adoption at a future Council meeting.

ADVERTISING, NOTICING AND PUBLIC CONTACT:

Notice for this meeting.

ATTACHMENTS:

Draft City Council and Commission Electronic Communications Policy
CITY OF SARATOGA
City Council and Commissions
Electronic Communications Policy
Adopted May 19, 2010

I. Purpose: Use of electronic media is necessary and useful for City Council and Commission members in order to improve communication and efficiently perform their City duties. The purpose of this policy is to insure the proper use of the City’s electronic media and to set out the policy the City Council and Commission members will follow when using electronic media and the City’s electronic communication system. This policy will also insure that use of City electronic media complies with applicable law, including the Public Records Act and Brown Act. This policy is applicable to all City Council members and Commissioners except members of the Youth Commission.

II. Definitions

A. City’s Electronic Communication System – City-owned devices or products designed to electronically process, transmit, or store information such as computers, phones, cell and smart phones, printers, modems, data files, and e-mail.

B. User – a Council member or Commissioner who uses the City’s electronic communication system.

C. E-Communication – electronic text or visual communication and attachments distributed via e-mail, websites, instant messaging, text messaging, twitter, or comparable services.

D. Electronic Media – a method for processing or transmitting information in electronic form, including E-Communication, software programs and the Internet.

III. General Procedures

A. Procedures for Electronic Communications. All Council members and Commissioners will be issued accounts for use of City electronic media for E-Communication on City business. E-Communication by nature represents and reflects upon the City’s public image and integrity. Users should insure that their messages are respectful, professional, and are consistent with City policies. E-Communication should be written or otherwise presented in the same professional and respectful manner as paper communications. The City’s Electronic Communication System shall be used only for City business.

B. No Use of Personal E-Communication. Users shall not use their home or business E-Communication accounts or addresses for any communication pertaining to City
business. When using E-Communication, users should communicate with the public and staff solely via their designated City E-Communication addresses. Users shall not commingle E-Communication pertaining to City business with E-Communication pertaining to their home or business.

C. Electronic Communications between Council members or Commissioners Concerning City Business. Communications from (1) a Council member to another Council member or members concerning City business, and (2) a Commissioner to another Commissioner or Commissioners concerning Commission business should be “one way” and marked “For Information Only—Do Not Reply.”

D. Electronic Communication by a Quorum of the Council and Commission or a Council and Commission Standing Committee. A majority of the members of the Council or a Commission shall not send or exchange facts about or engage in discussions regarding City issues via E-Communication, including chat rooms, news groups, on-line forums, weblogs, twitter feeds, or list-serves (collectively referred to as “Internet forums”).

E. Electronic Communications from the Public. The public may electronically communicate with the Council and Commission through the City’s Website at: www.saratoga.ca.us.

1) E-Communication from the public addressed to the City Council will be distributed to each Council member and E-Communication addressed to a Commission will be distributed to each member of the Commission. E-Communication addressed to the Council or a Commission also will be forwarded to the City Clerk. The Mayor, or Mayor’s designated representative, in consultation with staff if necessary, will respond on behalf of the Council to E-Communication addressed to the Council. The Commission chair or Commission staff liaison will respond on behalf of the Commission to E-Communication addressed to the Commission.

2) E-Communication from the public addressed to more than a quorum of the City Council or Commission shall be forwarded by the recipients to the City Clerk (for the City Council) or staff liaison for the Commission. These E-Communications will be distributed and responded to in accordance with paragraph E.1, above.

3) Upon receipt of an E-Communication addressed to less than a quorum of the City Council or Commission, the recipient may: 1) treat it as an individual communication to which he or she may or may not respond; 2) inform the Council or Commission of the communication at a properly noticed meeting; or 3) ask that it be forwarded to the full Council or Commission as part of its information packet for the next available Council or Commission meeting. Such E-Communication may also be forwarded to staff for response as set out in Section G, below. When a User responds to individual E-Communication from the public, and desires to forward the response to the Council or Commission, he or
she shall forward his or her response and the individual E-Communication to the
City Clerk or Commission liaison for inclusion in the Council or Commission’s
informational packet at the next available Council or Commission meeting.

F. City Electronic Communications with the Public. City staff will post official
information on upcoming and prior City Council meetings, workshops and events on the
City Website. Council and Commission agendas and minutes will be posted for the
current and prior calendar year. Additional materials may be posted at the discretion of
the City Manager or Manager’s designee.

G. Use of E-Communication During Meetings. City Council members shall not use E-
Communication at any time during a meeting of the City Council at which he or she is in
attendance. No Commissioner may use E-Communication at any time during a meeting
of the Commission of which he or she is a member at which he or she is in attendance.
The foregoing limitation shall not apply to receipt of telephone calls or text messages
from family members in the event of an urgent family matter; a Council member or
Commissioner wishing to respond to such a message during the meeting shall do so
during a recess or shall excuse him or herself from the meeting to place the return call or
text in a manner that does disrupt the meeting.

H. City Participation in Internet Forums. The City will not generally answer questions or
respond to comments made in Internet forums. The City will post answers to such
questions on its website if the questions are deemed important by the Mayor or by the
City Manager or at the direction of the City Council. If a Council member desires staff to
prepare a response to a question or comment received by E-Communication or made in
an Internet forum, the Council and Commission member may forward the question or
comment to the City Manager and request that staff prepare an appropriate response in a
reasonable period of time. If preparation of a response will require significant staff time
to research or draft the response, an interim response to the questioner or commenter will
be sent as soon as possible acknowledging receipt of the inquiry and informing the sender
that a response is being prepared.

IV. Specific Procedures

A. Retention of E-Mail. The City electronically archives E-communications in accordance
with the City’s Records Retention schedule. E-communications that constitute
preliminary drafts, notes, or intra-agency or interagency memoranda that are not retained
by the City in the ordinary course of business are not required to be archived and should
be deleted prior to regularly scheduled archiving. The City Clerk and City Attorney are
available to assist users in determining how to address questions concerning the
application of these procedures.

B. Public Records Act. City records, whether paper or electronic, are governed by the
public disclosure requirements of the Public Records Act. Disclosure may be required
regardless of who sends or receives a communication or document. In the event that the
City receives a request for disclosure of City records that includes E-Communication, the
person responsible for the requested records must use his or her best efforts to preserve all City E-Communication covered by the request until the responsive E-Communications have been identified. Requests for disclosure of any City records applicable to E-Communication or other electronic records of any user subject to this policy shall be submitted to the City Clerk.

C. Confidentiality.

1) California law requires that certain information be treated as confidential and not be distributed to others inside or outside the City who do not have authorization to view such information. Council members or Commissioners may occasionally receive confidential electronic information. Some examples of confidential information are: personnel records, internal investigations, information relating to litigation or potential litigation, attorney-client communication, information relating to labor negotiations, or information relating to confidential real estate negotiations. When Council and Commission members receive confidential information, it should be marked “Confidential Information” so that Council and Commission members are alerted to the nature of the information.

2) Confidential information should not be sent or forwarded to individuals or entities not authorized to receive that information and should not be sent or forwarded to City employees not authorized to view such information.

3) Council and Commission members shall exercise caution in sending confidential information by E-Communication as compared to written memoranda, letters or phone calls, because of the ease with which such information can lose confidentiality by inadvertent or intentional diversion or re-transmission by others.

4) The City Attorney should be contacted concerning any questions about whether a communication is confidential.

V. Compliance with this Policy: It is the responsibility of every user to insure that he or she is in compliance with this Electronic Communications Policy.
RESOLUTION NO. 10 – 026

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SARATOGA
ADOPTING AN E-COMMUNICATIONS POLICY FOR
THE CITY COUNCIL AND CITY COMMISSIONS

WHEREAS, the City of Saratoga seeks to promote effective use of electronic communications by City Council members and Commissioners in conducting City business and to create a system that allows compliance with state and federal laws governing electronic communications including the Records Retention Act, the Public Records Act, the Brown Act, and state and federal rules of evidence; and

WHEREAS, the City Council adopted an interim policy for a trial period in July 2009 for use by the City Council and Planning Commission and now wishes to adopt a final policy for use by the City Council and all City Commission except the Youth Commission.

NOW, THEREFORE, BE IT RESOLVED THAT:

The attached City Council and Commissions Electronic Communications Policy is hereby adopted.

The above and foregoing resolution was passed and adopted at a regular meeting of the Saratoga City Council held on the 19th day of May 2010 by the following vote:

AYES: Councilmember Chuck Page, Howard Miller, Vice Mayor Jill Hunter, Mayor Kathleen King

NOES: None

ABSTAIN: None

ABSENT: Vacant (Susie Nagpal)

Kathleen M. King, Mayor

ATTEST:

Ann Sullivan, City Clerk Date
### SUMMARY, QUARTERLY CASHFLOW BEFORE AND AFTER IPAD PURCHASE AND USAGE

#### Current Annual Cost Estimate
- **Printing**: $23,011.22
- **Delivery**: $6,798.57
- **Total**: $29,809.79

#### Post-IPad Annual Cost Estimate
- **Annual Printing Costs, Post-ipad**: $13,944.97
- **Annual Delivery Costs, Post-ipad**: $5,467.39
- **Annualized Equipment Purchase Cost**: $2,299.46
- **Annualized Dais Wiring Cost**: $2,000.00
- **Annual Data Plan Cost**: $4,548.00
- **Total Annualized Cost**: $28,259.82

#### "BEFORE" IPADS

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#### "AFTER" IPADS

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#### Marginal Cumulative Savings ("BEFORE" minus "AFTER")

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*Cost Analysis 2 (1908: Electronic Packet)*
1. Discussion and Recommendation for Approval of an Electronic Packet for Council.

City Clerk, Donna Grider stated that Council had asked Staff to look into ways to save money and improve sustainability by reducing the number of packets produced each week. Last fall the City Manager and City Clerk's Offices undertook a pilot program using iPads to receive electronic versions of the packets. In a collaborative effort with the City Manager's office, the City Attorney's office, Administrative Services Department, and the IT Division, the City Clerk's Office reviewed the process for producing an electronic packet. She stated electronic distribution of the packet to Council would lessen but not eliminate printed packets as paper packets would still need to be produced for the libraries for members of the public who do not have or are unable to use computers. The number of paper copies would reduce from 22 to 11. She stated that Staff was trying to reduce the costs incurred by delivering the packets overnight and have them delivered during the workday instead. The Administrative Services Department completed a cost analysis and in comparing the paper packet with the electronic packet they found that the costs would break even after the first year. The largest cost would be in the first year due to the purchasing of the iPads, and the other costs would be the data plan and the applications; the applications were a one-time cost. In three years the City would save approximately $28,000. She reviewed the three policy decisions that Staff was bringing forward to the City Council: 1) The City would incur all of the costs, and will perform the training and updates on all the applications. 2) Council Members would purchase their own devices and the City purchases the applications and the data plans. 3) Council Members incur all of the costs. She explained that the City Attorney's office did not have any major concerns with the proposal.

City Manager, James Keene spoke about automating the agenda preparation
process and how to produce the packet in an electronic format rather than a paper format and talked about the benefits of using an iPad for the packets. He talked about the benefits of having 3G added since Wi-Fi was not always available where 3G was and it was not a prohibitively large expense. He spoke of further benefits such as the electronic distribution of agenda updates. The software would allow them to add and or search features in the packet to find an item quickly.

Council Member Klein stated that the data provided by Staff indicated that the iPads would cost about $800 each. His understanding was that iPads cost about $500 each at the Apple Store.

Mr. Keene explained that the prices differ depending on the size of memory purchased. He further explained that a lot of memory was not necessary as most items were on the server and accessible that way.

Joel Dino, Technologist, explained the model the IT Division was looking at was the least expensive of the 3G version of the iPad. He further explained that the $499 was the Wi-Fi only 16 GB iPad, with the built-in 3G and Apple Care (3-year warranty) it came out to $629.

Council Member Klein mentioned that the iPad had competitors and asked if there was a potential savings there.

Mr. Dino stated that the closest competitor would be the Motorola Zoom which was $599 with a data plan.

Mr. Keene stated the iPad was the leader of the pack. He also stated if the City provided the hardware there would be more standardization among the devices rather than if they were purchased individually by Council Members.

Council Member Price asked about benefits and difficulties other cities have experienced with the proposed process.

Ms. Grider stated that her department researched other Cities that were using electronic packet delivery for Council. Generally speaking most of the City Clerks spoke favorably of the process as it was an easier format to get the packet out. She stated that not all Council Members embraced the electronic format. She further stated that the feedback they had received in their research was positive.

Council Member Price asked if the research had been mostly in California.
Ms. Grider stated the research was not done outside of California.

Council Member Price asked if there was any kind of anecdotal information beyond California.

Mr. Keene stated he had heard good things from other cities outside of California.

Ms. Grider explained the process involved learning and change, but it had been a good experience.

Mr. Keene stated that if one was willing to be adaptive it was easier.

Council Member Holman stated she noticed that when there were electronic devices up at the Dais they caused frequency interference with the microphones.

Mr. Keene explained that the static was probably due to the cellular interference with the antenna on cell phones, he noted that Wi-Fi worked the same way.

Ms. Grider explained that the Dais would need to be configured with power to keep the Council Members iPads charged. She stated that there was a one-time, first year cost to get the Dais set up.

Council Member Holman asked about writing notes in the margins of the packet using the iPad. She also asked about storage of files and what it would take to get up to capacity.

Mr. Keene stated that it would not be an issue. He explained that users could either type notes onto the documents in their iPads, or they could handwrite them using their fingertips or a stylus.

Council Member Holman asked if storage would be an issue.

Mr. Keene stated that storage would not be an issue and archiving would actually be better than with paper.

Council Member Holman asked how they would go about finding a file; if it would be the same way they find a file now, by title.

Mr. Keene stated that right now you could go in your Dropbox account to save and retrieve files. He explained that the next phase of the software that they
had, once implemented, would allow you to search with keywords.

Council Member Holman stated that you could search by keywords now on the server, but you get all documents that have that keyword in it, not necessarily the exact document you were looking for.

Mr. Keene stated that he was not familiar with the navigation of the search function, but when the software was being evaluated by the City Clerk team and others it had a better search function.

Council Member Burt suggested that the Municipal Code and other frequently referenced documents could be pre-loaded onto the memory of the iPad.

Council Member Holman asked if packet completion and delivery could be moved up to the prior Tuesday or Wednesday at noon.

Ms. Grider stated that Tuesday’s were very difficult because of follow up work from the Council meeting the night before.

Mr. Keene stated that there was no way that Tuesday’s could be accommodated.

Council Member Holman stated that she did not want them to go backwards when it came to access to the public or the press.

Mr. Keene stated that the public would still have electronic access.

Council Member Holman stated that people who rely on paper would not have access until Thursday evening.

Mr. Keene stated that they could go to the library and get on the free computer to look them up and print pieces that they wanted.

Ms. Grider stated that some paper copies would still be put in the Council Chambers. She explained that they were trying to save costs and not have to pay overtime to have a Staff Member waiting for a packet to be completed so it can be delivered.

Council Member Burt stated that he did not think they broadcast the Wi-Fi access and that it could be announced to the public that there was Wi-Fi access and guide them to accessing the packets online.

Herb Borock voiced concerns relating to the Brown Act. He stated that this was
one of a number of issues that was being presented to both Committees and the Council, creating a situation with Staff acting as an intermediary of with a majority of the Council meeting on something that was not a noticed and open meeting of the City Council. He stated that Council should give direction that this should not be done. The second Brown Act issue that he mentioned was the potential for abuse of having a device on which you can communicate. He explained that there were devices that were essentially read only and that possibly they could have such a device available at the meetings. He mentioned that the policy that was attached to the Staff Report stated that City Staff reserved the right to look at anything on City devices, and he stated that what was annotated on a Council Member's electronic documents was private to them. He stated that the library was not open on Thursday mornings. He also stated that the copies at the library were not always there because someone on the Staff might use them.

**MOTION:** Council Member Klein moved, seconded by Council Member Price to recommend to the City Council to adopt Option A of the iPad proposal as recommended by Staff.

**OPTION A**
City Purchases 9 iPads for the Council Members to receive and read the packets. The City installs the appropriate applications, pays for the monthly data services fees, and provides all maintenance and service. Council Members will return the devices to the City when they leave office. Option A will cost the City approximately $16,942 at onset of the project, and $61,419 over the life of the devices (3 years). The annual savings for the City in year one will be approximately $9,333, and over the life of the devices will be $28,000. This option allows City Staff to offer training for Council Members because the process will be consistent. The City will be able to maintain City owned devices. Staff would be able to monitor the devices for needed updates and repairs. Staff would be able to provide a backup device in the event one is needed. Program functions associated with the iPad would include the ability to highlight text, save annotations to the document, bookmark pages, and search for text. The City Clerk's Office would work with the IT department to design a training program for Council Members. Council Members would follow City Policy 1-08, the Employee Telephone, Cellular Phone, and Wireless Device Use Policy (Attachment C) and City Policy 1-40, the Employee Computer Use Policy: Passwords, Internet, Intranet, E-Mail, and Information Resources Policy (Attachment D).
Council Member Klein stated he attended a number of regional meetings monthly and he found more frequently his colleagues were using the iPad services as mentioned by the City Clerk and City Manager. He felt it was appropriate for the City to pay for the equipment and services while lending the devices to the Council. The term lend was used to emphasize once a Council Member left service the iPad remained with the City and therefore they would not upload non-City applications. He saw the iPad evolution as a win-win for the City where the information was released in a more efficient and cost effective manner.

Council Member Price stated that she believed it was environmentally responsible and introduced efficiencies. She stated that if the iPad proposal were to pass it would still be optional for Council Members to have electronic devices.

Council Member Holman mentioned concerns about Staff providing training to Council Members, maintaining City-owned devices, monitoring the devices for needed updates and repairs, and providing a backup device. She asked how the Staff effort compared cost wise. She stated that she was not against this, but they were looking at financial savings as well as paper savings, and wanted to know how the labor costs compare to what’s being expended now.

Ms. Grider stated that training was mostly at the beginning of the process. She stated that she did not believe that it would be labor intensive.

Mr. Dino stated with the development of the iCloud a lot of things were able to be updated effectively.

Mr. Keene stated that he had not had issues in the two years he had been involved with iPad.

Council Member Holman asked if all of the Council Members were going to want to do this.

Ms. Grider stated she had polled the Council and in the feedback there were some concerns regarding the continuance of paper for large items such as Environmental Impact Reports (EIR’s) and maps, but approximately 90 percent were in favor of it. Staff concurred some large items would still be delivered.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to include a policy recommendation that was comparable to the City of Saratoga Policy with respect to transparency.

Ms. Grider stated that she agreed with the Saratoga Policy. The City Attorney’s
office felt the language existed in a number of other Palo Alto policies.

Mr. Keene suggested that they ask the City Attorney how they would incorporate Saratoga’s policies within Palo Alto’s existing framework.

Council Member Klein stated his willingness to accept Mr. Keene’s suggestion. He also stated that the iPad was not creating the problem; if someone wanted to violate the Brown Act they could use a pencil and paper and pass notes.

Council Member Holman stated her agreement and suggested being as forthcoming as possible.

Council Member Klein stated he wanted to be clear that he did not wish to set the focus on the iPad as what may cause a problem.

Council Member Burt asked for clarification on the amended language.

Council Member Holman stated the Amendment was to incorporate policy language from the City of Saratoga policy that would address the concerns of Brown Act violations while using iPads.

Council Member Burt stated that the issue should be focused around reconfirming prohibition of communication among Council Members or Applicants or members of the public from matters before them. He stated that he did not know why there would be something that goes beyond that. He also stated that there was no prohibition that you cannot read another piece of paper at a Council meeting, or that you could not turn to a Colleague and mention something that has nothing to do with the Agenda. He stated that Saratoga’s requirement would say, “As regarding electronic communication, you’re forbidden to look at telecommunication.” He felt that this was an unnecessary rule and was suddenly popping up because there was an additional means of communication now. He stated he would not support Amendment as proposed; although, he would support a policy which clarified there could be no electronic communication of any kind among Council Members or between Council Members and members of the public or anyone with matters before the Council during the meeting.

Council Member Holman stated the intention of the Amendment was not to copy Saratoga’s policy but to address the issues that if there were iPads at the Dais, that there was a policy in place that the public could see that the electronics issue had been addressed.

Council Member Burt stated that was not the stated Amended language and felt
a different Amendment was in order.

Council Member Holman stated the Amendment had already been accepted.

Council Member Burt stated if Council Member Holman did not intend her Amendment to be what she stated there was an issue.

Council Member Klein stated Council Member Holman could make a proposed Amendment that might get some support.

Council Member Holman withdrew her Amendment which was incorporated and restated when the iPad matter moved forward to the full Council that the City Attorney’s office would provide language that would address transparency issues that might be heightened by the presence of electronic devices at the Dais.

**INCORPORATED LANGUAGE WITHDRAWN**

Council Member Klein added that if in the City Attorney’s professional judgment she deemed the language necessary. He stated he believed the existing policies already covered the transparency concern.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** that the City Attorney evaluate if they need to provide Council with a policy addressing transparency issues heightened by having e-devices at the Dais.

**AMENDMENT TO MOTION:** Council Member Holman moved for Staff to review ways to provide earlier Wednesday delivery or the day before, not Tuesday, and that large items be out two weeks ahead of time.

Council Member Klein stated he did not accept the proposed Amendment.

**AMENDMENT FAILED DUE TO LACK OF A SECOND.**

Council Member Burt stated he believed that Council Member Holman’s concern was that they were going backwards. He asked why the hard copies could not be out by Wednesday afternoon.

Ms. Grider stated that the new program was effective as it allowed Staff to follow the process for approval and without printed copies. She also stated that the electronic method had increased workload in her department.
Council Member Burt asked what changes would be difficult to manage if the City went to the electronic method.

Ms. Grider stated whether the packet was electronic or paper it was still the same amount of work for her department.

Council Member Burt stated there was nothing that caused the need to move to Thursday delivery.

Ms. Grider stated that there was because she and her management Staff could stay if the reports were running late and distribute them electronically without waiting for the print shop.

Council Member Burt stated that was the case now.

Ms. Grider stated Staff was trying to move away from the overtime. The overtime occurred with the Administrative Services Department Staff delivering the packet.

Council Member Burt asked what situations the electronic packet created that made it more difficult to release on Wednesday afternoon or evening than at present.

Ms. Grider stated that there were times when the packet process was running late that the libraries were getting them on Thursday.

Council Member Burt stated that if they stayed with the same practice and all due efforts were made to get the packet out by the end of the day Wednesday, the workload did not increase. He asked why the Council Direction to release the packets on Wednesday should be revisited just because they were going electronic. He stated that there was no relationship between going electronic and needing to go to Thursday morning if nothing changed for the workload by going electronic.

Ms. Grider stated that they were also trying to look at cost savings at the same time.

 Council Member Burt stated that was an issue when they adopted the policy to get the packets out on a Wednesday. He further stated that if on a separate issue Staff wanted to come forward and discuss with the Council the policy of getting the packets out on Wednesday was creating a burden on the City Clerk’s office then they had a discussion, but that had nothing to do with this.
Council Member Price stated that they were not making any modifications to the existing policy practice.

Council Member Burt stated that as Option A was written, they could not use the iPads for personal matters or other work matters, so they would have to have two iPads. He further stated that the Motion did not allow them to use their own iPad and they should look at Option B, where the Council Members pay for their own device and have one device to use for personal and City business.

Council Member Klein stated that if individuals want to buy individual applications for the iPad they were free to do so.

Council Member Burt stated that he was assuming there were certain restrictions on use of City devices.

Ms. Grider stated that was correct.

Council Member Burt stated that he wanted to be able to use a device without restrictions and that he would be willing to buy his own device.

Council Member Price stated that she assumed that the Motion did not preclude a Council Member from using a personal iPad.

Council Member Burt stated it did.

Council Member Price stated the Motion could be modified to indicate the policy did not preclude personal use of personal iPad devices.

Council Member Burt stated he did not understand the basis on which Council Member Price assumed that to be true.

Council Member Klein stated the Motion did not say anything to the contrary.

Council Member Burt stated that his Amendment would be that alternately Council Members may elect to purchase their own iPads.

Mr. Dino stated if the City issued the iPad and they were maintaining the applications; the applications were tied into the account that the City would own. He stated if a Council Member wished to download an application for their personal use, that would conflict with the account and the next time the iPad was updated the process would erase their personal applications. He stated there was
an issue with which account would be used to install the software. The City could reimburse the Council Members after they use their own account to install the applications.

Ms. Grider stated that Council Members do not have to take the iPad purchased by the City.

Council Member Burt asked if Mr. Dino’s explanation of the process would fall under Option B.

Ms. Grider stated it was possible to morph Options A and B to achieve the greatest goal. She clarified at the present time the City offered to provide the Council with cellular phones and service although a number of Council chose to supply their own phone and service; the same option would apply to the iPad.

Council Member Burt stated Staff and the Committee were in agreement on the intent and asked what the correct wording would be to reflect that intent in the Motion.

Council Member Klein asked if a Council Member wanted to use the iPad for other purposes, was there anything in the City policies to prevent that from being done.

Ms. Grider stated if it was a City issued phone or iPad, per this policy, it could not be used for personal uses.

Council Member Klein stated it was not the same thing as buying applications and asked how this was enforced or if it should be.

Mr. Keene stated that the policy statement intention was that it was City property so it was just used for City purposes and there was not necessarily enforcement. He stated the intention of the rule was constraining and there was not necessarily added cost to run a personal application. There was the cost to purchase the hardware and the software so there was no marginal cost increase to running a personal application unless there were issues of maintenance on the Staff for uploading or changing things. He stated that by having his own personal cellular phone for City use there was no cost to the City but added value, and the benefit to him was not having to deal with the policies. He stated if there was a stipend that could be provided, which would be taxable, but an amount that could supplement the cost.

Council Member Klein stated he thought the cellular policy indicated that the
carrier could have personal calls.

Mr. Keene stated Staff needed to review the policy to see whether there were necessary changes to allow for a reasonable amount of personal use in order to have efficiency, as it was not costing the City anything for it to be used for personal use.

Ms. Grider stated that under existing Policies and Procedures 1-08 read: "Personal use of such City devices is prohibited."

Council Member Holman asked for her Colleagues thoughts on the idea of a stipend.

Mr. Keene stated that the stipend would have to be increased by 30-35 percent because it would be treated as increased compensation.

Council Member Klein stated the Charter would need to be amended if there was an increase in compensation for Council Members.

Council Member Burt offered an Amendment that Council Members who elect to purchase their own iPad will have the data service supplied by the City but otherwise not be subject to City Policy 1-08.

Ms. Grider asked for clarification on whether the City would supply the data service and the applications.

Council Member Burt stated yes.

Council Member Klein stated he did not accept the Amendment because he felt it would not get the job done. He would like for Staff to look into how other cities were handling the situation.

Mr. Keene asked if there could be a Motion that favors the City supplying the hardware and the data plan to Council Members recognizing the cost savings to the City providing that service, but at the same time directing Staff to look at how other cities have their policies on personal use.

Council Member Klein asked what the policy was regarding desktops at the City.

Council Member Holman felt some of the existing policies were dated and most of them did not apply to Council Members although they were employees.
Council Member Price asked if it would be appropriate to separate this into two separate Motions; 1) being the item before the Committee in the Staff Report and 2) to direct Staff to examine the policies regarding personal use of City issued devices. She asked Staff what made the most sense from their perspective.

Council Member Burt stated he would accept separating the Motions but felt it would not be appropriate to forward to the Council without a resolution to the second Motion.

Mr. Keene agreed the second Motion would need to be resolved.

Council Member Klein stated Policy and Procedures 1-08 had conflicting statements. One sentence stated that personal use of City provided devices was discouraged and employees must accept the financial responsibility for non-city calls; while the next sentence stated the personal use of City provided devices was prohibited. He stated General Procedures were that the regular work time of employees should not be used for non-City calls, texts or other communication.

Council Member Price asked if it would be appropriate to defer action now and have the Staff come back with a clarification on policies and the discussion could be continued at the next Policy and Services meeting.

Mr. Keene stated that the intention of the Council would be to recommend that the City provide the equipment and the data plan. He stated the unresolved matter was how the use of the hardware and the data plan was restricted. He stated the best route would be to have possible Amendments to the existing policies before forwarding to the Council.

Council Member Burt stated if amending Policy I-08 became overwhelming, allow the Council Members to choose between Option A and Option B may be the best solution.

Council Member Klein stated he was comfortable with the modifications suggested by the City Manager.

Mr. Keene stated the Committee would move Option A and bring back options related to City policies as to how the use of the hardware and data plan was regulated before forwarding it to the Council. He felt there was a lot to be had by modification of the policy which was created in a different time.

Council Member Klein stated the Motion was to approve Option A, holding it in
Committee subject to Staff coming back with recommendations with regard to what non-city use can be made, if any, of the hardware and software.

Council Member Price stated her thought was the Committee wanted to move the recommendation forward and then the other piece would be resolved and her understanding now was they were coupled as one.

Mr. Keene stated that it would be better to complete it in Committee before presenting it to Council.

Council Member Holman stated there was the Amendment regarding the other policy.

Mr. Keene stated yes, the Amendment was to have the City Attorney review the policy language on transparency.

**MOTION PASSED: 4-0**
1. Continued Discussion and Recommendation for Approval of an Electronic Packets for Council

City Clerk, Donna Grider stated Staff had been directed to return to the Committee to discuss whether there needed to be a policy regarding personal usage of an electronic item purchased by the City and to research surrounding cities to see how they dealt with the personal usage of the electronic devices. She noted there was a subsequent request regarding the Council packets continuing to be delivered on the Wednesday prior to the Council meeting. She stated if the City purchased the device that changed the beak even cost from the first year to the third year. She stated if Council was to vote to direct that the City would purchase the electronic devices for the Council Members, it had been explained to her by the Director of Administrative Services, Lalo Perez that a Request for Proposal (RFP) process would need to be followed.

City Manager, James Keene stated it had been reported in the media that the City was only looking at iPad devices which was untrue, there were a number of electronic devices which could be used for this process. He noted Hewlett Packard, a Palo Alto based company made a tablet device and the technology used for distribution of the packet could be used across a range of platforms.

Senior Deputy City Attorney, Melissa Tronquet stated a City policy was not legally required regarding personal use on the device. The Council could go beyond the minimal threshold of policy requirements and make a policy decision to have a policy drawn up. The City Attorney’s office had made recommendations regarding a policy if that was how the Council wished to proceed. She stated State law had limited allowances for personal use of devices purchased by a government entity.

Mr. Keene stated if the Committee wished for the City to provide the hardware it needed to be restricted for personal use. If Council wanted to use the device unrestricted Council Members would need to purchase the devices.

Council Member Klein stated if the City owned the hardware the Council Member’s communications would be discoverable in litigation.
Ms. Tronquet stated the law was not settled on that point as of yet although there were arguments that communications on any format whether on City owned devices or not was subject to discovery.

Council Member Klein asked if the City Attorney’s office was suggesting that a telephone call on a personal cellular line would be discoverable.

Ms. Tronquet stated the case had been brought about that City related communications on personal e-mail accounts and she reiterated the law had yet to be settled.

Council Member Klein was asked by an outside member of the public why there was a charge to rewire the dais within the Staff Report when in the City of Mountain View their Council began using electronic devices without special charge.

Ms. Grider clarified the charge to re-wire the dais was added to allow for the Council Members to charge their devices during the meeting.

Council Member Burt clarified the re-wire was for the ability to charge the battery of the device and not for granting access.

Council Member Klein asked what the estimated cost would be.

Ms. Grider stated the estimated cost received by Staff was $6,500.

Council Member Klein stated it seemed to be a high fee for running an electrical line.

Ms. Grider stated the cost was presented by the City Facilities Department.

Mr. Keene stated the idea was to incorporate the wiring costs of the Chambers with the technological upgrades of high definition projection screens and monitors on the dais.

Herb Borock stated at the present time if there were to be a communication occurrence at the dais the public was able to decipher its existence but with an electronic device at the dais there could be silent communications unknown to the public which may or may not have to do with the agenda item being discussed. He suggested there be an electronic device at the dais which could only access the City public website with a thumb drive to grant the Council access to their annotated packet thereby avoiding any public concern.

Council Member Klein stated if the decision was for Council Members to purchase their own hardware he asked whether there would be a reason to have the City purchase
the devices for the Council Members to ensure uniformity or a potential bulk savings.

Mr. Keene stated the uniformity issue pertained to the software side of the transition and as for the hardware, there would not be uniformity since all of the Council Members did not need to utilize the same device.

Council Member Klein asked for clarification that any hardware purchased would be compatible with the software.

Mr. Keene stated in the sense of using the packets for either accessing e-mail or in particular downloading the Council packet then yes, the software was applicable across different pieces of hardware.

Chair Price felt it was appropriate for the City to purchase the devices for those Council Members who may be interested in using them. She stated if the devices were intended solely for City use it should be a City purchase. She noted at no point had there been a requirement placed on the use of the devices.

Ms. Grider stated that was correct. There would continue to be paper packets produced for the library system and if a Council Member chose, they could continue to receive paper packets as well.

Council Member Holman stated from a procedural point of view there were packet items which were more utilitarian in paper format. She asked how would Council know when to request a paper version of a packet item due to its size or ease of use not being electronic.

Ms. Grider clarified the norm would be to continue to produce paper packets with respect to the Environmental Impact Reports (EIR) and maps although she was uncertain of the size of other documents until the day of the packet. She noted if a Council Member chose, after reviewing the electronic packet there was an item they wished to have in paper; Staff would find a way to handle the request.

Council Member Holman stated she was looking for a manner in which to handle the situation to not end up with a number of last minute requests. She asked if there was a way to alert the Council in advance of the packet being sent if a report or study was upwards of 120 pages therefore giving them the choice to request a paper copy of that document.

Mr. Keene stated given time, Staff would figure out a mechanism in which to comply with the request although at present it was unpredictable.
Council Member Holman asked if the City was purchasing the electronic devices, and a Council Member preferred to have a laptop over an iPad or an HP Tablet would there be an allowance provided to the Council Member to acquire the device they felt was appropriate.

Mr. Keene stated the type of device was within the Council purview.

Council Member Holman stated her understanding was the Boards and Commissions were going towards paperless as well although without a stipend or City purchased electronic device. She was not broaching a discussion but wanted to mention it.

Chair Price stated the option and Motion voted on previously was for City to purchase iPads for Council Members to receive, the City installed appropriate applications. Her understanding was the Motion passed 4-0. Procedurally if that Motion was passed, unless there were modifications, that would be the Motion moving forward to the City Council for discussion. At this point the discussions should be focused on the policy matters.

Council Member Burt stated his recollection was the Motion was passed but it was determined not to forward to the full Council pending the information brought to the Policy & Services Committee by Staff during the current meeting. Therefore the previous Motion was not final but pending the review of the current information.

Ms. Grider stated the previous Motion was within the report and had the incorporation of the City Attorney looking into the policy of personal usage.

Council Member Burt clarified in essence, there needed to be an affirmation or modification of the Motion prior to submission to the full Council.

Council Member Klein stated the memo from the City Attorney did cause him to rethink that Council should purchase their own devices. He noted in recognition of the history of cell phone usage it was unrealistic to not use a device for personal use. He stated there was a saving for the City as well, if most or all of the Council Member purchased their own devices.

Council Member Burt asked what the status was on the City policy of allowances for telephones.

Mr. Keene stated there had not been a final resolution.

Ms. Tronquet stated her understanding was the final decision was to not move forward with the allowance.
Council Member Burt stated the Staff response was not a clear answer.

Ms. Tronquet stated the Administrative Services Department (ASD) was highly involved in the decision making of the matter although she recalled there was a level of personal cellular lines used for both work and personal that made it not cost effective for ASD to administer stipends.

Council Member Burt stated it appeared the same issues being raised for Council Members applied to City Staff on use of the devices. Therefore there was a circumstance being created where the City Staff was required to have two computers, a City supplied and a personal one. He asked why the allowance was not the way to handle the situation, it made things simpler and made the device not City owned.

Mr. Keene stated to the extent of being able to use professional development funds for the purchase of a computer or cell phone, yes that was allowed.

Ms. Tronquet stated there could be an issue with having a separate stipend for Council Members to purchase their own devices because there were limits to Council Member compensations.

Council Member Klein stated that would need to be a Charter Amendment to change the compensation limit.

Council Member Burt stated if the constraints were in the Charter then he was satisfied with the outcome although if not then there was a legitimate discussion necessary.

Council Member Holman asked whether there could be an expense account created so Council Members could submit expenses for reimbursement which would not cause a Charter Amendment.

Council Member Burt stated there was an expense type of account for Council travel where they could submit for travel compensation per mile and that did not mean the City owned the vehicle.

Ms. Tronquet stated there was a law in use being referred to, AB1234 the Ethics Law which discussed expenses for travel.

Council Member Burt asked whether the idea of reimbursement was different in-kind.

Ms. Tronquet stated yes. Those were travel expenses and AB1234 was specific to travel.
Council Member Holman stated registrations to conferences were not travel expenses but those expenses were reimbursable. She wanted to express it could be expensive to serve as a Council Member and she did not want to discourage people from running for office in the future.

Ms. Tronquet stated if there were a concern regarding expense the City should purchase the electronic devices thereby eliminating the expense by the Council although allowing them to perform their duty as an elected official.

Mr. Keene stated there was nothing to preclude the Council in having a policy which was elective. If the Council Member chose to purchase the device there would be no restrictions on its use, or the Council Member could choose to have the City purchase the device and be restricted to the City use.

Council Member Klein stated the effort of adding an expense account for the purpose of electronic devices added more effort of Staff than the reward. The City Manager had expressed there were choices for those Council Members who wished to not have the added expense.

Council Member Holman asked whether there was a practical or feasible way to limit access during a Council meeting to ensure the City Council was viewing what was pertained to the meeting at hand.

Mr. Keene stated he was unaware of the ability and noted that objective ran counter to the purpose of the technology.

Council Member Burt stated the ILG website showed documentation on page 3 referring to Understanding the Basics of Public Service Ethics: perk issues. He noted there was useful information regarding electronic meetings which may need to access information that was related to the issues in the packet but not attached to the packet itself.

Ms. Tronquet stated the City Council passed a Resolution in 2006, after AB1234 was passed, that outlined the types of expense reimbursements that would be covered. Essentially those types of expenses were travel related or expenses directly related to further your service.

Council Member Burt asked whether that was based on a Council Resolution or prescribed by AB1234.

Ms. Tronquet stated AB1234 set out the requirements for what could be reimbursed so
most City Councils’ in the State passed Resolutions.

Council Member Burt confirmed that the City of Palo Alto’s Resolution was not more nor less than the AB1234’s requirements.

Ms. Tronquet stated that was correct and it could not have reimbursed more than AB1234.

Chair Price clarified the issue was the items themselves that were reimbursable not the issue of cost to those items.

Ms. Tronquet stated that was correct. She stated public officials and employees jobs were to serve the public therefore they should be provided with the tools to perform those positions and not more. Items included but not limited to were cellular phones, vehicle expenses, and travel.

Mr. Keene recited page 11 from the website of the Institute for Local Government under section Understanding the Basics of Public Service Ethics: Perk Issues

**Special Issues: Certain Kinds of Expenses**

**Cell Phone and Internet Expenses**

Cell phone and Internet expenses can be reimbursed according to local agency policy with documentation. In terms of kinds of documentation; one agency requires that telephone bills be submitted and that the official identify which calls were made on agency business. For cellular calls when the official has a particular number of minutes included in the official’s plan, then the agency asks the official to identify the percentage of calls made on public business. For Internet access, the official submits an estimate of the percentage of agency-related usage for the period in question and proof of the amount of bill for such access.

Council Member Burt stated because the information listed included cellular phones but not laptops or the portable devices currently available, it appeared the law was outdated, although it was what was in place.

Ms. Tronquet stated unfortunately a number of the laws did not recognize technology. To the extent that it could be determined the amount of personal use on the electronic device, documented and then quantified for reimbursement it seemed incredibly difficult.

Council Member Burt asked if Council Member Klein was persuaded by the report that stated some neighboring cities had opted to not purchase equipment for Council Members.
Council Member Klein stated no, there was not a large enough sampling of information to determine a direction. He clarified the City Attorneys’ memo provided sufficient information to change his opinion.

Ms. Tronquet stated it was an accurate statement to say that the Council had less expectation of privacy in communication on a City owned device.

Council Member Klein asked for the City Clerk to reread Option B from the previous Staff Report.

Ms. Grider clarified Option B read: Council Members purchase and use their own electronic reading devices, the City would purchase any applications required to allow the Council Members to read the packet on their device. The City could choose to pay any applicable monthly fees incurred by the Council Member to receive the packet. These charges would fluctuate based upon the Council Members having either Wi-Fi or 3G access. Staff would support the accessibility of the electronic packet.

Council Member Klein stated that was the verbiage he elected for the Motion and added the Council would encourage its Members to purchase and not require. 

**MOTION:** Council Member Klein moved, seconded by Council Member Burt that the Council policy would encourage but not require Council Members purchase and use their own electronic reading devices, the City would purchase any applications required to allow the Council Members to read the packet on their device. The City could choose to pay any applicable monthly fees incurred by the Council Member to receive the packet. These charges would fluctuate based upon the Council Member having either Wi-Fi or 3G access. Staff would support the accessibility of the electronic packet.

Council Member Holman stated the Motion was to encourage Council Members to purchase their own device, she asked what happened if a Council Member opted to have the City purchase the device.

Council Member Klein stated his Motion was to not have the City purchase the devices.

Council Member Holman felt the option should be up to the Council Member as to who purchases the device.

Council Member Klein stated that was the opposite of his Motion.

Council Member Holman asked if the maker would accept the option for the City to purchase the devices as an Amendment.
Council Member Klein stated no. He stated if one Council Member took advantage of the program it affected all of the Council Members.

Chair Price stated that concern was connected to the point of discoverability.

Council Member Klein stated yes.

Chair Price stated there was a certain amount of common sense to be used. She stated the City e-mail she received were forwarded to her personal e-mail account and if there was a time when the information was discoverable she felt it would be part of the process. She stated she would not be supporting the Motion.

Council Member Klein stated the concept of discoverability was fraught with unclear law which was why he used terms as more likely. He noted it was less likely to have your personal account discoverable for use of City business than it would be if you were to use your City account for personal business.

Council Member Holman stated she appreciated the Motion and yet she felt it created two separate classes of Council Members. She stated her understanding as to why it may not be best to have everything discoverable however, what was there that was not meant to be discoverable.

Council Member Burt stated if the City supported the software if could be connected to a variety of different devices, so a Council Member did not need to spend a large amount of funds on a device.

Council Member Holman asked about the discoverability.

Council Member Burt stated you own the device and therefore it was not discoverable.

Council Member Holman stated but if a Council Member wanted the City to purchase their device for personal reasons, there was not case law but where would there be a situation where discoverability was a real issue.

Ms. Tronquet stated the law was not a settled issue but any time any one made a request for electronic information it was a question of where the request fell in the range. If the device was a personal item it was more likely there was more protection and if it were a City owned device there were less protections.

Council Member Holman asked for an example of the type of materials would create challenges on a Council Members device that would promote a request for records.
Ms. Tronquet stated e-mails, and logs of internet usage.

Council Member Klein stated opposing Counsel can not determine whether an item should be considered discoverable until after he or she reads the entire information. It may not be desirable to have another party view all of your personal information even if it did not make it to court.

Council Member Holman stated she was torn on her decision.

Council Member Burt stated yes, there were trade offs to either decision.

Council Member Holman requested to add to the Motion that the City Council would revisit the policy in a year.

Council Member Klein stated Council had the ability to revisit any policy at any time, he did not see why there needed to be language added.

Council Member Holman stated if the language was in the Motion there was an automatic return for review.

Council Member Klein stated it would take a fairly dramatic change in the law; an act by the legislature or an act by the Supreme Court to set forth definitive rules.

Council Member Holman asked what would happen if a Council Member purchased an older device and it was incapable of keeping up with the current devices in terms of access and handling the required software.

Council Member Klein stated as the facts change in the future, the future Council Members had the ability to change the policy accordingly.

Council Member Burt stated there should be expectation whether the device was an iPad or PC, within a few years the operating system would be outdated.

**MOTION PASSED:** 3-1, Price no

Chair Price asked when Staff was anticipating bringing the item back to Council.

Ms. Grider stated August 1st.