

Special Meeting  
September 17, 2007

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

Present: Barton, Beecham, Drekmeier (arrived at 7:00 p.m.), Cordell, Kishimoto, Klein, Kleinberg, Morton, Mossar

### STUDY SESSION

City Attorney Baum announced that Council Member Drekmeier would not participate in Item 1 since he has a conflict of interest as he is an employee of Tuolumne River Trust.

1. Draft Program Environmental Impact Report on San Francisco Public Utilities Commission's Water System (Hetch-Hetchy) Improvement Program.

Assistant Director of Utilities for Resource Management Jane Ratchye provided an overview of the Draft Program Environmental Impact Report (PEIR) on the San Francisco Public Utilities Commission's (SFPUC's) Water System Improvement Program (WSIP). The regional water system that serves Palo Alto gets the majority of its water supplies from the Tuolumne River with the balance coming from locally collected water in the East Bay and the Peninsula. San Francisco has junior water rights on the Tuolumne River while the Modesto and Turlock Irrigation Districts (MID and TID) hold the senior water rights on the Tuolumne River. The regional water system is vulnerable to damage from large earthquakes and is in need of seismic upgrades, pipeline replacements and repairs. Without those improvements, the regional system is subject to water outages from 20 to 60 days. SFPUC's proposed WSIP aims to improve seismic reliability by being able to deliver water to 70% of the connection points within 24 hours after an earthquake. Other objectives for the WSIP include meeting the water supply needs of users of the system as projected to 2030 and subjecting the service area to a maximum of 20% cutbacks in droughts. The Draft PEIR identified the nature and magnitude of impacts associated with the projects as well as program-level mitigation measures. As appropriate, project-level EIRs will be completed for the individual projects included in the WSIP. The growth inducement potential of the WSIP will only be analyzed in the Program EIR and will not be addressed in the project-level EIRs.

The most controversial issue in the Draft PEIR is the projected regional demand growth of 35 million gallons per day (MGD). The WSIP proposes to meet this additional water supply need with 10 MGD of additional conservation and recycled water projects in San Francisco and 25 MGD more water diverted from the Tuolumne River. The PEIR evaluated many alternatives, including the "Modified WSIP", which was designated as the environmentally superior alternative. The Modified WSIP proposes to

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eliminate the additional diversions from the Tuolumne River by implementing an additional 5-10 MGD of conservation, water recycling, and groundwater use in the wholesale customer service areas and by arranging with MID and TID to transfer 23 MGD of conserved Tuolumne River water. This transfer would be accomplished by SFPUC or its wholesale customers installing water conserving systems in the MID and TID service areas and transferring the conserved water to SFPUC to minimize or avoid additional diversions from the Tuolumne River. The Modified WSIP alternative also has other environmental improvements in the East Bay and the Peninsula.

The ad-hoc Council subcommittee (Council Members Beecham, Mossar and Klein) met three times to discuss and develop comments on the Draft PEIR. Overall, the subcommittee members believe that the PEIR is adequate and satisfies CEQA. The subcommittee strongly supports completing the WSIP projects to improve seismic reliability. The subcommittee supports the Modified WSIP, the environmentally superior alternative, especially the concept of a transfer of conserved water from MID and TID. The subcommittee also supports a maximum rationing goal of 10%, rather than the 20 percent in the proposed WSIP. In addition, the subcommittee requests that SFPUC coordinate construction of the WSIP project that is located in Palo Alto with the Gunn High School schedule and that the PEIR reconsider the merits of extending the Santa Clara Valley Water District (SCVWD) West Pipeline to an interconnection point with SFPUC pipelines to improve reliability of both SFPUC's and SCVWD's regional water systems.

**No action required.**

ORAL COMMUNICATIONS

Phil Plymale spoke regarding the dismissal of a Utility Department employee.

Brandon Porter spoke regarding his dismissal from the Utility Department.

Susan Richardson spoke on behalf of Brandon Porter.

Fred Balin, 2385 Columbia Street, spoke regarding open and transparent government.

Bob Wenzlau, 1409 Dana Avenue, spoke about bike and pedestrian safety at the Embarcadero underpass.

Lynn Chiapella, 631 Colorado, spoke regarding a strip of land on Alma Street at the Oregon Expressway.

## APPROVAL OF MINUTES

**MOTION:** Council Member Mossar moved, seconded by Morton, to approve the minutes of July 30 and August 6, 2007, with corrections as noted.

**MOTION PASSED** 8-0, Cordell not participating.

## CONSENT CALENDAR

**MOTION:** Council Member Mossar moved, seconded by Klein, to pull Item 3 from the Consent Calendar to become Item 4A.

**MOTION:** Council Member Morton moved, seconded by Barton, to approve Consent Calendar Item Nos. 2 and 4.

2. Approval of Record of Land Use Action for a Variance to Allow a Fence Exceeding the Maximum Fence Height within a Front Yard Setback at 1456 Edgewood Drive
- ~~3. Request for Approval to Cancel October 8, November 5 and November 12 Regular Council Meetings and to Schedule a Special Council Meeting on November 13~~
4. Acceptance of a Report of Williamson Act Contracts within the City of Palo Alto

**MOTION PASSED** 9-0.

- 4A. (Old Item 3) Request for Approval to Cancel October 8, November 5 and November 12 Regular Council Meetings and to Schedule a Special Council Meeting on November 13.

**MOTION:** Council Member Mossar moved, seconded by Klein, to cancel the October 8 and November 12 Regular Council Meetings but not the November 5 meeting, and to Schedule a Special Council Meeting on November 13.

Council Member Kleinberg inquired about the meeting on November 13. She noted there is a Policy and Services (P&S) meeting scheduled for that night, so there is a conflict.

Assistant City Manager Harrison said tentatively the P&S meeting would be held on Wednesday rather than Tuesday.

Council Member Kleinberg said she probably would not be able to participate on November 13 because Golden Guardian is scheduled on that date.

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

UNFINISHED BUSINESS

5. Approval of a Wastewater Treatment Enterprise Fund Contract with Anderson Pacific in the Total Amount of \$859,000 for the Recycled Water Pump Station Upgrade Project at the Regional Water Quality Control Plant - Capital Improvement Program Project WQ-80021.

City Manager Frank Benest reported the contractor confirmed he pays prevailing wage, which has been documented. The contractor also indicated that should there be any ruling by the Department of Industrial Relations that he did not in some instance pay prevailing wage, he would be responsible and not the City of Palo Alto. Therefore, staff recommends the Council approve this contract to assure the work would be done this year.

Council Member Barton said he would like to make a two-part Motion to accept the staff recommendation including acceptance of the contractor's offer to provide a certified payroll. As the second part, he would like to refer the prevailing wage policy question to the Policy and Services Committee.

City Attorney Gary Baum asked if there was any public comment.

Council Member Beecham said this item was continued from last week with public comment taken at that time. He asked whether it was necessary to reopen the public comment.

Mr. Baum replied that legally it is. This has not been done in the past for a true public hearing because the public hearing has been opened and closed. In this instance, the Brown Act requires that there be public comment on each item before the Council. There is an exception if the meeting was continued because it was midnight and the meeting would be convened the next day on the same item because then it is considered to be the same meeting. In this instance, the matter was continued and it is considered to be a new meeting.

Council Member Beecham asked if it is appropriate to limit the comments to those who had not spoken before.

Mr. Baum said no. Speakers could be requested not to raise new issues but we cannot limit the individuals who are speaking.

Mayor Kishimoto opened the public comment.

Juan Garza, 1493 Park Avenue, San Jose said the contractor's e-mail does not say they are going to pay prevailing wage. It says "if" and there is a big difference. Secondly, he forwarded the decision from the Supreme Court of the State from the City of Santa Clara. In the present case, the revenue bonds are to be issued to finance the petitioner's share of the regional water pollution control facility involving efforts of several cities acting in common. The total costs will be approximately \$30 million and the facilities cannot be constructed without the petitioner's participation in the payment of these costs. Furthermore, the sewage treatment facilities will protect not only the health and safety of the petitioner's inhabitants but the health of all inhabitants in the San Francisco Bay Area. The Supreme Court determined in certain situations a municipal affair is a statewide concern. There is a larger project of which this smaller project is part and parcel and, therefore, that greater project cannot go forward without this happening. Decisions like these need to be made and hard choices have to be taken. The City Manager failed to point out the other contractor submitted a letter in writing saying he can get this job done by December 31, 2008.

Josue Garcia, 2102 Almaden Road #101, San Jose, urged Council to reject the bid and rebid the contract. He thanked Council for looking into the whole prevailing wage issue. Workers are having a hard time making a living and this will provide health insurance and a pension and training for workers.

Jeff Salvotti, 2350 Lundy Place, San Jose, spoke on behalf of the Sheet Metal Workers, Local 104. He also urged Council to reject the bid and rebid with the requirement for prevailing wage.

Mayor Kishimoto closed the Public Comment Period at 7:30 p.m.

**MOTION:** Council Member Barton moved, seconded by Drekmeier, to accept staff's recommendation to approve the contract including acceptance of the contractor's offer to provide a certified payroll.

**MOTION PASSED 9-0.**

**MOTION:** Council Member Barton moved, seconded by Drekmeier, to refer the prevailing wage policy discussion to the Policy and Services Committee (P&S).

Council Member Drekmeier said the population is growing and water is going to be in shorter supply. It is therefore important that this recycled water project move forward. He felt that Council needs to thoroughly vet the issue, learn from other districts that use prevailing wage, to see if there is a better product and also examine the fairness issue.

Council Member Mossar said she would not vote to refer this to the P&S Committee. Prevailing wage is an interesting concept but it does not begin to heal the social problems that have been outlined.

Council Member Morton said those who have been on the Finance Committee know the struggles a city has to fund projects. If the whole financing equation of the bid process is going to be changed, substantial amounts of money would be added to future projects without actually knowing the cost. He is not opposed to the prevailing wage but is opposed to mandating it.

Council Member Cordell said she had a position directly opposed to Council Members Mossar and Morton. There is nothing wrong with discussion since it is quite clear this is a very important issue. It is about people, about workers, about their ability to survive and it is absolutely essential as a progressive city we have the discussion. This will allow for a reasoned and humane decision about whether or not to pursue this policy. She supports referring this issue to the P&S Committee.

Vice Mayor Klein stated he would support the Motion since it does not require much staff time. If prevailing wage indicates an increase in the cost of projects, there is an obligation to the citizens to turn it down. The burden is on those who are proponents of this to support the statements that Council Member Cordell has made about fairness and social justice. It is a question of how does the economy really work. Palo Alto has not had prevailing wage for the 110 years of existence and satisfactory projects have been built. He noted these were his preliminary thoughts but he would support moving it to the P&S Committee.

Council Member Kleinberg said it would be an interesting conversation and she certainly can commit to being open minded. She felt the community wants Council Members to be fair to those who work under government contracts in the City. She was looking forward to the conversation but doubts it will come back to this Council as it is currently constituted.

Mayor Kishimoto stated she would support the referral to P&S, but there are many other things she needed to know before voting on the issue.

**MOTION PASSED** 6-3 Beecham, Morton, Mossar no.

#### REPORTS OF COMMITTEES AND COMMISSIONS

6. Recommendation from the Policy and Services Committee for the City Council to Approve a Tiered Approach for the Continuing Review, Approval, and Implementation of the Zero Waste Operational Plan



**MOTION:** Council Member Mossar moved, seconded by Morton, to approve the Policy and Services Committee and staff recommendation to a tiered approach for the continuing review, approval, and implementation of the Zero Waste Operational Plan (ZWOP). Specifically:

Programs – Direct staff to immediately begin implementing any recommended programs that will have minor budgetary impact. As for the other programs, direct staff to begin identifying costs and funding mechanisms, including inclusion of specified programs in the Request for Proposals for new collection services to be bid in spring 2008. Implementation of such programs will be reviewed and evaluated based upon their cost and diversion effectiveness.

Policies – Approve plan and continue the discussion of new policies and regulatory requirements such as mandatory recycling and product bans to give staff direction on whether to pursue such actions in conjunction with the start of the new collection contract in 2009.

Facilities – Approve the regional facilities approach in the Request for Proposals for new collection services and continue the discussion of local facilities such as the relocation of the recycling center in a separate process which is already under way. These activities will be included in the RFP as alternatives, to be reviewed and evaluated at that time based upon their cost effectiveness.

Public Works Director Glenn Roberts introduced Russ Reiserer, Solid Waste Program Manager, and Ruth Abe, Vice President of Brown Vince Associates, who was the consultant in the preparation of this Plan. This item represents a culmination of three years work, starting with the Blue Ribbon Task Force developing the Zero Waste Operational Plan (ZWOP) and policies, statements and goals adopted by Council a year ago and the Operational Plan. Nothing that Council does tonight binds the Council, the City, or the staff to actually finally implement any of these measures. Staff is requesting an indication of Council's policy direction in this matter. The tiered approach is meant to indicate a phased implementation tied to many other events. The Waste Composition Study and the Zero Waste Operational Plan embodies recommendations and next steps. In November 2004, the Council directed staff to develop a Zero Waste Plan. In October 2005, Council adopted that Zero Waste Plan goals and directed staff to try and attain 73 percent diversion by 2011 and strive for zero waste or close by 2020-21. That Strategic Plan was approved and Council directed staff to develop the Operational Plan. This Plan has been sent to the Policy and Services Committee twice. In March 2007, it was reviewed and direction was given to make modifications and enhancements to clarify certain issues. In July 2007, the P&S Committee recommended approval of this Plan. The big issue here is the development and implementation of the next hauling

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contract for garbage collection and processing services in Palo Alto. We have essentially been under the same hauler under two different names for the past 56 years; PASCO and then PASCO being acquired by Waste Management. The current contract with Waste Management/PASCO will expire on June 30, 2009. Staff will come back to in a Study Session on October 1. The elements of the Zero Waste Plan are key to helping scope the services in the new collection contract so there is a key relationship here between these two activities. We need policy direction on zero waste goals so we can shape that proposal for new collection services. The first related activity is when our landfill closes, which is estimated to be 2011 based on current rates of fill. Some key events occur in 2021 when our contract with the SMART Station, Sunnyvale and Mountain View partners, expires and when the contract for refuse disposal and landfill at Kirby Canyon expires. In 2005, a Waste Composition Study was prepared to start this effort. Zero waste is a systematic approach to dealing with the problem. It recognizes that discarded materials have value. Our current diversion rate is about 63 percent in the year 2007. There are certain things we can do in the short term. We are trying to do those things without having to negotiate with our current hauler for any additional services. We are not recommending undertaking any major service changes with the current contract. In the mid-term, to about 2011, we can focus on the new hauling contract; then from 2011 to 2021 some significant improvements and increases can be made. There will be some cost implications and every additional ton diverted costs more money. Subsequently, in the new hauling contract those issues will be included in the proposal as alternatives that can be costed out. We will bring it to the Council in 2008 with an analysis and recommendation of how much it will actually cost, what will be the impact on rate, what will be the benefit of tonnages diverted. At that time, we will make a recommendation as to what new services to implement. Staff is requesting that we continue the efforts of waste prevention through legislation, policies, ordinances, outreach and assistance. Also, we are working to incorporate environmentally preferable purchasing standards, continue to promote green building activities and sustainable landscaping gardening. On regional priorities, we would continue to work with partners on legislative actions and research, development and advocacy. In terms of our recommended programs, we are looking for direction of what to implement in the new hauling contract focusing heavily on the question of organics. We believe the commercial sector food waste is a real target of opportunity in the new contract. We are recommending the new RFP include a provision for that service to see what it costs. We are also looking to expand the type of materials collected at curbside. This policy document recommends two categories of types of facility use; primarily utilizing existing regional facilities wherever possible for the processing of the curbside recyclables, for the construction and demolition debris, and for new organic processing. It does not recommend any major new local facilities. Regulatory support is one of the most significant issues in this document in

terms of policy issues and public involvement. If we want to get to zero waste, or as close to it as possible, it will not likely be entirely on a voluntary basis. This plan contains a recommendation for a potential mandatory participation ordinance in recycling that would involve a three-year phased implementation program where the first year would be an educational process. The second year would be a warning process and the third year would be enforcement. This would not begin until 2009 consistent with the new collection contract. We are also looking at potential product bans. The plan has looked at issues like Styrofoam and plastic bags. Policy direction is needed to pursue that and bring it back to you. Plastic bags are the biggest single trash item in the creeks. Staff recommends this Plan be approved tonight in concept and approve the tiered approach and give direction to come back with those details on October 1 during the Study Session on the new Refuse Collection Contract.

Mayor Kishimoto thanked Mr. Roberts for his presentation, thanked staff for three years of hard work and the members of the Zero Waste Task Force and the P&S Committee.

Council Member Barton said this is a far-reaching document in multiple ways. Policy direction is requested on some very broad issues and sets a scope of work for staff for a period of time to come. We cannot underestimate the amount time as well as the value of at least considering the costs and benefits. It is important to understand this document is connected to a schedule and feasibility to the new waste hauling contract. He inquired whether the \$3.95 expected increase in cost of one can was per month or per can.

Mr. Roberts replied a single can per month is \$19.25 now and, therefore, it would be about a 15 percent increase.

Council Member Barton asked if the \$3.95 is an internal cost.

Mr. Roberts said that is correct. Landfill capacity has not been an issue because Kirby Canyon exists and has a lot of capacity left. That will become an issue in the future and more costly over time. It is cost effective to pay more now to minimize those future costs.

Council Member Morton said a cost scenario is required that tells you the pick-up cost as well as the non-pick-up cost. Those are very hard to measure such as auto pollution. He said he agrees the attempt is to prevent long-term degradation costs. He said he does not understand why we talk about phasing in or making it voluntary. He would prefer Council selects a date and say "no more plastic bags." It may take awhile to accomplish and we would not enforce it. The same applies to composting. He fully supports the efforts and the possibility of moving more quickly.

Vice Mayor Klein said he would like to understand what we are voting for and what we are not voting for and inquired whether the new policies are included as part of the plan and, if they are not, what is being approved.

Mr. Roberts stated staff was trying to be cautious about how far this approval is taken because some of these will require further review, ordinance development and perhaps environmental review. Vice Mayor Klein's point is well taken. Council is being asked to give staff policy direction tonight. We will require further direction in the implementation vehicles.

Vice Mayor Klein said if the plan is approved there are 25 or 30 separate items. While he had no problem with the mandatory program in concept, he is not quite clear what we are talking about.

Mr. Roberts said that will need to come back to Council with the details of a specific implementation program, an ordinance, an enforcement mechanism and a time frame.

Vice Mayor Klein stated the item talks about facilities, which says "approve the regional facilities approach and continue the discussion of local facilities." Perhaps it could be said that we are approving the regional facilities with certain exceptions that may come along. If we approve the regional, then we are saying we are not going local; but if we are considering the local then we are not going totally regional.

Mr. Roberts replied the idea is to have Council direct staff to pursue the use of regional facilities for all of the heavy duty processing activities. Not having a processing center in Palo Alto is consistent with the direction that came out of the discussion on the proposed environmental services center about four years ago. Those kinds of things will be sought in the new collection and processing contract from providers who have them existing and located elsewhere. No new such facility would be proposed or built. The question of whether there should be a local recycling drop-off center and a permanent home for the household hazardous waste facility, both of which are local facilities, will be spun off to a separate discussion.

Vice Mayor Klein referred to the part under programs that says "direct staff to immediately begin implementing the recommended programs that will have minor budgetary impact." He is troubled by that because he does not know what minor budgetary impact means. He would like to see some metrics.

Mr. Roberts said the intent was that it would not require any new budgetary authority from the City Council.

Vice Mayor Klein asked whether Public Works has that authority to some degree with what was passed in the budget this year. He does not like voting for something that is approving policies if they have minor budgetary impact.

Mr. Roberts said this Plan was working on expanding existing programs. Some examples would be increased recycling in the downtown area, adding more recycling containers in the downtown for special events, festivals and things of that nature, and more education and technical outreach and support to schools and private industry.

Vice Mayor Klein said he felt there should be a list of the programs and, if they are so small and within existing programs, staff ought to just implement them.

Mayor Kishimoto opened the Public Hearing.

Dora Goldstein, 620 Sand Hill Road, said as a part of the Zero Waste Operational Plan, the opportunity should be taken to enact a ban on polystyrene food containers. Several cities have already done so such as Berkeley, Portland, San Francisco and Oakland. New York City is currently considering such a ban. Most Palo Alto restaurants already use recyclable containers. Polystyrene containers are used here not only in restaurants but in other dining venues. The Zero Waste Operational Plan suggests adding polystyrene to the list of components that can be recycled on the curbside single stream pickups.

Bob Wenzlau, 1409 Dana, said the Plan will be challenging to implement. Even as one of the Task group members, he found it challenging from the standpoint of participation because you really do not get the chance to consider specific programs and specific recommendations. As the document went forward, a number of the comments he made ended up being lost, which was disappointing. He appreciated Council Member Morton's remarks when he said that October 1 could be the day Palo Alto makes a statement on mandating recycling and product bans. These types of programs should have a schedule and he urged Council to consider doing that. Finally, he felt the organic waste issue should be handled locally. He disagrees that it is regional. He recommends revisiting local management of organic waste.

Mayor Kishimoto asked for clarity regarding a ban on plastics. She felt a timeline would be helpful. There is a lot of anxiety on the part of the Council to move forward. She inquired if this conceptual plan is approved tonight, the next steps would be on bans which are outside the hauling contract. The hauling contract is a huge milestone. She would have some questions later regarding conceptually approving the local drop-off recycling. She also has

questions on why 2.2 acres is needed, as opposed to half an acre, and also on household hazardous waste.

Mr. Roberts said he must have created a misimpression and he wants to be very clear. Council is not being asked to approve any local facilities tonight. Those discussions are continuing.

Mayor Kishimoto asked Mr. Roberts to confirm the site design for a temporary 2.2 acre site is going to Planning and Transportation Commission (P&TC).

Mr. Roberts said that is correct and it is a different issue. It is the temporary relocation of that facility in order to be able to complete the build-out of the landfill and the build-out of the Byxbee Park grading plan. It must be moved from where it is presently located or the landfill and the grading plan cannot be completed. That is not an element of the Zero Waste Plan. The Zero Waste Plan looks beyond that timeline. The issue will be going to the P&TC on September 26.

Mayor Kishimoto said it is part of the whole waste strategy. For example, we approved the CIP for the temporary location but it was with the understanding it was a placeholder and we would actually have more discussion on it.

Mr. Roberts said after it goes to P&TC in September, assuming they take action, it will come to Council later this fall. Regarding the product bans and mandatory recycling, staff is an enthusiastic proponent of those issues but we clearly need to hear from the City Council whether to pursue those policies. There will be a tremendous amount of legal work needed as well as technical work. We will need to research those model ordinances and case law, develop an implementation strategy and get back to you with a timeline. Right now, what we have proposed and what this Plan says is to develop those product bans in that mandatory recycling effort concurrent with the new collection contract beginning in 2009, which is 18 months away.

Council Member Kleinberg said she wanted to follow-up on Mayor Kishimoto's and Vice Mayor Klein's questions. In the recommendation, under Policies, Approved Plan, are we approving this Plan.

Mr. Roberts replied yes.

Council Member Kleinberg said some of the things the Mayor just asked are in conflict with some of the ideas we might want staff to pursue if the Council agreed should there be something to look into. She stated she is concerned with the amount of recycling done by commercial businesses,  
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mainly offices. There is not enough aggressive activity in this Plan to reward commercial recycling. Under Maximizing Recycling, the Plan says approximately 50 percent of commercial businesses participate in the City's recycling program. Then it says there's going to be a recycling approach rolled out with the commencement of new services in July 2009.

Council Member Kleinberg asked why is it necessary to wait for a new contract to get businesses to recycle now if only 50 percent are doing it.

Mr. Roberts said staff is recommending the most prudent and effective course of action is to follow that time frame for two reasons: 1) because of the time it will take to develop and implement these mandatory programs, ordinances, and enforcement measures; and 2) to make it concurrent with the new contract. We don't recommend trying to negotiate for increased services with the current hauler given some contractual disputes. We recommend it would be far better to have this go into effect with the proposals and contract for the new hauler. Lastly, this will require some additional resources for staffing and we don't want to add Full Time Equivalents (FTE) to City staff if we can avoid it. We want to make these programs the responsibility of the new hauler and have it be their staff that does those things so we don't add to our FTEs and retiree medical liability to do this.

Council Member Kleinberg asked Mr. Roberts if it was correct to state that we are not going to be more aggressive in encouraging the other 50 percent of the businesses to recycle because we should wait for our contract business to take that responsibility in July 2009.

Mr. Roberts said yes in part. Mr. Reiserer reminded him of another piece as well that there is a logistical problem in getting everybody involved in getting them all carts and finding them all places to store those carts and bins in an area that the trucks access. There are implementation timeline needs, ordinance development, legal requirements, logistical issues and cost issues.

Council Member Kleinberg asked if during the interim we could partner with other organizations in the City such as Chamber of Commerce, CAADA and other business organizations and associations, while we are busy promoting Destination Palo Alto. She said there are creative ways that don't require a lot of staff time that could be partnerships. Regarding the issue of plastic bags and polystyrene, the SMART Station cannot process the plastic bags at the moment, and people cannot tell the difference between a biodegradable plastic bag and a non-biodegradable bag. Could staff research methodologies and systems that are used by other government organizations to deal with non-degradable materials such as polystyrene and Styrofoam and non-biodegradable plastic bags and put that into the

Operational Plan. On page 47 of the Zero Waste Advocacy Plan, it suggests not getting rid of plastic bags but having a levy on packaging materials that included plastic bags.

Mr. Roberts said there are a couple of different types of sources that need to be understood. Even if those materials are banned here in Palo Alto, they will still occur in our waste stream and in residents' refuse. Polystyrene packaging comes through UPS in things that are purchased. That's why we continue to suggest they be collected at the curb and recycled. The alternative will be to have it go into the waste stream. That's why a second level of a levy is also considered.

Council Member Kleinberg asked what the levy would be on.

Mr. Roberts said it is a fine or penalty for the use if that business continues to use the product.

Council Member Kleinberg said in other words, we would ban plastic and then there would be some kind of a fine if a business continued to use them.

Mr. Roberts said that is his recommendation. This was proposed originally as an alternative. Council might want to consider implementing the ban.

Council Member Kleinberg noted if she votes for this Plan tonight, is she voting for the "Guiding Principle" that, sooner rather than later, we may have staff help us consider a ban on non-biodegradable products made of plastics, Styrofoam, polystyrene etc.

Mr. Roberts stated the Plan is less specific in what Council is saying. It appears to be the majority opinion of what you would like us to do. If you were to vote for this Plan, in general, staff would come back and propose an alternative. If you want to be more specific and tell us to go develop a product ban, we will take that direction from among these alternatives.

Council Member Kleinberg stated it has to do with the use of parkland. She said she does not want to be voting for the use of parkland for recycling centers or anything else. That is a much larger conversation the Council ought to have with constituent input. Dedicated parkland is a non-renewable resource. She requested assurance that dedicated parkland would not be a possible site location for a relocated recycling center.

Mr. Roberts said he needed to answer this question very clearly and very specifically. There is nothing in this Plan that refers to any use of parkland. In fact, he believes there is a significant reference in the report to the opposite that was added at the discussion of the Task Force and at the initiative of former Council Member Renzel, who wanted to make sure it was

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clear in the Plan. At Council's direction you have given us another assignment to pursue the question of composting and left open that question. So, while your action tonight on this Plan clearly does not commit to any parkland, there is another process under way that has many alternatives regarding that potential issue.

Council Member Kleinberg asked whether under 4.3 of the Plan when there is language like "not on City parklands unless consistent with the Baylands Master Plan," doesn't necessarily say "not on City parklands." In other words, there is a loophole.

Mr. Roberts said that is because the Byxbee Park Master Plan and the Baylands Master Plan show a small site on Byxbee parkland for a potential future recycling center. That potential is consistent with the City's adopted Comprehensive Plan and park's Master Plans.

Council Member Mossar said the P&S Committee talked about this and it has come to us with their unanimous recommendation. This is a huge 50,000 foot view of what the roadmap looks like and there are so many policies and financial issues buried herein that we couldn't possibly approve any of them tonight and, even if we thought we were, we couldn't possibly tie the hands of next year's Council and the Council the year after that and so forth. This is a general roadmap and a great body of work. Best wishes to next year's Council and the Councils to follow in implementing the Plan. There is a lot of controversy and a lot of work to be done. What is important is that there is the will and the interest to pursue these issues and it is going to take a lot of work on the part of the Council and the staff and the community to get to this ultimate goal.

Council Member Morton said the community believes that environmental degradation is no longer tolerable and, if something is not recyclable, should we take steps to ban it. Staff has attempted not to tie anything down and will come back periodically with requests for direction. A Zero Waste Commission was established, which has done their best to provide as much information as possible. The decision tonight is not how to go forward.

Council Member Barton said he thought these policy topics are being referred back to staff for further evaluation. Some of them will come back as they look here and some will be modified. Some of them require policy changes and policy implementation.

Council Member Cordell stated if the Motion is approved, a follow up motion will be needed. Any action taken by a Council at the beginning of terms or the end often binds future councils. The motion basically approves a tiered approach that the P&S Committee would review. It is not clear whether staff is being directed to pursue and bring back to Council at some point a policies

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and regulatory requirement such as mandatory recycling. It is necessary to be somewhat specific in directions to staff.

Council Member Mossar said she would agree to include that particular direction in the Motion because it is the first tier, as well as to direct staff to come back with a list of programs with minor budgetary impacts.

**INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct staff to return to the Council with a list of programs with minor budgetary impacts recommended for immediate implementation.

Council Member Cordell also recommended mandatory recycling and product bans. Staff should be directed to start working on that even though it probably will not come back before several Council Members leave.

Council Member Mossar said it would be easy to say yes but it is a big question and she is not comfortable putting that in the Motion.

Council Member Cordell said that is her only concern so that staff does not waste its time studying some issue that is not approved by the Council.

Council Member Mossar said the recommendation includes policies such as mandatory recycling and product bans to give staff direction on whether to pursue such actions in conjunction with the start of a new collection contract in 2009. She noted her Motion includes the section "Recommendations down to Committee Review and Recommendations."

Vice Mayor Klein said he thinks that the Zero Waste Operational Plan is a fascinating document; a terrific job by citizens but it deserves to be reviewed by Council recommendation by recommendation. He stated he is in favor in concept of the plan and to direct staff to begin identifying costs and funding mechanisms for specified programs. There needs to be a mechanism where Council goes through the Zero Waste Operational Plan in the same way we go through a budget. It is essential to be careful as to what is being approved. He recommended that staff come back with an analysis to lead Council through everything in the Operational Plan.

**SUBSTITUTE MOTION:** Vice Mayor Klein moved, seconded by Kishimoto, to approve the general direction of the Zero Waste Operational Plan and to direct staff to: provide Council with a list of the recommended programs that would have minor budgetary impact; begin identifying costs and funding mechanisms of the various recommendations of the Plan and identify costs and critique specified programs to include in the Request for Proposals (RFP) for the waste hauling contract. Council would provide guidance to the staff that they are: in favor of mandatory product bans; the regional facilities

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approach in the RFP for new collection services with the possible exception of the relocation of the Recycling Center as well as the Hazardous Facility and to remove any size reference of the program.

Mayor Kishimoto said a timeline is not being set tonight by asking staff to come back with recommendations of what is feasible. Regarding the regional facilities for the recycling and household hazardous waste, justification for the 2.2 acres needs to be made.

Mr. Roberts replied removing a reference to a specific size of any particular nature is fine. Staff will return to Council with specifics to justify what is needed.

Mayor Kishimoto said the current drop-off site is less than half an acre.

Mr. Roberts said the issue of the temporary location of the recycling center is not part of this Plan. This Plan is a process for studying where the permanent location should be after that time limit that you suggest for a temporary location would expire.

Mayor Kishimoto said she understood there would be a temporary and a permanent location. She asked whether it would be made clear to the P&TC that it was only a vague conceptual approval at the Council level during the budget process.

Mr. Roberts said he believed the Chair of the P&TC understood that.

Vice Mayor Klein said he did not feel this discussion was appropriate for Council to be doing since it is not on the agenda. He did not like the idea of advising the P&TC what they should recommend.

Mayor Kishimoto said it was an interpretation of what the Council has approved.

Council Member Drekmeier stated the Plan is an amazing document and when covering this much material can be very challenging. However, this is one of the most exciting things that we are doing in Palo Alto. This is an opportunity to be leaders beyond what we have been in the past. He noted he also had a similar question to Council Member Morton's and asked Vice Mayor Klein to explain the difference between the Substitute Motion and the Original Motion.

Vice Mayor Klein said he thinks his motion differs in a variety of ways from the staff recommendation. He stated he believes the Council needs to go through the plan item by item. Either the Plan is approved or not. If you

approve it then you don't have the further discussion. The Substitute Motion takes a more discreet approach rather than a broad sweeping approach.

Council Member Mossar said the argument is about semantics even though everything being discussed is important. She noted she is uncomfortable with the Substitute Motion because although she may personally approve of product bans and mandatory recycling she has been on the Council when mandatory actions were taken and it was disastrous. Staff will pursue mandatory recycling and product bans but it will be put it through a public process to get public buy-in. This City has been an environmental leader on a number of issues and we have led the region in water quality. This has been done by cooperative programs with the various polluters. The City of Palo Alto did that and we did not do it by mandatory programs. The public must be involved in the conversation. There are the top 10 waste prevention priorities for the City. Development of this Plan was not private but the individual policies have not been vetted in a public session.

Council Member Beecham said he agrees with a lot of Council Member Mossar's comments but believes there needs to be a strategic plan on how we spend the people's money in order to get the biggest bang for the buck. This is not it. It is a good Plan and may be a good way to start but without that overall plan limited resources will be misspent.

Mayor Kishimoto said there is one more speaker and then the public hearing would be closed.

Stephanie Munoz, 101 Alma, said she would like to suggest that Council direct staff to write to the municipalities and the county directors in the three Westbay counties saying Palo Alto has received significant testimony urging us to ban Styrofoam food containers. I would like to see you put the ban for the Styrofoam food containers on the agenda as soon as legally possible. Susan Arpan should tell all the businesses on University Avenue and California Avenue to join the curbside program and put the papers out in a box, bag or a plastic container out on the curbside.

Council Member Kleinberg said she was feeling that if she votes in favor of this she is voting for it in principle because there is so much detail and this is a wonderful document. It is a remarkable leap forward for the kinds of things that we really care about and is something a previous group did direct staff to work towards. We are not voting for ordinances tonight. Section 7.0, Recommendations and Action Plan, the very first policy recommended is to make waste prevention the number one priority. She is voting for the principle, the ideas, the guidance it is giving staff and the understanding that staff will return with some hard nosed ideas presented to study and adopt. She stated she would support the original Motion to adopt in principle the Zero Waste Operation Plan and the rest of the recommendations.

Council Member Morton said he would vote for the original Motion as well.

Vice Mayor Klein said he has tried to be specific in the Substitute Motion by saying the general approach is being approved in principle. As for the comment that Council Member Mossar made about mandatory programs, we are not adopting any specific programs.

Council Member Cordell said she would support the Substitute Motion because she believes it is imperative direction be given to staff and the original motion does not do that. For the benefit of staff, if nothing else, the substitute motion is important.

**SUBSTITUTE MOTION PASSED:** 5-4, Barton, Beecham, Morton, Mossar no.

Assistant City Manager Emily Harrison clarified the assignments do not have to be completed before discussions begin about the new waste hauling contract because staff will return and will have detail of the elements to the Zero Waste in the refuse hauling contract.

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

Council Member Morton noted as liaison to the 2009 Senior Games, he attended the first meeting of the major sponsors of the Games and their visit to the Stanford facilities.

Mayor Kishimoto noted she attended the Sundance Mayor's Summit on climate Protection. The conference was sponsored by the International Consortium of Landscape and Ecological Engineering (ICLEE).

Mayor Kishimoto reminded her colleagues there would be a Brown Bag meeting on September 26, 2007 at 4 p.m. in the Council Chambers regarding Financing Options for Green Initiatives for Individual Homeowners, Businesses and Government. She noted on Saturday, September 15, 2007, a Golden Spike Ceremony was held regarding the creation of a trail tying Foothill Park with Los Trancos from the Bay to the Ridge and thanked Council Members Mossar and Kleinberg for their work on the negotiations on the Bressler Property. Mayor Kishimoto requested an update from the City Manager on the Valley Transit Authority (VTA) shuttle.

Assistant City Manager Harrison stated a kick-off meeting was scheduled for September 25, 2007; the VTA and the City Community Bus Study, which included Stanford, the Marguerite, the Palo Alto Unified School District (PAUSD) PTA, and the Neighborhood Associations. Two community meeting

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workshops would be scheduled; the first meeting for community input had not been scheduled; the second meeting with the draft service proposal was scheduled for November 14, 2007 and would be with the Planning and Transportation Commission. The final plan would go to the VTA Planning Operations Committee in December 2007 with the VTA Board of Directors receiving the plan in January 2008.

Mayor Kishimoto noted she and Supervisor Liz Kniss were working on the Palo Alto Walks and Rolls campaign to be held the first week of October 2007. A community bike ride was scheduled on October 6, 2007.

ADJOURNMENT: The meeting adjourned at 9.45 p.m.

ATTEST:

APPROVED:

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City Clerk

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Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.