

Special Meeting
August 3, 2009

CLOSED SESSION	113
1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION.....	113
2. CONFERENCE WITH LABOR NEGOTIATOR.....	114
SPECIAL ORDERS OF THE DAY	114
3. Proclamation for National Night Out 2009.....	114
4. Presentation of the Circle of Excellence Award by the Association of Government Accountants (AGA) to the City of Palo Alto for the City Auditor's 7 th Annual Service Efforts and Accomplishments (SEA) Report	114
CITY MANAGER COMMENTS.....	115
ORAL COMMUNICATIONS	115
CONSENT CALENDAR.....	116
5. Designation of Voting Delegate and Alternate for 2009 League Conference	117
6. Direction to City Clerk to Use the Secretary of States' Randomized Alphabet Drawing for the Order of Candidates' Names on the Ballot	117
7. Approval of a Utilities Electric Fund Contract with West Valley Construction in the Amount of \$3,193,143 for Trenching and Installation of Utility Substructure for Underground Utility District No. 45, and for Rebuilding of Underground Districts 17, 19, & 24 (Capital Improvement Program Projects – EL-06002, EL-09003, EL-11008, and EL-10006), and Approval of Addendum No. 1 to the Agreement for Joint Participation in the Installation of the Underground Facilities System Between the City of Palo Alto, AT&T and Comcast Corporation of California IX, Inc	117

8. Approval of a Utilities Enterprise Fund Contract with Casey Construction, Inc. in the Total Amount of \$652,066 for the 2009-2010 Utility Trench and Substructure Installation Throughout the City..... 117
9. Resolution 8971 entitled "Resolution of the Council of the City of Palo Alto Approving the Ameresco Johnson Canyon Landfill Gas Renewable Energy Power Purchase Agreement for the Acquisition of Up to Two Average Megawatts of Energy Over Twenty Years at an Estimated Cost Not to Exceed \$30 Million."..... 117
10. Appointment of Lalo Perez as City Manager Pro Tem for the September 14, 2009 City Council Meeting 117
11. Adoption of a Park Improvement Ordinance for the Renovation of Lytton Plaza – Capital Improvement Program Project PE-08004; Approve an Agreement with the Friends Of Lytton Plaza, L.L.C., for the Design, Construction and Installation of Park Facilities and Other Improvements at Lytton Plaza; and Ordinance 5048 Amending the Budget for Fiscal Year 2010 to Accept Donations and to Provide an Additional Appropriation in the Amount of \$348,800 and Accept a Donation in the Same Amount From the Friends of Lytton Plaza, L.L.C., and to Allocate an Additional \$50,000 From the Infrastructure Reserve for the City's Contribution (Not to Exceed \$400,000) to Capital Improvement Program Project PE-08004 118
- ~~12. Finance Committee Recommendation to Direct Staff to Re-examine the Electric Power Acquisition and Energy Efficiency Policies and Plans 118~~
- ~~13. Approval of transfer of \$70,000 from Council Contingency to Fund High Speed Rail Informational Symposium, Design Workshop, and Technical Consulting Services related to City review of the San Francisco to San Jose High Speed Train (HST) Project EIR..... 118~~
14. Approval of Recommendation to Direct Staff to Design a Third-Party City of Palo Alto Utilities Department Zero-Interest Energy Efficiency Loan Program for Small Commercial Customers 118
15. Approval of a New Contract with the Independent Police Auditor, OIR (Office of Independent Review) for Up to Three Years in an Amount Not to Exceed \$27,500 Per Year and Approval of \$1,500 from the Council Contingency..... 118
16. Resolution 8972 entitled "Resolution of the Council of the City of Palo Alto Amending Resolution No. 8904 to Change the City Council

Vacation Schedule for Calendar Year 2009 to End on September 7, 2009."	118
16A. (Former No. 13.) Approval of transfer of \$70,000 from Council Contingency to Fund High Speed Rail Informational Symposium, Design Workshop, and Technical Consulting Services related to City review of the San Francisco to San Jose High Speed Train (HST) Project EIR.....	118
PUBLIC HEARINGS	120
17. Public Hearing to Confirm Weed Abatement Report and Adoption of Resolution 8973 entitled "Resolution of the Council of the City of Palo Alto Confirming Weed Abatement Report and Ordering Cost of Abatement to be a Special Assessment on the Respective Properties Described Therein."	120
REPORTS OF OFFICIALS.....	121
18. Budget Amendment Ordinance 5049 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2010 to Provide Additional Appropriations of \$688,038 for Retiree Medical Expenditures as Updated with the Retiree Medical Actuarial Study Completed 2009."	121
19. Adoption of a Resolution Amending Green Building Standards for Compliance, Tables A & B for Non-Residential and Residential Projects, and Review of Report on Implementation of the City's Green Building Ordinance	125
20. Resolution 8974 entitled "Resolution of the Council of the City of Palo Alto Amending the Structure of the Palo Alto/Stanford Citizen Corps Council and Establishing the Citizen Corps Council as a Member of the Palo Alto Emergency Services Council."	125
21. Acceptance of City Manager's Responses to Independent Police Auditor's Systemic Recommendations Regarding the Children's Theatre Criminal Investigation.....	127
22. Resolution 8975 entitled "Resolution of the Council of the City of Palo Alto Approving Amendment One to the Northern California Power Agency Third Phase Agreement for Western GeoPower Incorporated Renewable Energy Power Purchase Agreement for the Acquisition of up to Seven Average Megawatts of Energy over Twenty Years at an Estimated Cost Not to Exceed \$128 Million."	128

22A. (Former No. 12) Finance Committee Recommendation to Direct Staff to Re-examine the Electric Power Acquisition and Energy Efficiency Policies and Plans.....	131
23. Approval of Changes to the Compliance Procedures for Private Intrusion Alarms.	131
COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES	132
ADJOURNMENT: The meeting was adjourned in memory of John Barton Sr. at 12:45 a.m.....	132

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 p.m.

Present: Burt, Drekmeier, Espinosa, Klein, Morton, Schmid, Yeh arrived @ 6:25 p.m.

Absent: Barton, Kishimoto

CLOSED SESSION

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Clerk Donna Grider

Authority: Government Code Section 54957

2. CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Sandra Blanch, Darrell Murray, Marcie Scott, Joe Saccio)
Employee Organization: Local 521 Service Employees International Union
Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Sandra Blanch, Darrell Murray, Joe Saccio, Marcie Scott)
Employee Organization: Unrepresented Employee Group Management and Professional Personnel and Council Appointees
Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Sandra Blanch, Darrell Murray, Marcie Scott, Joe Saccio)
Employee Organization: Palo Alto Peace Officers' Association
Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Sandra Blanch, Darrell Murray, Joe Saccio, Marcie Scott)
Employee Organization: Local 1319, International Association of Fire Fighters and Professional Personnel and Council Appointees
Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray, Marcie Scott, Joe Saccio)

Employee Organization: Palo Alto Fire Chiefs' Association

Authority: Government Code Section 54957.6(a)

Greg Shulz, SEIU spoke regarding the proposed short-term and long-term temporary solutions for budget savings with regard to the employees.

Lynn Krug, SEIU spoke regarding the options to reduce the budget offered to the City Manager including work furloughs and reductions in education reimbursement.

Nick Steinmeier, SEIU spoke regarding the unwillingness of the City to open other options in the negotiations with the union. He stated the union and City had worked together in the past and would like to continue to do so.

Lydia Wallace-Pounds, SEIU spoke regarding all of the functions and services the employees provide to the City Staff and the community.

Council returned from the Closed Sessions at 8:55 p.m.

Mayor Drekmeier advised no reportable action taken.

SPECIAL ORDERS OF THE DAY

3. Proclamation for National Night Out 2009.

Council Member Schmid read the Proclamation for National Out in support for their 26th annual event.

Interim Police Chief Dennis Burns expressed appreciation to the Council and Mayor for the Proclamation and their continued support for the National Night Out event.

4. Presentation of the Circle of Excellence Award by the Association of Government Accountants (AGA) to the City of Palo Alto for the City Auditor's 7th Annual Service Efforts and Accomplishments (SEA) Report.

Alex Guiang, AGA Regional Vice President of California, explained who AGA was and their function as it applied to the City.

Jerry Gandara, Immediate AGA Past Regional Vice President of California, stated the City SEA report had received the National SEA Award for the 5th consecutive year and was the 1st entity in the Nation to receive the Circle of Excellence Crystal Award.

City Auditor, Lynda Brouchoud expressed her appreciation to AGA for presenting the award and felt honored in being the first city designated with the AGA Circle of Excellence.

Vice Mayor Morton thanked the City Auditor and her Staff for their continued accomplishments.

Council Member Yeh stated the City had set a high standard of quality for other municipalities to follow.

CITY MANAGER COMMENTS

City Manager, James Keene stated the gas main replacement project was close to completion and throughout the remainder of the project the Utilities Department would be checking in with the businesses along El Camino. He stated the Utilities Department was beginning with a portion of the water main replacement utilizing a boring method that decreased damage to the streets. He stated the Art Center had been awarded the highly prestigious Institute of Museum and Library Services Grant of \$150,000 to support the on-the-road program. He noted the GreenWaste hauler would maintain the backyard service for a nominal fee.

Mayor Drekmeier announced that he had appointed Council Member Klein, Council Member Schmid, Vice Mayor Morton and himself to write the ballot arguments for the Business License Tax. He noted his condolences were sent to Council Member Barton for the loss of his father.

ORAL COMMUNICATIONS

Anne Cribbs, 2450 Aques, gave a brief update on the 2009 Senior Games. She stated the Games were going well and the athletes who had arrived were pleased with the facilities, and amenities provided them.

Dr. Leonard C. Beckum, stated the Pacific Graduate School of Psychology has become Palo Alto University.

Adolfo Riedel, SEIU representative, spoke regarding the negotiations between the City and the employees.

Peggy Quillman spoke regarding the negative effects of the negotiations on the employees.

Aaron Miller spoke regarding the negotiations and the affects they are having on the employees.

Stuart Steinhardt spoke regarding the request for employees to take a pay-cut.

John K. Abraham, 736 Ellsworth Place, spoke regarding the demographic data presented to Council. He stated the basic issue of demographic data was a study of population groups, which was missing from the information presented.

Andrew Jentzsch spoke regarding retired CalFire Director Ruben Grijalva.

Fred Balin, 2385 Columbia Street, spoke regarding the applicant and application process for the JJ&F block.

Annette Puskarich, Kendall Avenue, spoke regarding alternate ways of savings in an effort to not reduce employee pay.

Aram James spoke regarding the vetting of candidates for the Police Chief position.

Gail Noble, East Palo Alto, spoke regarding the Police Chief candidates.

Mark Petersen-Perez spoke regarding redressing the grievance with the City Attorney.

CONSENT CALENDAR

MOTION: Vice Mayor Morton moved, seconded by Council Member Schmid to pull Agenda Item No. 13 from the Consent Calendar to become Agenda Item No. 16A.

Council Member Klein asked whether Item No. 11 required an Environmental Impact Report (EIR) or equivalent.

City Attorney, Gary Baum stated there was an exemption for maintenance of existing facilities for the nature of the improvements being performed.

MOTION: Council Member Schmid moved, seconded by Council Member Yeh to pull Agenda Item No. 12 from the Consent Calendar to become Agenda Item No. 22A.

Leland Levy, Friends of Lytton Plaza, 690 Greer Road, spoke regarding Agenda Item No. 11 the recognition of those who had been instrumental in moving the Lytton Plaza project forward.

Herb Borock, P.O. Box 632, requested Agenda Item No. 15 the Independent Police Auditor contract be removed from the Consent calendar and brought to Policy & Services Committee for review.

MOTION: Vice Mayor Morton moved, seconded by Council Member Espinosa to approve Agenda Item Nos. 5-11 and 14-16.

5. Designation of Voting Delegate and Alternate for 2009 League Conference.
6. Direction to City Clerk to Use the Secretary of States' Randomized Alphabet Drawing for the Order of Candidates' Names on the Ballot.
7. Approval of a Utilities Electric Fund Contract with West Valley Construction in the Amount of \$3,193,143 for Trenching and Installation of Utility Substructure for Underground Utility District No. 45, and for Rebuilding of Underground Districts 17, 19, & 24 (Capital Improvement Program Projects – EL-06002, EL-09003, EL-11008, and EL-10006), and Approval of Addendum No. 1 to the Agreement for Joint Participation in the Installation of the Underground Facilities System Between the City of Palo Alto, AT&T and Comcast Corporation of California IX, Inc.
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10. Appointment of Lalo Perez as City Manager Pro Tem for the September 14, 2009 City Council Meeting.

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14. Approval of Recommendation to Direct Staff to Design a Third-Party City of Palo Alto Utilities Department Zero-Interest Energy Efficiency Loan Program for Small Commercial Customers.
15. Approval of a New Contract with the Independent Police Auditor, OIR (Office of Independent Review) for Up to Three Years in an Amount Not to Exceed \$27,500 Per Year and Approval of \$1,500 from the Council Contingency.
16. Resolution 8972 entitled "Resolution of the Council of the City of Palo Alto Amending Resolution No. 8904 to Change the City Council Vacation Schedule for Calendar Year 2009 to End on September 7, 2009."

MOTION PASSED: 7-0 Barton, Kishimoto absent

- 16A. (Former No. 13.) Approval of transfer of \$70,000 from Council Contingency to Fund High Speed Rail Informational Symposium, Design Workshop, and Technical Consulting Services related to City review of the San Francisco to San Jose High Speed Train (HST) Project EIR.

Vice Mayor Morton asked whether CalTrain had offered to offset the costs and would the City budget expenditures and receipts at the same time.

Deputy City Manager, Steve Emslie stated yes, CalTrain had indicated an interest in sharing the costs in an attempt to satisfy their outreach effort.

Vice Mayor Morton clarified CalTrain may not cover the costs at 100 percent, but the City was hopeful their participation would benefit close to fifty percent.

Mr. Emslie stated that was correct.

Vice Mayor Morton asked whether the outside expert was expected to assist Staff to document, define, quantify physical impacts, right-of-way, and noise concerns. He asked what it was that was envisioned from the outside experts and whether Council would receive input.

Mr. Emslie stated Staff recommended moving forward with the requested budget amount. He stated CalTrain would be presenting the draft alternative analysis and Staff wanted to have professional oversight throughout the next steps to provide third party peer analysis.

Vice Mayor Morton stated there were questions of ridership, the expected economics, subsidies, and ultimately the question of undergrounding.

Council Member Schmid asked who would attend the design workshop, and was it open to the public.

Mr. Emslie stated it was opened to the public.

Council Member Schmid asked whether there would be a public forum for questions prior to the consultant being hired.

Mr. Emslie stated yes, although the direction of the forum could be formal as in a hearing or simple as in public outreach. He stated Staff was in constant communication with the community.

Council Member Schmid asked whether Council would have input.

Mr. Emslie stated yes.

MOTION: Vice Mayor Morton moved, seconded by Council Member Schmid to approve the transfer from Council Contingency in the amount of \$70,000 to fund activities related to the Staff and Council High Speed Rail Ad Hoc

Committee review of the San Francisco to San Jose High Speed Train Project EIR.

MOTION PASSED: 7-0 Barton, Kishimoto absent

Council Member Espinosa stated as a point of clarification on Agenda Item No. 5 that he attending the league conference and would be able to be the city's voting delegate.

Mayor Drekmeier stated Council Member Burt would also be in attendance and would be a voting alternate.

PUBLIC HEARINGS

17. Public Hearing to Confirm Weed Abatement Report and Adoption of Resolution 8973 entitled "Resolution of the Council of the City of Palo Alto Confirming Weed Abatement Report and Ordering Cost of Abatement to be a Special Assessment on the Respective Properties Described Therein."

Mayor Drekmeier asked whether the City Clerk had received any written objections to the weed abatement.

City Clerk, Donna Grider stated no.

Public hearing opened at 10:13 p.m.

Greg Van Wassenhove, Director of Agriculture and Environmental Management, 3838 LaDonna Avenue, stated there were thirty-five parcels in Palo Alto which the County monitored for fire hazardous weed conditions. This fire season, the County abated eight parcels at a seventy-seven percent compliance rate which was consistent with other jurisdictions in the County program. He stated this year the Board of Supervisors authorized a fee for parcels failing to abate weeds by the deadlines established. He stated two parcels received County courtesy notices in Palo Alto. He asked the Council to consider one parcel reduction due to a County clerical adjustment.

Public hearing closed at 10:15 p.m.

MOTION: Council Member Klein moved, seconded by Council Member Espinosa to adopt the Resolution confirming the report and ordering abatement costs be a special assessment on the properties specified in the report with one reduction to APN Number 124-32-008 from \$684.20 to \$298.00.

MOTION PASSED: 7-0 Barton, Kishimoto absent

REPORTS OF OFFICIALS

18. Budget Amendment Ordinance 5049 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2010 to Provide Additional Appropriations of \$688,038 for Retiree Medical Expenditures as Updated with the Retiree Medical Actuarial Study Completed 2009."

Assistant Director of Administrative Services, David Ramberg reviewed background information on Retiree Medical Expenditures. He stated the review covered the Government Accounting Standard Board statement number forty-five (GASBY45), the trust fund for retiree medical, the updated 2009 actuarial study, and the variance from the previous study.

Accounting Manager, Trudy Eikenberry gave a brief presentation comparing the actuarial study of 2009 with the previous study of 2007. She discussed the total liability by Fund including the variance by dollar amount and percent. She stated the General Fund had a variance of 17.6 million from the prior actuarial or an increase of twenty-four percent; the Enterprise Fund had a increase of 8.4 million or thirty-four percent; all other Funds had an increase of 1.5 million or thirty-nine percent. She stated there was an annual required contribution including the dollar variance and percentage change.

City Manager, James Keene stated there were community concerns regarding the adjustments to the Funds. He clarified one concern was whether the General Fund was subsidizing the other Funds; which the answer was no.

Ms. Eikenberry stated the total liability increased by 27.5 million due to the increase costs of benefit accrual, the change of employee demographics, and the change in medical premiums.

Mr. Keene stated the number of retirees listed was as of January 2009 so the numbers currently being reviewed did not include the recent surge of retirees.

Mr. Ramberg stated over the past five years there had been steps taken to reduce the medical costs; there was a two tiered retiree medical benefit plan, and medical costs going forward from 2007 for all new retirees would be on a lower cost medical plan.

Mr. Keene stated if the increased costs were paid by drawing down the California Employers Retirees Benefit Trust (CERBT) it would increase our future liability.

Council Member Klein asked for the amount of savings from the vacant positions.

Mr. Ramberg stated he was unsure of the number at the present time.

Council Member Klein asked when the numbers would be expected.

Mr. Ramberg stated Staff could return with savings around the December timeframe.

Council Member Espinosa asked how the forecasting would be calculated in the future in order to come up with more accurate numbers.

Mr. Ramberg stated the PERS system used an actuarial assumption across the board, which would not be changing; the future retiree numbers being input into the system will be changed to 115 retirees in 2009.

Council Member Espinosa asked whether the retiree spike was sustained or whether Staff felt the spike was over.

Mr. Ramberg stated Staff could revisit with the actuarial contact and reinforce what was viewed as a large swing and see if there were steps that should be taken.

Council Member Schmid stated the City was overestimating the short term future liabilities in early retirement, and the 7.75 percent rate of return assumption. He stated concerns with funding the shortfall from the General Fund.

Mr. Ramberg stated Staff planned to return to Council towards the end of the year with solution of how to return the funds.

Council Member Schmid stated if funds were drawn on CERBT plan assets is increased liability.

Mr. Keene stated drawing on the plan assets would be the default position in the absence of any other funds.

Mr. Ramberg stated the 7.75 percent rate of return assumption was the rate built into the CERBT for long-term planning.

Council Member Burt asked whether the presentation being presented to Council was being presented to the Unions during negotiations. He stated it would give a better understanding of the budget.

Mr. Keene stated with Council direction the document would be shared with the Unions, however; the general approach was to share the state of the city as widely as possible.

Vice Mayor Morton asked for clarification on the pre-paid assets on the balance sheet.

Ms. Eikenberry stated when the Annual Required Contribution (ARC) was overfunded, it was considered a net Other Post Employee Benefit (OPEB) asset which was on the balance sheet whereas when the ARC was underfunded, it was considered a net OPEB liability. She stated when the funds were utilized from the CERBT for an ARC it lowered the net OPEB asset.

Vice Mayor Morton asked when the overfunding occurred.

Ms. Eikenberry stated in the first year there was five million put in and the ARC was nine million.

Vice Mayor Morton stated the ARC was booked as a liability and a net asset, the same Fund could not be used for both.

Ms. Eikenberry stated GASBY45 and the CERBT rules were separate, the only portion shown for the CERBT was the annual required expense. When the CERBT was funded, the cash was removed and shown as an offset to the net OPEB assets.

Council Member Yeh asked whether the City was precluded from issuing any debt to fund the liability with regard to the CalPERS debt.

Ms. Eikenberry stated if the City determined to stop the use of the CERBT, the funds would remain in the irrevocable Trust. The funds would be available to us for retiree medical. She stated the option was available to issue debt or open a trust with another party.

Council Member Yeh asked whether debt revenue could be used to fund the CERBT.

Deputy Director of Administrative Services, Joe Saccio stated issuing debt was not a stable scenario.

Council Member Yeh asked to review the other available models to determine how the savings would figure in.

Mr. Saccio stated Staff could complete an analysis on other models and return to Council with the findings.

Council Member Yeh asked how the Federal policy discussion on healthcare impacted the local jurisdictions.

Mr. Keene stated Staff would research information and return to Council with the requested information.

Council Member Yeh stated the Council could be active in trying to drive legislative positions that would be beneficial for local governments. Hopefully Palo Alto was in a good position to have an impact on the legislative front as it related to medical and healthcare.

Council Member Klein following up on the issue of the spike in retirees. If the retirement continued into next year, obviously there would be a significantly reduced pool of eligible retirees in years three and four and would the actuary then reduce the assumption from below fifty-five.

Mr. Ramberg stated Staff needed to check-in with the actuarial.

Council Member Klein stated when the program was initially adopted Council was told Palo Alto was one of the few cities in America who were really funding the liability for GASBY45. He asked what percent of other cities were funding the liability.

Ms. Eikenberry stated there were 166 agencies participating with CERBT through CalPERS who had set-up a Trust. She stated the CERBT Auditor felt Palo Alto was still ahead of most cities, especially in the current economic climate.

MOTION: Vice Mayor Morton moved, seconded by Council Member Klein to adopt the Budget Amendment Ordinance (BAO) to allocate the increase in retiree medical costs to all City funds except the General Fund.

MOTION PASSED: 7-0 Barton, Kishimoto absent

19. Adoption of a Resolution Amending Green Building Standards for Compliance, Tables A & B for Non-Residential and Residential Projects, and Review of Report on Implementation of the City's Green Building Ordinance.

MOTION: Council Member Klein moved, seconded by Council Member Burt to continue Agenda Item No. 19 to a date uncertain.

MOTION PASSED: 4-3 Drekmeier, Espinosa, Morton no, Barton, Kishimoto absent

20. Resolution 8974 entitled "Resolution of the Council of the City of Palo Alto Amending the Structure of the Palo Alto/Stanford Citizen Corps Council and Establishing the Citizen Corps Council as a Member of the Palo Alto Emergency Services Council."

Officer Ken Dueker gave a brief background on the function of the Citizen Corps Council and requested the existing Corps Council be formally linked as a Member of the Palo Alto Emergency Services Council.

Annette Glanckoff, 2747 Bryant Street, stated the Citizens Corps Council was the vision of best practices which would be able to discover duplicate efforts, and the areas which had yet to be taken care of in preparation for an emergency.

Robert Moss, 4010 Orme Street, stated there were important details omitted from the function of the Corps. There were neighboring cities not included, the business section needed to have more than one representative, Stanford Industrial Park had no representation, and special needs groups required more than one representative. He stated there were no goals, schedules, or designated interaction between the organizations.

MOTION: Vice Mayor Morton moved, seconded by Council Member Espinosa to adopt the Resolution amending the structure of the Palo Alto/Stanford Citizen Corps Council and establishing the Citizen Corps Council as a member of the Palo Alto Emergency Services Committee.

Mayor Drekmeier stated Staff had recommended there be a Liaison to the group.

City Attorney, Gary Baum stated there could be a liaison on an informal basis.

Mayor Drekmeier asked whether Council appointed the liaison.

Mr. Baum stated if Council wanted the group to be a Brown Act Committee then Council would appoint a formal representative, if not, then the appointment would be done on an informal basis.

Council Member Espinosa stated concern with the lack of discussion for resource needs.

INCOPORPATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Citizen Corps Council community members from the Research Park, Stanford Shopping Center, and to divide special needs into youth groups/schools and senior citizens.

Council Member Burt suggested considering adding the Stanford Shopping Center, having two representatives for the business community; one from the Chamber of Commerce and one from another source, and consider a representative from the Stanford Research Park.

Council Member Klein stated the shopping center was an entity on its own and needed involvement from the land owner and store managers. He stated the research park was an entity on its own with hazardous materials and employees. He clarified the concept was not one of policy rather of planning ahead for an unfortunate event.

Council Member Burt stated each major sector of the emergency response needed to be represented; however, if there was a representative for each entity, the group would be too large to control.

Vice Mayor Morton stated there would be both a steering committee for voting and a general membership.

Council Member Yeh asked for clarification of the relationship and differences between the Emergency Services Council (ESC) and the Citizens Corps Council (CCC).

Mr. Duecker stated the ESC was a defined body under the Municipal Code and had specific statutory powers and obligations more to do with policy and planning rather than the creation of specific action plans. He stated the purpose of tying the ESC to the CCC was to enable the policy body to have human resources and other assets beyond the capability of Staff, and the general membership although not necessarily a voting body were considered a participating body.

Council Member Yeh asked whether the resources and their function would be coordinated through the ESC and returned to Council for review.

Mr. Duecker stated yes.

MOTION PASSED: 7-0 Barton, Kishimoto absent

21. Acceptance of City Manager's Responses to Independent Police Auditor's Systemic Recommendations Regarding the Children's Theatre Criminal Investigation.

City Manager, James Keene stated the report on the Children's Theatre received by the Independent Auditor had included eight specific systemic recommendations and references to administrative management settings and procedural changes. He stated a number of staffing and system changes at the theatre had been made over the past year. He noted there was a request received from the Friends of the Children's Theatre for reimbursement of legal fees; the matter had been discussed with the City Attorney and it was agreed there should be a Closed Session to discuss the matter.

Sylvia Sanders, 956 Varian Way, thanked the Council and City Manager for the investigation.

Jeremy Erman, Cowper Street, stated it saddened him that when facing a contentious issue as the Children's Theatre investigation the Council, City Manager and Police Chief and the Staff of the Children's Theatre were not able to sit together to discuss the issues.

Herb Borock, PO Box 632, spoke regarding the requested reimbursement of funds for the Children's Theatre defense fund. He stated the discussion was considered to be a Closed Session, although the public contributed to the defense fund and he felt they deserved to hear the discussion.

MOTION: Vice Mayor Morton moved, seconded by Council Member Klein to accept the City Manager's responses to the systemic recommendations presented by the Independent Police Auditor in his report regarding the Children's Theatre investigation.

Vice Mayor Morton stated although any investigation would be handled differently under different Police Chiefs, the Council's decision not to interfere would not have differed. He noted Council had been advised inference with the Police investigation would be considered councilmanic and they could be removed from office.

Council Member Burt stated there was frustration within the Council as well as the community for not being able to participate in the investigation; however, as a Council Member you approach items on a legal level not a personal one.

City Attorney, Gary Baum stated the functionality of the City was based on the City Charter and the California State law; the Police Department functioned independently, their attorney for the purpose of prosecution was the District Attorney, the Police Chief answered to the City Manager. The Council had the ability to direct and remove the City Manager but beyond that, the Council had little effect on a police investigation.

Council Member Burt noted Michael Lifton's family had not yet received a formal apology letter. He felt receiving the letter would be a meaningful action for the family.

Council Member Schmid stated the conclusion of the report noted the financial oversight had been lacking over the years and that was a Council function. He stated there was a Council obligation to review the City's oversight on financial matters.

Council Member Klein stated the system used in Palo Alto was installed as part of the good government movement in an effort to produce changes in the function of government officials.

MOTION PASSED: 7-0 Barton, Kishimoto absent

22. Resolution 8975 entitled "Resolution of the Council of the City of Palo Alto Approving Amendment One to the Northern California Power Agency Third Phase Agreement for Western GeoPower Incorporated Renewable Energy Power Purchase Agreement for the Acquisition of up to Seven Average Megawatts of Energy over Twenty Years at an Estimated Cost Not to Exceed \$128 Million."

Director of Utilities, Valerie Fong advised the Agreement had not been brought before the Finance Committee for a full review.

Senior Resource Originator, Tom Kabat gave a brief outline of the background of the pursuit of renewables, and the renewable portfolio standards. He stated the action requested was to accept the amended price increase.

MOTION: Vice Mayor Morton moved, seconded by Council Member Yeh to: 1) Adopt the Resolution authorizing the City Manager or his designee to execute Amendment One to the Northern California Power Agency (NCPA) Third Phase Agreement for Western GeoPower Incorporated (WGI) Renewable Energy Power Purchase Agreement, 2) Select a maximum participation of 30 percent, and 3) Waive the investment-grade credit rating requirement under Section 2.30.340(d) of the Palo Alto Municipal Code to this transaction.

Vice Mayor Morton stated the City had been fortunate with previous renewable resource agreements to actually not have to pay a major premium. He stated his support for the Staff recommendation.

Council Member Yeh stated this program diversified our renewable energy portfolio to the extent it was below investment grade and it was mitigated by the fact payment was only expected when energy was delivered.

Council Member Burt stated the recent past should not be a factor in predicting the future. He stated with the Utilities Advisory Commission (UAC) expansion there would be a better understanding of cost and benefit. He stated he supported the original Staff recommendation.

SUBSTITUTE MOTION: Council Member Burt moved, seconded by Council Member Schmid to adopt the original Staff recommendation dated December 17, 2007 of 14.95 percent participation of the project.

Council Member Burt stated he looked forward to a deeper analysis and reviewing the trends in making energy decisions. He stated there was not enough of a knowledge base to move forward with the prices being provided.

Council Member Schmid stated the total cost at the rate offered over ten years was 35,000 dollars and asked whether there were other places where those funds could be placed for a better return on investment.

Council Member Espinosa asked whether Staff had a response to the Substitute Motion.

Ms. Fong stated the Utilities Department agreed the market prices between the buy on the green generations had diverged quite a bit and there was a large difference. She stated on the State level there had been debate about publicly owned utilities not doing all they could in terms of the environment to move forward on renewable platforms. She stated there was inadequate

transmission depending on the location renewables being built to get the energy to the load centers.

Council Member Espinosa asked for a sense of whether the City would be reaching its goals in the years to come.

Mr. Kabat stated there were negotiations being conducted with enough providers to reach the goals; however, he estimated with the prices being presented it would likely go beyond the one-half cent rate impact.

Council Member Espinosa asked the number of years it would take to reach that goal.

Mr. Kabat stated the next goal being focused on was the single point of year 2012 in trying to get to thirty percent.

Vice Mayor Morton stated he did not support the Substitute Motion.

Council Member Yeh stated he did not support the Substitute Motion. He stated the Agreement provided a safety mechanism in the transfer of rights of participants; Palo Alto could sell its power to the other NCPA participants or to the full market if there were no interested participants.

Mr. Kabat stated since it was not financed with tax exempt funds the power could be sold to the full market.

Council Member Yeh stated there was flexibility in the Agreement, if for example the Agreement had a rate impact on Palo Alto there was the clause in the Agreement to access others who could purchase the power.

Council Member Schmid stated the question needing to be asked was if this was the best investment of funds or were there other alternatives which could get us further down the road in a more efficient and effective manner.

Council Member Burt stated he did not propose discontinuing with the Agreement, he was only suggesting not doubling the bet.

SUBSTITUTE MOTION FAILED: 4 - 3 Burt, Klein, Schmid yes, Barton, Kishimoto absent

MOTION PASSED: 5-2 Burt, Schmid no, Barton, Kishimoto absent

22A. (Former No. 12) Finance Committee Recommendation to Direct Staff to Re-examine the Electric Power Acquisition and Energy Efficiency Policies and Plans.

MOTION: Vice Mayor Morton moved, seconded by Council Member Yeh to continue Agenda Item No. 22a to a date uncertain.

SUBSTITUTE MOTION: Council Member Schmid moved, seconded by Council Member Espinosa to direct Staff to work with the Utilities Advisory Commission and report to the Finance Committee with a re-examination of the policies and goals that are being used in the alternate energy program, including the energy efficiency plans and the electric acquisition policies and plans.

SUBSTITUTE MOTION PASSED: 7-0 Barton, Kishimoto absent

MOTION: Vice Mayor Morton moved, seconded by Mayor Drekmeier to move Agenda Item No. 24 before Agenda Item No. 23 to become Agenda Item No. 22b.

MOTION PASSED: 6-1 Espinosa no, Barton, Kishimoto absent

22B. (Former No. 24) Approval of City Manager Performance Evaluation Criteria.

Sherry L. Lund Associates, Sherry Lund asked whether there were edits, comments or changes requested to the City Managers' performance evaluation criteria. She stated there were a number of changes from the 2008 evaluation which reflected the difference in management styles.

MOTION: Vice Mayor Morton moved, seconded by Council Member Schmid to approve the City Manager Performance Evaluation Criteria.

Council Member Espinosa stated he supported the Motion and extended his appreciation to Ms. Lund for a job well done.

MOTION PASSED: 7-0 Barton, Kishimoto absent

23. Approval of Changes to the Compliance Procedures for Private Intrusion Alarms.

MOTION: Council Member Burt moved, seconded by Vice Mayor Morton to continue Agenda Item No. 23 to a date uncertain.

MOTION PASSED: 5-2 Drekmeier, Espinosa no, Barton, Kishimoto absent

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

MOTION: Council Member Klein moved, seconded by Council Member Burt to direct Staff to agendize a discussion of how to prevent last minute submission of project materials for Council approval after the packet has been released.

MOTION PASSED: 7-0 Barton, Kishimoto absent

Vice Mayor Morton reported on attending the opening ceremony of the 2009 Senior Olympic Games.

ADJOURNMENT: The meeting was adjourned in memory of John Barton Sr. at 12:45 a.m.

ATTEST:

APPROVED:

City Clerk

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.