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June 23, 2008

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ADJOURNMENT: The meeting adjourned at 10:42 p.m. ....	273

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:10 p.m.

Present: Burt, Drekmeier, Espinosa, Kishimoto, Klein, Schmid, Yeh

Absent: Barton, Morton

#### CLOSED SESSION

1. Public Employment  
Title: City Auditor  
Authority: Government Code section 54957(b)
2. Public Employment  
Title: City Manager  
Authority: Government Code section 54957(b)
3. Conference with City Attorney-Potential/Anticipated Litigation  
Subject: Written claim for damages against the City of Palo Alto  
by Christine Dixon  
Authority: Government Code Sections 54956.9(b)(1) & (b)(3)(C)

Council reconvened from Closed Session at 8:11 p.m.

Mayor Klein advised no reportable action taken. He advised Closed Session Item Number 2 was adjourned until Tuesday, June 24, 2008 at 7:00 p.m.

#### SPECIAL ORDERS OF THE DAY

4. This Item Number Has Been Intentionally Left Blank
5. Resolution 8839 stating, "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Robert Brouchoud upon His Retirement"

Vice Mayor Drekmeier read the Resolution and Mayor Klein presented it to Robert Brouchoud.

**MOTION:** Mayor Klein moved, seconded by Vice Mayor Drekmeier to approve the Resolution for Robert Brouchoud

**MOTION PASSED:** 7-0 Barton, Morton absent

Robert Brouchoud spoke and thanked Council.

6. Resolution 8840 stating, "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Richard Dauler Upon His Retirement"

Council Member Espinosa read the Resolution and Mayor Klein presented it to Richard Dauler.

**MOTION:** Mayor Klein moved, seconded by Vice Mayor Drekmeier to approve the Resolution for Richard Dauler

**MOTION PASSED:** 7-0 Barton, Morton absent

Richard Dauler spoke and thanked Council.

7. Selection of Candidates to be Interviewed for the Historic Resources Board

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Espinosa to interview all four candidates for the Historic Resources Board.

Council Member Kishimoto asked for an explanation as to the number of vacancies.

Assistant City Clerk Beth Minor stated the four vacant positions had termed out on May 31, 2008.

**MOTION PASSED:** 7-0, Barton, Morton Absent

8. Selection of Candidates to be Interviewed for the Public Art Commission

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Yeh to interview all twelve candidates for the Public Art Commission.

Council Member Schmid recommended Council clarify the qualifications to be a Public Art Commissioner.

Council Member Espinosa stated he did not support the Motion.

**MOTION PASSED:** 5-2, Espinosa, Klein voting no, Barton, Morton absent

9. Selection of Candidates to be Interviewed for the Library Advisory Commission

**MOTION:** Mayor Klein moved, seconded by Council Member Espinosa to interview all candidates for the Library Advisory Commission.

**MOTION PASSED:** 7-0, Barton, Morton absent

ORAL COMMUNICATIONS

Lynn Power, 2254 Dartmouth, spoke regarding the ongoing College Terrace construction.

Bonnie Bernstein, 2114 Bellview Dr, spoke regarding City Termination Policy.

Andy Hayes, Cupertino, spoke regarding the Palo Alto Children's Theatre.

Betsy Fryberger, 2361 Middlefield Road, spoke regarding the Oregon Expressway "improvement project" and its impact on Palo Alto streets and neighborhoods.

Frances Mori, 712 Garland, spoke regarding the current state of Oregon Expressway.

Sherry Sedlak, 2151 Hanover Street #3, spoke regarding the College Terrace construction.

Nat Sterling, 4180 OakHill Avenue, spoke regarding Palo Alto Children's Theatre.

Robert Moss, 4010 Orme Street, spoke regarding auditing of the Friends Groups.

Ourry Schularfebord, 572 Seahorse Lane, Redwood City, spoke regarding the Palo Alto Children's Theatre.

Christopher Harris, 2115 #A Oberlin, spoke regarding the College Terrace construction.

Lisa Michael, 4215 Suzanne Drive, spoke regarding the Children's Theatre and the termination of Rich Curtis.

Ken Freiberg, 842 Clara Drive, spoke regarding Palo Alto Children's Theatre and Rich Curtis.

Marie Huang, 2293 Princeton Street, spoke regarding the Palo Alto Children's Theatre.

Nancy Ferguson, 721 Forest Street, spoke regarding the Palo Alto Children's Theatre.

Sylvia Sanders, 956 Varian Way, spoke regarding the Palo Alto Children's Theatre.

Ralph King, 10 Hawk View, Portola Valley, spoke regarding the Palo Alto Children's Theatre.

Susan Phillips Moskowitz, 1941 Tasso, spoke regarding the Palo Alto Children's Theatre.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Espinosa to approve the minutes of April 28 and May 12, 2008 as submitted, and May 05, 2008 with corrections.

**MOTION PASSED:** 7-0, Barton, Morton absent

#### CONSENT CALENDAR

**MOTION:** Mayor Klein moved, seconded by Council Member Espinosa to approve Consent Calendar Item Numbers 10-16.

Robert Moss, 4010 Orme Street, spoke regarding Item Number 12. He urged Council to hold AT&T to compliance.

Herb Borock, PO Box 632, Palo Alto spoke regarding Item Number 13. He asked for clarification on the tree removals at the library site.

**MOTION:** Council Member Burt moved, seconded by Council Member Schmid to remove Consent Calendar Item Number 13 to become Item Number 16A.

10. Approval of Renewal of Contract with Dell USA LP in the Amount Not to Exceed 210,550 dollars for One Year with the Option to Extend for Two Additional One Year Terms for the Microsoft Enterprise Agreement
11. Approval of Software Support Services Contract Renewal with Oracle Corporation in the Amount of 345,510 dollars (3 Years at 115,170 dollars Per Year)

12. Approval of the Amended and Restated Joint Exercise of Powers Agreement By and Between the City of Palo Alto, the City of Menlo Park, the City of East Palo Alto, the Town of Atherton, the County of San Mateo and the County of Santa Clara to Provide for a Cable Television and Video Franchise Administration and Enforcement Process Consistent with the California Digital Infrastructure and Video Competition Act
- ~~13. Adoption of a Resolution Authorizing Use of a Design-Build Project Delivery Method for Design and Construction of the Eleanor Pardee Park and Main Library/Community Gardens Wells as Part of the Emergency Water Supply Project WS-08002, and Approval of a Utilities Enterprise Fund Agreement with Siegfried Engineering, Inc. in a Not to Exceed Amount of 544,367 dollars for Pre-Design and Design-Build Procurement Services for the Eleanor Pardee Park and Main Library/Community Gardens Wells/Emergency Water Supply Wells Project WS-08002~~
14. Approval of a Professional Services Agreement with Geodesy in the Amount of 149,930 dollars Per Year Up to a Three-Year Term for Development Support of New Computer Applications Linked to the Geographic Information System (GIS)
15. Approval of a Contract with Clean Harbors Environmental Services in the Total Amount of 418,000 dollars Per Year for a Term of Up to Three Years for Household Hazardous Waste Management and Emergency Response Services
16. Finance Committee Recommendation to Adopt Resolution 8841 stating, "Resolution of the Council of the City of Palo Alto Amending Utility Rate Schedules EDF-1 and EDF-2 of the City of Palo Alto Utilities Rates and Charges Pertaining to Fiber Optic Rates"

**MOTION PASSED FOR ITEM NUMBERS 10-12, 14-16:** 7-0, Barton, Morton absent



- 16A. (former No. 13) Adoption of Resolution 8842 stating "Resolution of the Council of the City of Palo Alto Authorizing Use of a Design-Build Project Delivery Method for Design and Construction of the Eleanor Pardee Park and Main Library/Community Gardens Wells as Part of the Emergency Water Supply Project WS-08002, and Approval of a Utilities Enterprise Fund Agreement with Siegfried Engineering, Inc. in a Not to Exceed Amount of 544,367 dollars for Pre-Design and Design-Build Procurement Services for the Eleanor Pardee Park and Main Library/Community Gardens Wells/Emergency Water Supply Wells Project WS-08002.

Interim Deputy City Manager Kelly Morariu stated that since she was not aware that this agenda item would be removed from the Consent Calendar, the Utilities Department staff was not present to respond.

Council Member Burt asked why the tree removal area was so extensive.

Ms. Morariu stated the City Arborist stated these were non-native species and would be replaced by native species.

Council Member Burt asked whether the removal and replacement of the trees was linked to the well project.

Ms. Morariu stated she was unsure of the specific details and deferred to the Utilities Department staff.

**MOTION:** Council Member Burt moved, seconded by Council Member Kishimoto to accept Staff's recommendation to 1) adopt Resolution authorizing use of the design-build project delivery method for the design and construction of the Eleanor Pardee Park and Main Library/Community Gardens wells as part of the Emergency Water Supply Project WS-08002; and 2) approve and authorize the City Manager or designee to execute the Agreement with Sidgreied Engineering, Inc. in a not to exceed amount of 544,367 dollars for the Pre-Design and Design-Build Procurement Services for Eleanor Pardee Park and Main Library/Community Gardens Emergency Water Supply Wells, as part of the Emergency Water Supply Project WS-08002, which includes 453,639 dollars for basic services and 90,728 dollars for additional services. Furthermore to not remove the unprotected trees along the edge, (Figure 2-3) of the CMR, unless it was necessary for the well, with staff reporting back on July 7, 2008.

Interim Deputy City Manager Steve Emslie suggested approving the contract with the retention of the trees and amending the contract as necessary.

Council Member Kishimoto asked for staff to provide information on stone pine trees.

Vice Mayor Drekmeier clarified the Motion allowed the project to move forward and staff would return to Council with explanations as to why the trees were being removed prior to their removal.

Council Member Burt stated yes.

**MOTION PASSED:** 7-0, Barton, Morton absent

#### REPORTS OF OFFICIALS

17. Direction on Desired Service Level and Programs to Pursue and Review of Rate Impacts and Diversion Comparison Ranges for Baseline Services, Zero Waste Services and Other Service Innovations in the New Solid Waste, Recycling and Organics Services Agreement

Director of Public Works, Glenn Roberts stated the item would return to Council in July, August and September of 2008 with new contracts beginning July 1, 2009. He stated rates were high cost scenarios, subject to changes during the negotiation period for the three service scenarios.

Vice Mayor Drekmeier asked whether the organics pick-up for commercial included all commercial businesses.

Solid Waste Manager Russ Reiser stated the recommendation for commercial collection was food waste and compostable paper.

Vice Mayor Drekmeier asked where the food waste was sent to be composted.

Mr. Reiser stated he would return to Council in July with detailed locations.

Mr. Roberts added the locations were valid organics operation sites.

Vice Mayor Drekmeier asked about including anaerobic digesters.

Mr. Reiser stated anaerobic digestion was in the conceptual stage. He stated there were no current facilities in which to gather pertinent information.

Vice Mayor Drekmeier stated he preferred the process be located in a local facility.

Mr. Roberts stated there were ongoing preliminary long range discussions regarding the location with both Sunnyvale and San Jose.

Vice Mayor Drekmeier asked who paid for the construction and demolition (C&D) costs.

Mr. Roberts asked whether he was referring to the basic program or the bonus program under the innovations.

Vice Mayor Drekmeier thought there was a cost to C&D and a rate impact of 2.6 percent and asked who bore the increase.

Mr. Roberts stated it was borne through the charges which were incorporated into the C&D program through the permits, plans, and the necessary collection bins.

Vice Mayor Drekmeier asked whether the calculations included the cost increases and savings in rates schedules as shown in the Smart Station and Kirby Canyon Landfill.

Mr. Roberts stated yes.

Vice Mayor Drekmeier asked for clarification on the incentive programs for can size.

Mr. Reiser stated the mini cans were 20-gallon size and the mini service rate was less than the standard service rate.

Vice Mayor Drekmeier asked if 20-gallons was the smallest size available.

Mr. Reiser stated yes, at approximately 11 dollars per month.

Vice Mayor Drekmeier asked whether households could use smaller cans and pay less than 11 dollars per month.

Mr. Roberts stated not under the current rate structure. The rate structure will return to Council in late 2008 or early 2009. He stated the current issues pertained to hauler fees with staying in compliance with Proposition 18.

Mayor Klein emphasized the cost figures were maximum figures subject to downward negotiation.

Mr. Roberts agreed but cautioned although staff had used the worst case scenario, some costs could go up.

Council Member Espinosa requested more information regarding the recycling bank and residential recycling.

Mr. Roberts stated the community had already proven to be engaged and active in recycling.

Council Member Espinosa asked the consequence of Council choosing a non-staff recommended option as in the baseline with the second option.

Mr. Roberts stated Council gave policy direction in pursuing alternatives or not and dependent upon what Council decided, staff would pursue that option.

Council Member Espinosa stressed again the need for further information on the pros and cons and cost of the recommendation.

Council Member Yeh asked for more details on RFP scenario two, such as enhancing mandatory recycling and what enforcements that would entail. He also asked whether item 4 referred to residential recycling and item 6 referred to commercial recycling.

Mr. Roberts asked for clarification.

Council Member Yeh asked how recycling would be enhanced though mandatory participation.

Mr. Roberts stated the mandatory participation was a phased-in program beginning with education and outreach during the first year. The second year would deal with notifications and if necessary a third year of which an Ordinance would be put into place for a mandatory system (yet to be developed).

Mr. Reiser added scenario two came from the Zero Waste operational plan, with programs looking at waste composition studies. He stated the purpose of mandating the recycling program was due to recyclables still being found in the waste stream.

Council Member Yeh asked whether customers had the option to opt out of a service level. He asked whether this practice was common in other jurisdictions.

Mr. Roberts stated it depended on the definition of level of service. He stated the number and size of cans and the type of refuse was included in the service options. However, if it was a question of recycling or not, he stated there was no option since this would be contrary to the Zero Waste goals.

Council Member Yeh asked what the incentive opportunities were regarding the mandatory recycling. He noted mandatory enforcement and higher rates were less appealing without incentives programs.

Mr. Roberts stated rate comparisons were difficult due to the service levels being provided were higher than the surrounding City's. He stated lower spectrum rates were actually not full cost recovery rates but subsidized.

Council Member Burt asked whether the total rate impact was both the net impact and the average impact.

Mr. Roberts stated it was the net of both cost increases and deficiencies, and then it was the average residential rate payer and average commercial payer. He stated the dollar impact fluctuated dependent upon the level of service.

Council Member Burt asked if residents dropped their 32-gallon can down to the 20-gallon can, would their rate go up as high in percentage, or would it go down, since the can cost difference was greater than the average increase.

Mr. Roberts stated the concept was correct, although he could not be sure on the exact numbers. He stated there would be a fundamental service provision cost of routes, trucks and drivers to be maintained.

Council Member Burt asked if anyone knew of other examples where there were similar initial cost increases in moving forward.

Mr. Roberts stated the original program was a voluntary drop-off program which had no significant cost impact, although the curbside program did have a cost impact.

Mr. Reiser stated there were substantial cost increases during the 1980's for composting programs at around 20 percent. He pointed out current Zero Waste program costs recommended by staff were at 11 percent with a 7 percent Smart Station impact, equaling a 4 percent rate increase to get to Zero Waste.

Council Member Kishimoto asked if tipping costs in general were going up.

Mr. Reiser stated yes.

Council Member Kishimoto asked what the cost per ton was at the landfill.

Mr. Roberts stated there was a retooling of the Smart Station with costs going up to 75 dollars per ton and disposal costs up at 55 dollars per ton. He stated while the Smart Station started in the 60 dollar and up range, these costs have risen with regulations and transportation costs.

Council Member Kishimoto asked if increased diversion of waste would result in continued tipping costs per ton, and what would that mean to the average resident or business.

Mr. Roberts stated although the rates will continue to climb, the benefits of the fully implemented programs will slow the rate of increase.

Council Member Kishimoto stated her preference was to use the monies to further research and development (R&D) in recycling.

Mr. Roberts stated one item they were not recommending was single-stream for materials without a sustainable market with the hope for dynamic change where they could be added later with a market change.

City Attorney Gary Baum stated negotiations could be reopened if there were additional programs, and that excluding items now did not mean exclusion for the length of contract.

Council Member Kishimoto asked if this would mean reopening the contract or would it be a routine addition of services.

Mr. Reiser stated it could be a negotiated issue but not out of the question.

Council Member Kishimoto asked what types of materials would be left out.

Mr. Roberts stated the proposers were asked to expand materials and consider plans for textiles, milk and juice containers.

Council Member Kishimoto asked if the contract could be structured to add items back in, as the market changed, without a complete reopening of the contract.

Mr. Reiser stated the final agreement to be released in September would include the ability to add to the contract without a complete restructure.

Council Member Kishimoto asked if the City was paying for refuse land elsewhere.

Mr. Roberts asked for clarification on elsewhere as outside of Palo Alto city limits.

Council Member Kishimoto stated she meant outside of the existing sites.

Mr. Roberts stated there were separate facilities utilized in regards to customer service offices and vehicle storage.

Council Member Schmid asked if some of the trade-offs could be fleshed out as far as financial and policy issues.

Mr. Roberts summarized the costs and diversions of scenario three of the potential rate impacts and benefits as shown in CMR256.

Council Member Schmid questioned the percentage impact with the Smart Station maintaining the solid-waste processes.

Mr. Roberts stated the net increase would be an additional 13-14 percent on the rates however it did not appear cost-effective. He stated the percentage rate impacts included the net analysis.

Mr. Reiser stated the multi-family and commercial solid waste processing and the single family would be processed on a materials-free recovery line. He stated the equipment was basically the same as at the Smart Station, so the solid waste would go to the proposed facility which claimed a 75 percent recovery rate.

Council Member Schmid noted the 9 percent and 4 percent increases and pointed out the average increase was midpoint and not the combination of both increases.

Mr. Roberts stated the net cost to the refuse fund required a 13 percent increase to accommodate the hauler rate.

HF&H Consultant, Peter Deibler stated the 13 percent increase was added if both programs were completed at a 13 percent average impact to the rates.

Council Member Schmid asked for clarification on the reported savings regarding the expanding organic materials.

Mr. Reiser stated there were 18,000 tons of organics with the Zero Waste plan projection of one-third recovery, and it was felt the mandatory program would add an additional one-third, which was why the numbers were the same.

Council Member Schmid stated the Smart Station costs for Palo Alto were higher than other areas at 26 dollars compared to 16 dollars. He stated the cost variance was due to yard pick-up service. He questioned why the cost remained while the service was depleting.

Mr. Roberts stated Palo Alto's refuse fund had costs beyond just paying the refuse hauler's contract and the rate structure was recuperative of all the programs. He stated other surrounding City's were not fully recovering their costs from their refuse funds and were subsidized by other funds or endowments.

Emily Renzel, 1056 Forest Avenue, stressed the importance of detailed facts being used for the decisions. She noted a discrepancy on one of the RFP scenarios and also a table where the numbers did not add up. She also felt it important with projections to look at all the other programs in place and how these diversions are approached in the fee structure.

**MOTION:** Council Member Kishimoto moved, seconded by Vice Mayor Drekmeier to direct Staff to pursue the following programs for the new solid waste and recyclable material and organics collection and processing agreement based on cost impacts of up to 17.2 percent for the Refuse Fund and a projected annual diversion of 21,579 tons of materials, or 11 percent diversion to the City.

RFP Scenario 1: Baseline services with rate impact up to 6.4 % above the FY 2008-09 Palo Alto Sanitation Company (PASCO) budget, and projected additional diversion of up to 750 tons.

RFP Scenario 2: Zero Waste Services with rate impacts totaling 10.8 % and a projected 21,579 annual additional tons of diversion through the following programs:

- 1) Expanding Clean-up Day collection for reuse and recycling with a rate impact up to 1% and a projected 400 additional tons diverted annually.
- 2) Enhancing recycling through mandatory participation with a rate impact up to 3% and a projected 8,919 additional tons diverted annually.
- 3) Increasing C&D diversion with a rate impact of 2.6% and a projected 5,342 additional tons diverted annually.



- 4) Enhancing commercial recycling with a rate impact of .2% and currently unquantifiable tonnage diversion.

RFP Scenario 3: Innovative Services with no rate impacts and currently unquantifiable tonnage diversion:

- 1) C&D discount coupons for self haulers.

Vice Mayor Drekmeier stated the movement was cost effective and practical with the organics composting.

Council Member Burt stated he felt it was important to look at the surrounding City's recycling programs to compare rates and services. He stated that City's look to each other to maintain a competitive comparison and he wanted Palo Alto to be the leader.

Council Member Espinosa agreed Palo Alto would be a beacon to other communities. He hoped they could gain publicity for the program. He suggested targeting children and schools for full family participation.

Mayor Klein stressed focusing on continued community education and involvement.

Council Member Kishimoto suggested changing the language from trash or refuses to landfill, recycle and reduce.

**MOTION PASSED:** 7-0, Barton, Morton absent

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

Council Member Burt asked if there was an update pending on the Oregon Expressway.

Interim Deputy City Manager, Kelly Morariu, stated there is preparation of an update for Council.

Council Member Espinosa requested updates on College Terrace.

Ms. Morariu stated she would speak to the utility staff for further updates.

Council Member Kishimoto made mention of her newspaper editorial on Dunbarton Rail.

ADJOURNMENT: The meeting adjourned at 10:42 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.