

Special Meeting
July 16, 2007

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ADJOURNMENT: The meeting adjourned at 11:50 p.m.	25

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:30 p.m.

Present: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar

CLOSED SESSION

1. Conference with City Attorney -- Existing Litigation
Subject: Casey O'Neill v. City of Palo Alto, U.S. District Court, Case No.: C05-04515JW
Authority: Government Code section 54956.9(a)

Mayor Kishimoto stated no reportable action was taken.

ORAL COMMUNICATIONS

Stephen Rock, 3872 Nathan Way, spoke regarding the fact that Jeff Blum should resign from the Human Relations Commission.

Jan Terry, 925 Laurel Glenn, spoke regarding Council e-mails.

Paul George, 457 Kingsley Avenue, spoke regarding the Human Relations Commission.

Cash Alae, City of Palo Alto, spoke regarding the City's internship program.

Mark Petersen-Perez spoke regarding New York Times vs. Sullivan 1964.

Pat Lanthier, 2241 Bunker Hill, San Mateo, spoke regarding emergency communications.

Greg Kerber, Birch Street, spoke regarding an incident with the Palo Alto Police Department (PAPD).

Bill Terry, 925 Laurel Glen Dr., spoke regarding a map in the lobby.

Robert Moss, 4010 Orme Street, spoke regarding parliamentary procedures.

Sheri Furman, 3084 Greer Road, spoke regarding the Palo Alto Neighborhood's Emergency Preparedness Fair.

Annette Ashton, 2747 Bryant, spoke regarding the Emergency Preparedness Fair.

Mayor Kishimoto acknowledged the work of the neighborhoods and business communities for their outreach in Emergency Preparedness.

Doug Moran, 90 Matadero Avenue, spoke regarding the El Camino Park backup emergency water reservoir.

Mayor Kishimoto requested Item No. 5A be moved forward on the agenda before Item 2.

5A. Proclamation Regarding Citation for Heroism for Kenneth Pierre, Ruben Michael and Mike Martin

Council Member Cordell asked Kenneth Pierre, Ruben Michael and Sergeant Sandra Brown to come forward. She read the citations to be presented by Mayor Kishimoto.

Kenneth Pierre thanked the City Council Members and the Downtown Street Team of which he and Ruben are members.

Council Member Cordell commended Sergeant Brown.

Council Member Morton asked all the members of the Downtown Street Team, who came out to support their colleagues, to stand and be recognized.

No action required.

STUDY SESSION

2. Community Alerting and Emergency Notification System

Police staff presented the proposed community alerting and emergency notification solution, along with a contract with NTI Group, Inc. (NTI) for annual services related to providing a fully-hosted and managed community alerting and emergency notification system. NTI provides comprehensive communication systems designed specifically for local, regional, State, and Federal government entities to enable rapid dissemination of critical information via voice and text devices. Presented during the study session was information on the process of selecting the vendor, outreach and collaboration with the community and interdepartmental working groups, as well as information on the features and functionality of the new alerting and notification system. The managed alerting system offers diverse functionality and the ability to reach out to tens of thousands of residents simultaneously and through a variety of mediums (email, text messaging, voice and wireless phone calls).

Jeff Griffin, 470 Nevada Avenue, expressed concern about overloading the system and spending an unnecessary amount of money. He pointed out Contra Costa County's system was regarded as the foremost emergency notification operation center in the world.

Art Liberman, 751 Chimalus Drive, stated this emergency notification is a tool, and the effectiveness of any tool depends upon its being used properly. The Council needed to be sure solid procedures are in place.

Doug Moran clarified the issue of privacy. The system notifies addresses, not people. A great deal of work has been done on notification aspects and easily identifying geographic areas.

Council Member Morton inquired if anyone had talked to the Contra Costa administration.

Ms. Contois said she had spoken with Contra Costa.

Council Member Drekmeier asked whether there were less costly vendors.

Ms. Contois stated her group had worked with 20 vendors. The proposals ranged from \$5,000/year up to \$132,000/year.

No action required.

SPECIAL ORDERS OF THE DAY

3. Presentation from Foothill/De Anza Regarding Long Term Capital Facilities Planning

Hal Plotkin, President of the Foothill/De Anza Community District Board of Trustees, introduced his colleagues: Dr. Martha Cantor, Chancellor; Laura Casas Frier, Board of Trustees; and Dr. Judy Miner, President of Foothill College. They highlighted the deep connections between the City and Foothill/De Anza College and how to enhance and strengthen those collaborations.

Dr. Judy Miner spoke about educationally related accomplishments of the colleges.

Chancellor Martha Cantor spoke about Measure E (1999) and Measure C (June 2006) and the projects that are under way.

Council Member Morton asked about upgrading the Cubberley site.

Dr. Cantor replied funds have been set aside in Measure C to upgrade some of the facilities. They will work closely with the City to determine long-range planning. She extended an invitation to Council to tour the campus buildings.

Dr. Miner added approximately \$120,000 worth of furniture and equipment would be going into a number of classrooms at Cubberley starting in the fall.

Martin Bernstein, P.O. Box 1739, spoke about Chancellor Cantor's invitation to tour the campus and said he hoped this invitation also included touring Griffin House, a 106-year-old highly acclaimed historical house on campus.

No action required.

4. Selection of Applicants to Interview for the Library Advisory Commission

MOTION: Council Member Morton moved, seconded by Barton, to interview all applicants for the Library Advisory Commission.

MOTION PASSED 9-0.

- 4A. Selection of Applicants to Interview for the Parks and Recreation Commission

MOTION: Vice Mayor Klein moved, seconded by Morton, to accept the applicants for Parks and Recreation Commission and delay the interviews until the end of the recruitment for the newly vacant position.

MOTION PASSED 9-0.

5. Selection of Applicants to Interview for the Planning and Transportation Commission

MOTION: Council Member Morton moved, seconded by Cordell, to interview all applicants for the Planning and Transportation Commission.

Council Member Kleinberg stated she understood one of the incumbent applicants did not reapply. By not reapplying, the time for applications was extended and, during that period, he reapplied. She found it odd he did not initially reapply, thereby extending the time period, and then took advantage of it himself. Extending the time period was meant to allow others to apply. She wondered if the City Clerk would comment on this.

City Clerk Donna Rogers stated the incumbent notified the Deputy City Clerk within the time period to reactivate his application. Applicants can verbally say they would like to reactivate their application. He subsequently brought in the information, but he already met the deadline. She further stated she felt he had met the deadline and should be considered.

Council Member Kleinberg asked whether he applied during the original period.

Ms. Rogers answered by applying she meant they can call and reactivate their application. Applicants can call and ask for their application to be reactivated.

Council Member Kleinberg stated she wanted to be absolutely certain this was not before the period was extended. She wondered why the period was extended if he actually had reapplied, as the period is only extended if he doesn't reapply.

Ms. Rogers said it was extended because there was an error in the publishing in the newspaper. We needed to go out again to make the date clear as to when the applications could be received.

Council Member Kleinberg thanked Ms. Rogers for the clarification.

MOTION PASSED 9-0.

CONSENT CALENDAR

Council Member Barton stated he would not participate in Item 7 as he has a conflict of interest because his wife works for BUILD/BRIDGE.

MOTION: Council Member Klein moved, seconded by Morton, to pull Item 8 from the Consent Calendar for further discussion. Item 8 would become Item 8A.

MOTION: Council Member Morton moved, seconded by Mossar, to approve Consent Calendar Items 6 and 7.

6. Approval of a Five-Year Contract in an Amount Not to Exceed \$275,000 with NTI Group, Inc. for a Fully-Hosted and Managed Community Alerting and Emergency Notification System – Capital Improvement Program Project Number TE-07001
7. 901 San Antonio Road [07PLN-00108]: Request by 901 San Antonio Road, LLC (BUILD/BRIDGE) for Approval of a Final Map to Create One Multiple-Family Lot Containing 103 Multiple-Family Units For-Sale Units and One Multiple-Family Lot that Would Contain 56 Apartment Units

MOTION PASSED for item No. 6 9-0.

MOTION PASSED for item No. 7 8-0, Barton not participating.

8A. (Old Item 8) Resolution 8734 entitled "Resolution of the Council of the City of Palo Alto Adopting a Code of Conduct for City Council Members and City Council Candidates for the Refuse Hauling Procurement Process"

Vice Mayor Klein stated he was concerned that the City Auditor's Office generated the report rather than a City Manager Report (CMR) or a report from the Policy and Services Committee (P&S). He did not see any enforcement mechanism in the resolution. Additionally, Section 2 refers to "potential refuse hauling proposers." Since this would cover the people running for office this year, he inquired how they are supposed to know who is a proposed potential refuse hauling proposer. He did not like the idea of singling out a particular industry.

Council Member Morton agreed with Vice Mayor Klein stating this is a vendor bid process.

MOTION: Council Member Mossar moved, seconded by Cordell, to approve the resolution adopting a code of conduct for City Council Members and City Council Candidates for the refuse hauling procurement process.

City Auditor Sharon Erickson stated the report was on the Auditor's letterhead as a matter of convenience. The issue originally derived from an audit report her department issued for the PASCO contract in April. This was subsequently followed up by a Colleagues Memo to Council. Typically, either staff with a CMR, or the Auditor's Office, or even the Attorney's Office might follow up with a cover letter on the report. The recommendation, at least on this final report, was clearly from the Policy and Services Committee. Regarding the other two questions on enforcement mechanism and potential refuse haulers, the tenth "Whereas" in the resolution cites the fact that, when the current PASCO contract was reviewed, staff realized there needed to be process set in place. Staff has already moved in that direction with an inter-departmental team that is evaluating the process. Other jurisdictions have done this with refuse hauling contracts. The issue is transparency. No enforcement mechanism is associated with this particular resolution.

Council Member Cordell noted the issue was introduced by a Colleague's Memo after Council Members had read the recommendation and felt it was important enough to bring to Council. The P&S Committee felt it was an issue that should be supported by the Council. She stated it would send a message to the community that the Council stood for transparency and integrity.

MOTION PASSED 6-3 Beecham, Klein, Morton no.

UNFINISHED BUSINESS

9. Colleague's Memo from Council Members Kleinberg and Cordell Request for Funding for Fire Station No. 8 for summer 2007

Mayor Kishimoto said this item was continued from last week and the Public Hearing was closed.

Betsy Allyn stated the meeting did not get closed last Monday. When an item is closed, it is closed at the meeting when discussed. She noted there were several people present who wanted to speak to this issue.

Council Member Kleinberg asked the City Clerk if the minutes would reflect the public hearing had been closed.

City Clerk Donna Rogers stated the Council took public testimony last Monday and when it is the Council discussion that is the end of public participation. The Motion for this item was to continue further Council discussion to July 16, 2007.

Council Member Kleinberg asked if an affirmative statement or some kind of a vote was needed to formally close the hearing, or if it is considered closed when Council is finished.

City Attorney Gary Baum said the best practice would be to announce it, but that is not absolutely required.

Mayor Kishimoto acknowledged the Council heard extensively from the public and listened carefully. Closing the hearing was the best way to give the Council the opportunity to discuss the issue.

Council Member Morton noted in many cases when an item was carried over public who did not speak was allowed to speak. He inquired if that would be a possible compromise.

Mayor Kishimoto stated she was willing. The Council would take public comments from people who did not speak last time.

Edie Keating stated she trusted the Council regarding safety needs. She also supported the issue of accepting funding from Los Altos Hills in exchange for a contribution toward funding for Foothills Park.

Council Member Kleinberg questioned since the proposal from Los Altos Hills was not an agendized matter was the Council allowed to discuss it at this time.

Mr. Baum replied the Foothills Park/Los Altos Hills issue was not agendized for discussion; therefore, there could only be brief comments by the Council.

Mayor Kishimoto stated the Council could not decide tonight to change the policy on Foothills Park.

Council Member Mossar reiterated that the City Attorney said the Council cannot discuss the issue this evening because it was not agendized.

Mayor Kishimoto responded the Council could discuss Los Altos Hills' offer to provide money for the Park.

Council Member Kleinberg and Council Member Mossar objected.

Mayor Kishimoto said it was information, but she heard the objection.

Betsy Allyn, 4186 Wilmar Drive, stated the Council needed to act on the side of prevention and protect our resources. Therefore, the Council must fully fund Fire Station 8, at least through October. Auctioning off access to one of Palo Alto's open space treasures should never be part of the agenda.

Jean Wilcox, 4005 Sutherland Drive, stated she supported the funding of Fire Station 8 in Foothills Park and urged the Council to accept any financial help from Los Altos Hills.

Susan Fineberg, 3498 Janice Way, asked why the funding for fire protection in one part of the City is being considered differently than it is throughout the rest of the City. Everyone should share the burden together.

Mayor Kishimoto closed the public hearing.

City Manager Frank Benest stated at the last Council meeting, the City Management Team was requested to meet with the Fire Union to discuss ways of staffing Station 8 and stay within its budget constraints, as identified in the budget. The Management Team had a "Meet and Confer" session with the Fire Union last Friday. City Management presented its cross-staffing proposal. The proposal would be to take three firefighters from Station 2, transfer them to Station 8 to fully staff Station 8, then cross-staff the engine and rescue units at Station 2, and maintain the minimum staffing at 29 firefighters. The current contract requires minimum staffing to increase from 29 to 31 when Station 8 is open. The Union did not like the cross-staffing proposal for Station 2 and maintaining the minimum staffing level at 29 when Station 8 is open. The Union did not believe this was a wise proposal because of safety concerns and service delivery issues. City Management feels this is a reasonable proposal given our budget constraints. However, we cannot proceed because Union approval is required to change the contract regarding minimum staffing. Some short-term options are: Option 1 would be to staff Station 8 on high fire danger days. This option was included in the budget and was approved by Council. We anticipate that would be 20 days, as it usually averages between 10 and 20 days. The cost would be \$23,000 net, after Stanford pays its percentage of the total cost. Option 2 is to fully staff Station 8 using the Council contingency for the remainder of the fire season. This is what was proposed in the Colleague's Memo. The net cost for the total fire season would be about \$140,000. The net cost for the remainder of the fire season is about \$104,000. Option 3 is to cross-staff at Station 2, send three firefighters to Station 8, and backfill with two firefighters on overtime as required by the contract. That cost for the remainder of the fire season is approximately \$73,000 net, which would come from the Council Contingency. Option 4 is to set a much more flexible local standard for staffing based on two things: 1) the Fire Chief's assessment of local conditions; and 2) allow for staffing at

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Station 8 when the California Department of Forestry (CDF) units are less available. This is a County protocol, since we rely on CDF regardless of whether Station 8 is staffed or not. Typically, the County staffs up because there is less assistance available through CDF. That standard could be incorporated into a more flexible local standard. We could anticipate 40 days, which is double the 20 we originally anticipated. Net cost would be \$46,000. The Fire Chief's preference, if money were no object, would be Option 2. However, given budget constraints, the Fire Chief prefers Option 4, as opposed to Option 3, because that would allow all the units to be fully staffed at Station 2. In addition, several Council Members have suggested looking at a longer term solution that would look at different options. We could also involve some potential partners and come back at mid-year, well in advance of the budget and next year's fire season.

Council Member Morton asked for clarification. He asked whether in Option 4 the \$46,000 net figure is in addition to the \$23,000 already in the budget.

City Manager Benest said that was correct.

Council Member Morton asked if consent was needed to adopt the County protocol for Option 4.

Mr. Benest said anytime the County calls a high fire day that could be done. Also, the Fire Chief would be empowered to take into consideration any local conditions he feels warrant additional staffing at Station 8. This could occur when there is not a high fire day, but the Chief feels it would be prudent to do so. When CDF units are less available, the County protocol would be adopted and Station 8 would be staffed.

Council Member Morton asked if that would require a "Meet and Confer" with the Union.

Mr. Benest replied staff has the power to implement Options 2, 3 or 4 without requiring any other Meet and Confer meetings.

Council Member Cordell asked which options result in fully staffing Station 8 without taking away staffing from the other stations.

Mr. Benest responded Option 2.

Council Member Cordell asked whether Option 3 would result in fully staffing Station 8.

Mr. Benest replied Option 3 would require taking three firefighters from Station 2 to fully staff Station 8, and backfill with two. When Station 8 is

staffed, 31 fire fighters are needed for minimum staffing. There would be extra staffing on whichever unit was called out.

Council Member Cordell asked how many firefighters would be left in Station 2.

Mr. Benest responded there would be one less total firefighter because we would be backfilling three firefighters with two firefighters and still meeting our minimum staffing requirements.

Council Member Cordell inquired if Option 3 would fully staff Station 8 but not fully staff Station 2.

Mr. Benest stated there would be one fewer firefighter in Station 2 on Hanover Street.

Council Member Cordell asked if there is money in the Council Contingency fund to pay for either Option 2 or Option 3.

Mr. Benest said with Options 2, 3, or 4, after subtracting the \$23,000 that exists in the budget, the additional monies would come out of the Council Contingency.

Council Member Cordell asked what was the position of the Fire Chief or the Union regarding one less person in Station 8 and whether or not the community would be jeopardized.

Mr. Benest said it is allowed under the contract, but the Union's position is to fully staff both stations. The Fire Chief would prefer Option 4.

Council Member Kleinberg asked about improving agreements for mutual aid with other entities. She said she was aware of an out of sync relationship with the San Mateo County Office of Emergency Services regarding "move and cover."

Fire Chief Nick Marinaro replied each County functions by region for mutual aid. San Mateo County and Santa Clara County have different models. San Mateo County has always had what are called automatic move-ups. Santa Clara County is predicated on matrixes for moving resources from one city to another. There are no automatic move-ups in Santa Clara County.

Council Member Kleinberg asked if there are bureaucratic impediments to calling on mutual aid across the Creek to the Menlo Park Fire District.

Mr. Marinaro said it depends on the resources needed. In the auto aid agreements, it can be stipulated what units would be reciprocally provided.

In the instance of a strike team deployment, which is strictly regulated by the State Mutual Aid System, a strike team could be deployed from San Mateo County; that authorization has to go through the regional coordinator for Santa Clara County. It would not be an automatic response. Those are the rules set down by the State.

Council Member Kleinberg expressed concern because of allegations by members of the Menlo Park Fire District that we have not utilized their offered resources as quickly as we could have in our recent fires when we did not have enough local coverage to take care of it. If we do not open Station 8 every day for the rest of this fire season, then we will be relying on those mechanisms for mutual aid. She questioned where we look for mutual aid, how quickly it can get here, if there is anything we can do to be more in sync with the San Mateo County way of covering for mutual aid, and how long it would take to improve that relationship.

Mr. Marinaro said there is always the option of making a special request for a strike team deployment, which was different than for single resources. He explained single resources means when a truck, an engine, or a couple of different pieces of equipment were needed. In the auto aid agreement with Menlo Park, we have that. However, the auto aid agreement does not cover the wild land area with Menlo Park, with the exception of the area up near the Linear Accelerator. They have very little wild land interface other than at the levee. The Incident Commander can request resources from Menlo Park, if Menlo Park is willing to send them, on any type of incident because we try to respond with the closest resources to deal with the emergency.

Council Member Kleinberg inquired if we were waiting for teams from Sunnyvale during the recent fires while Menlo Park was ready to go.

Mr. Marinaro said Menlo Park was not dispatched. Menlo Park Fire Chief Schapelhouman said if resources and a strike team were needed, people were mobilized in San Mateo County. When the strike team was requested, we went through the Santa Clara Coordinator and were given authorization for that strike team to respond. He noted Chief Schapelhouman relayed some concerns to him about the amount of time it took them to mobilize. However, communication goes through Santa Clara County. San Mateo County would not know we were working the incident unless they were monitoring it. They would not be automatically notified unless the incident was on the border area.

Council Member Kleinberg asked Chief Marinaro if he considered the mutual aid system we have for Santa Clara County to be as good as it can be with respect to cross-county relationships. If so, then his opinion would be at odds with some other suggestions and comments that have been made.

Mr. Marinaro said we could augment either of our auto aid agreements to form a joint powers agreement. He has heard that Menlo Park wanted to work that out. However, those agreements were reciprocal in nature. If we get resources such as a strike team from San Mateo County because they are geographically closer, we can also strip the resources from San Mateo County.

Mayor Kishimoto asked what would be the difference in terms of the expertise of the people who are either left in Station 2 or were sent up to Station 8, hazmat or wildlife fighting.

Mr. Benest replied the Personnel sent to Station 8 would all be trained in wild land response.

Mayor Kishimoto asked if the overtime Personnel, who would backfill at Station 2, which serves Stanford Research Park, would be fully trained in hazardous materials.

Mr. Benest confirmed they were and they would be able to respond in the rescue unit.

MOTION: Council Member Kleinberg moved, seconded by Cordell to fully staff Station No. 8 for the fire season an amount up to \$104,000 from the Council Contingency Fund

Council Member Kleinberg summarized the City was not able to come to an agreement with the Union when they met and conferred. She would not want to create two classes of citizens in our community; one fully protected and another that was less protected.

Council Member Cordell said she supported this because it is a top priority for the Council to look out for its residents, and only full staffing during this high fire season would do that. She agreed with the City Manager about the need for a long-term solution.

Council Member Mossar stated this discussion has her focused in a different direction. We do not want to create a separate class of less protected people because the people who live in the foothills have a much greater fire risk than anyone else in the community. Whether Station 8 is operational or not, Station 8 cannot fight a major fire. It relies on mutual aid, and fire trucks are not the primary way to fight fires in the wild lands. We are required to rely on many others to help in a very serious fire situation in the foothills. It would be incorrect to state that by staffing Station 8 we protect residents of the foothills from fire because that is not necessarily true. She supported the Motion to staff Station 8 for this next year, but only because there is an intention to move forward to find a long-range solution.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to move with all deliberate speed to provide a more permanent solution.

Mayor Kishimoto noted the City Manager had mentioned mid-year as a timeline for a solution.

Vice Mayor Klein stated Council Member Mossar said many of the same things he wanted to say. He would support the Motion because public confidence in public safety is important. He is not sure we are getting much additional protection for public safety. There are many other problems whether Fire Station 8 is fully staffed or not. We have to be careful to say that we were always going to staff Station 8 on high fire days. This will not add a lot of protection to the community because, on low fire risk days, fires do not occur as often and they do not spread as quickly. This is about response time by the minimum amount of equipment that we have at Station 8. People do not grasp the fact that we are not buying a lot of public safety. He will vote for this primarily because it provides a bit more protection and more public confidence, whether warranted or not. It is important to have a deeper study at mid-year where we can analyze how to achieve better protection as well as cost savings.

Council Member Morton said he came to a different conclusion because of the fact that one unit at Foothills Park is not full protection. It does not provide protection. It would take almost as much time to get from the back of the Foothills Park canyon up the hill as it would from Station 8. We were giving in to the Union again by not adopting Option 4 and expending another \$60,000 for no additional real gain.

SUBSTITUTE MOTION: Council Member Morton moved to adopt Option 4 to "Create a more flexible local standard for staffing \$46,000 net" with staff to return with a more defined fire response protocol.

SUBSTITUTE MOTION FAILED WITH A LACK OF A SECOND

Mayor Kishimoto reminded everyone it goes back to resources and is a complex issue. There are three ways of addressing the issue. One is looking for more revenues either directly for this department or for the larger General Fund and that is why she called Los Altos Hills last week. Option 2 is reduced services. If this trend continues we will have to face those decisions. Option 3 is delivering services more efficiently and that is where we had hopes that the City working with the Union would work on delivering services more efficiently. It takes flexibility and innovation from the Unions. The trend of rising costs and limited revenues is forcing us to make these very tough tradeoffs.

Council Member Beecham stated the sole reason he would support the Motion is because of the amendment proposed by Council Member Mossar that would change how this is done in the future. If staff is not able to work negotiations with other agencies to bring this back in a different form next year, then this effort will have failed.

MOTION PASSED 8-1 Morton no.

PUBLIC HEARINGS

10. Discussion of Electric Utility Rates Pertaining to Time-Based Metering and Pricing Options as Required by the Energy Policy Act of 2005 (16 U.S.C.A. 2621)

Assistant Director for Utility Customer Support Services Tom Auzenne reported the Energy Policy Act of 2005 requires that all electric entities shall hold a public hearing regarding the electric utility and its ability to implement time-based metering and to offer time-based pricing options to its electric customers. Time-based pricing options allow customers to respond to electric supply constraints by providing a time corrected pricing signal. At peak times, electricity would cost more and that would be reflected in the consumer's bill. In the State of California, on-peak pricing would be from noon to 6:00 p.m. during the summer months; mid-peak pricing or shoulder pricing would be from perhaps 8:00 a.m. until noon, and then from 6:00 p.m. until perhaps 9:00 p.m.; off-peak pricing would apply for the remainder of the day. Critical peak pricing adjusts the prices frequently during peak usage periods. Real time pricing (RTP) prices electricity on an hourly basis. There are peak load reduction credits, which are contractual in nature under established agreements with customers to reduce a specific amount of load during peak hours. Staff's recommendation is that Council make a determination that it is not appropriate to implement time-based metering and pricing options at this time. He explained the limitations of our current customer information and billing systems essentially preclude us from offering that type of sophisticated pricing options. In addition, there is low customer participation due to the minimal differential costs between our on-peak and off-peak wholesale costs.

Public Hearing opened at 9:51 p.m.

Herb Borock, P. O. Box 632, said last week Council acted on the broadband business plan and in its response to the RFP from 180-Connect. One of the sources of income it was contemplating was automatic meter reading. During the RFP process, the Utilities Department seemed to be outside of this process. We should not have the Utilities Department determining what it would cost to get new types of meters for time of use metering if we are

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discussing the possibility of going ahead with the broadband system which could be used for automatic meter reading. There needs to be coordination with the Utilities Department.

Public Hearing closed at 9:53 p.m.

MOTION: Council Member Cordell moved, seconded by Beecham, to approve staff recommendation to not implement the electric time-based metering and pricing options required by the Energy Policy Act of 2005 (EPACT); defer adoption of the federal standard until at least FY 2008-09 and direct staff to report back to Council on the feasibility of adopting the federal standard by June 30, 2009.

Vice Mayor Klein asked why staff was not coming back to Council for two years.

Mr. Auzenne replied it was thought to be premature to come back after one year since it is not anticipated having an operational new customer information system until the first quarter of 2009.

Vice Mayor Klein said he was concerned about the tone of this memo. It seemed negative, as though the Utilities Department is not in favor of doing this.

Mr. Auzenne said it was not that the Department is against time of use. He is an advocate of transparency in pricing, but this is a realistic assessment of the capabilities.

Vice Mayor Klein referred to an article in *The Wall Street Journal* last week and said it appears as though Utilities is trailing the pack. He would like to see a report come back a year from now rather than two years.

Utilities Director Valerie Fong said staff could certainly agree to come back with a report and, if not a complete report, an interim report by July 1, 2008.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to receive a report in one year rather than two years.

Council Member Beecham stated time of use metering is an important tool in reducing peak loading. Part of why this is not so important in Palo Alto is that we have a relatively high load factor which means our daily curve is not very peaked compared to Los Angeles, Redding, Sacramento and many other locations. We also do not have a high air conditioning load in Palo Alto, so that makes our use much different than many of the other utilities. Palo Alto is unusual in its electric load in that 70 percent of it is commercial.

In terms of being ahead or behind, he felt Palo Alto is at the forefront of many of these issues, certainly in terms of renewable resources. Palo Alto has some of the best numbers in the State of California. We work intensively with our larger corporate customers on improving their efficiency which is the best way of reducing our carbon footprint. We work with Roche on combined co-generation, which would be the first in the area. The Utilities Department is aggressive in doing what is appropriate in reducing our carbon footprint and this is consistent with that effort.

Council Member Drekmeier noted he supported staff reporting back in a year, as he would like to see the City move more aggressively. He inquired if time of use was available to commercial entities.

Mr. Auzenne said it is a standard tariff and no commercial entity inquired because of the lack of significant differential between on- and off-peak pricing.

Council Member Drekmeier asked if it would benefit Roche as a generator of energy.

Mr. Auzenne replied it would probably be a customized contract to take full advantage of their operating efficiencies.

Mayor Kishimoto asked the difference between peak- and non-peak.

Council Member Morton said the reason we are not adopting the standard is although time of use metering helps us to monitor peak usage, there was low interest from commercial users because of a relatively low differential between off-peak and on-peak usage. They did not see any economic advantage and we would bear the cost of replacing these meters with what they call smart meters.

Mr. Auzenne stated there was about a ten times factor between a standard residential meter and a residential time of use meter. Therefore, it would be \$25 versus \$250. Also, the nature of our customers is primarily commercial industrial. To take advantage of time of use pricing or any other type of modified pricing option, they would need to shift their loads. We are almost out of the Research and Development business in Palo Alto. What we have is essentially office load. On-peak pricing would be 11.6 cents, mid-peak pricing or shoulder pricing would be 6 cents, and off-peak pricing (for medium commercial) would be 4.6 cents.

Mayor Kishimoto noted 11.6 cents is almost double and asked why it was not an incentive.

Mr. Auzenne said that was because they cannot easily shift their hours of operation.

Mayor Kishimoto asked about creating a system with peak hours and off-peak hours for the plug-in hybrid electric vehicles which are not commercialized yet. It would be good to send out a signal that we would like to encourage and create incentives for users to plug in at night.

Mr. Auzenne said it would depend on the policy design. If you want to strictly reflect your wholesale energy costs, then that is what you would do.

Mayor Kishimoto said we cannot change our wholesale cost.

MOTION PASSED: 9-0.

REPORTS OF COMMITTEES AND COMMISSIONS

11. Recommendation from Policy and Services Committee to Adopt Emergency Operations Plan

Council Member Barton reported the Policy & Services Committee (P&S) looked at the Emergency Operations Plan (EOC) twice during the spring and voted 4-0 to forward it to the full Council. The Council has talked about this issue many times in the last few years. This effort is the work of many people, over many months, with many departments. He was very impressed with City staff and the knowledge of those who presented the Plan to the P&S Committee. He also thanked members of the public and neighborhood associations for their input. The staff report has items that still need work. A number of these are ongoing items. An example of this is the emergency notification item which will be discussed tonight. We need to recognize that this document is going to change continually.

MOTION: Council Member Barton moved, seconded by Drekmeier, to approve the Policy and Services Committee and staff recommendation to adopt the City's revised Emergency Operations Plan as presented and direct staff to return by December 2007 with amendments to the plan to incorporate additional information addressing community notification and neighborhood preparedness.

Council Member Mossar stated she would support the Motion and appreciated the work of the P&S Committee. However, she is troubled the issue of privacy was not in the staff presentation and the fact that when staff was asked about it, there was no information available. When we talk about assembling data about residents of this community, we always have to ask that question.

Council Member Kleinberg noted the City Manager Report (CMR) was prepared after the discussion at the P&S meeting. There are comments in the CMR about training with respect to the Emergency Operations Plan. She wondered when the training for all aspects of the EOP would be accomplished, whether there was a training schedule, and when all the portions of the EOP would be exercised.

Emergency Manager Barbara Cimino said training has already begun on the Plan for those within the Emergency Operations Center (EOC). The actual exercise date is November 14, 2007 as part of Golden Guardian, where all aspects of the plan will be practiced and tested. Further refinements can be made after the exercise. The schedule was published within the City for EOC staff. This Plan is focusing on the EOC response, as well as what the community is doing with outreach to the Block Coordinator Program.

Assistant City Manager Emily Harrison reported when the Emergency Preparedness Steering and Working Group had its first joint meeting, they identified a need for the Executive Staff to be trained more frequently and for the Council to be trained, in addition to those who are directly in the EOC. A key issue in the upcoming year for the planning staff is to try and have more regular and frequent training for those who are not directly on the line.

Council Member Kleinberg asked when that would happen.

Ms. Harrison said it has been given to a subcommittee and they are coming back this month with a plan.

Council Member Kleinberg asked if there would be a schedule.

Ms. Harrison replied the schedule would be in 2007 and 2008. We are looking at the fiscal year, not the calendar year.

Council Member Kleinberg referred to the Golden Guardian, which is a bio-terrorist event. After meeting with the Golden Guardian working group internally, her understanding is that the event would be to test the creation of a Point of Dissemination (POD), which is mass distribution. There would not be fire, earthquake, chaos, or crowd control. She asked how Golden Guardian is going to test all aspects of the EOP.

Ms. Cimino said the event is going to exercise the functions within the EOC to support a number of things such as the hazmat and law mutual aid response. It provides the opportunity for traffic/crowd control, the use of volunteers, and the establishment of an emergency volunteer center, also using volunteers. The exercise will use volunteers who would not only be

staffing the two facilities with City staff, but also role-playing during the exercise.

Council Member Kleinberg said all of that was different from what she was told a few weeks ago by the Police Chief and asked if this was all new in the last few weeks.

Ms. Cimino stated all local jurisdictions in California have been planning this exercise for eight months with those objectives in minds.

Council Member Kleinberg said her concern is how quickly all aspects of the EOP can be tested. A plan is being adopted which can only be improved through testing.

Ms. Cimino agreed the bio-terrorist event was a smaller scale. The working group and steering committee met at an offsite and one of the factors developed was changing the scenario each time the Plan was tested.

Council Member Kleinberg said more than one annual test was needed. Another question she had from the CMR was the alternative EOC and our relationship with the Menlo Park Fire District. The Menlo Park Fire District has a fully-equipped EOC available, as well as all of the storage for food and other resources. She wondered if staff looked at the Menlo Park District's warehouse. This might be a faster and more cost effective way to get that done quickly.

Assistant to the City Manager Kelly Morariu said the concern with the Menlo Park Fire District was that it is not up to essential service facilities standards. We need the alternative EOC if an earthquake should occur.

Council Member Kleinberg asked why the Menlo Park Fire District's EOC is not up to standard and whether it was because it was not in a seismic building.

Ms. Morariu said that was correct.

Council Member Kleinberg asked about the cost of the upgrade.

Ms. Morariu replied this was something that would be considered as we look at the alternative facilities available in the City of Palo Alto for an EOC. She does not think the cost of the upgrade to the Menlo Park facility has been evaluated.

Council Member Kleinberg suggested the consultant should look into this aspect.

Ms. Morariu said the City does not have a consultant looking at an alternative EOC, but rather storage needs. The consultant analyzed the needs for food and water for employees for certain periods of time. The report did not look at a facility. We are looking at that now based on the outcome of the report.

Council Member Kleinberg suggested perhaps the most cost effective and fastest way to get this done would be to look at what is already being offered in Menlo Park. We would have to pay our fair share for the space. She encouraged her colleagues during the next two-year budget process to look at staffing and emergency operations, our resources, and make it cost effective and more critical.

Ms. Morariu said it was a cross-departmental team. She thanked Ms. Cimino and Ken Dueker, from the Police Department; Consultant Andy Coe; Assistant Police Chief Dennis Burns; Fire Chief Nick Marinaro; Police Chief Lynne Johnson; and the Palo Alto neighborhoods, Annette Ashton and Doug Moran in particular.

Council Member Kleinberg acknowledged the hard work of Ms. Harrison and Ms. Morariu.

Mayor Kishimoto acknowledged Council Member Kleinberg for pushing this to the forefront from last year. She asked if a mobile EOC would be funded as part of the budget.

Ms. Harrison replied yes and asked Assistant Police Chief Burns for an update.

Assistant Police Chief Burns said it is anticipated that the specification development would occur this year. It will be a lengthy project because of the amount of communications and technology equipment involved. Hopefully, it would be finished by the end of this fiscal year and then have a three- to four-month development phase.

Mayor Kishimoto asked if finding the time and resources to do meaningful training is an issue.

Ms. Harrison said it would be necessary to budget time to make these classes available. We train our firefighters and utilities workers but it is the Council, the Executive Staff, and the Managers who need to be trained more often. She did not think it would be a money issue.

Mayor Kishimoto asked if the goal is to train once a year.

Ms. Harrison said she agreed with Council Member Kleinberg that once a year is a very unsatisfactory minimum. We need to have much more in the way of practice or it would not become second nature.

MOTION PASSED: 9-0.

Mayor Kishimoto said this issue is one of the Council's top four priorities and once again she wanted to thank everyone.

REPORTS OF OFFICIALS

COUNCIL MATTERS

12. Discussion of Compensation Recommendations for City Manager - Frank Benest, City Attorney - Gary Baum, City Auditor - Sharon Erickson and City Clerk - Donna Rogers

Vice Mayor Klein, Chair of the Council Appointed Officers (CAO) Committee, referenced the recommendations set forth in his memo of June 29, 2007.

MOTION: Vice Mayor Klein moved, seconded by Mossar, to accept the CAO Committee Recommendations the following adjustment to base salary:

- City Attorney - no change
- City Auditor - 10 percent increase
- City Clerk - 7 percent increase
- City Manager - no change

In addition, the CAO Committee made the following bonus recommendations for consideration and adoption:

- City Attorney - \$5,000
- City Auditor - \$5,000
- City Clerk - \$4,000
- City Manager - \$3,000

Vice Mayor Klein said he felt everyone was familiar with the reasoning set forth in the memorandum.

Council Member Cordell asked for clarification from the City Attorney about a copy of a letter received from a Palo Alto resident and lawyer who claimed it was illegal for the Council to vote bonuses for any Council Appointed Officers.

Deputy City Attorney Melissa Tronquet replied she believed he referred to a provision of the California Constitution which prohibited retroactive compensation. She referred to the second page, the four incentive awards. This is not illegal in this case because there is a provision in the CAO's 07/16/2007

contracts that provides for incentive compensation. Their full salary is not determined for the year because of that provision. It is not retroactive compensation.

Council Member Cordell said she thought the argument was that the bonus was for past performance. Salaries are set so we could not add to them. She wanted to understand the issue and know it had been reviewed and that we were on solid legal ground.

Ms. Tronquet replied that was correct because that provision was put into the contract when each CAO was hired. It is not set because Council has the obligation to review it each year and give that award if it chooses.

AMENDMENT: Council Member Beecham moved to delete the bonus for the City Manager.

AMENDMENT FAILED FOR A LACK OF A SECOND.

Vice Mayor Klein said in response to Council Member Cordell's question, he thought it was appropriate for the Council to note the City Attorney's Office asked for an outside opinion. An opinion letter was sent to the Council backing up what the City Attorney's Office just stated.

Mayor Kishimoto thanked the CAO Committee for its work. She said it is a good process. She also thanked the CAOs and expressed her appreciation.

Herb Borock, P.O. Box 632, said there were two things in the memo he questioned. Council's designated representatives were Vice Mayor Klein and Mr. Shannon. He believed it is better to have one or two Council Members rather than the Council CAO Committee be the designated representative because the Council CAO Committee is a legislative body and it would be inappropriate for it to meet in Closed Session with the CAOs. He did not recall the agendas for those meetings stated that. The memo referred to the cost of living adjustment for unrepresented management and professional employees which also applies to the CAOs and it mentions it as 3.5 percent. He wondered which year it referred to the last fiscal year or this one because there was a meeting scheduled tomorrow to discuss the compensation for the unrepresented employees. He inquired about the reason for a meeting since you have already decided it is 3.5 percent.

MOTION PASSED 9-0.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Kleinberg noted she received a letter from an individual who had terminated his contract with the Palo Alto Airport and had moved his

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airplane to the San Carlos Airport citing costs as the reason for making the move. She asked the City Manager what progress had been made on the recommendations of the Palo Alto Airport Working Group (PAAWG).

City Manager Benest and Vice Mayor Klein both stated the Palo Alto Airport issues were addressed in a report which had been forwarded to the Finance Committee. He noted Supervisor Liz Kniss had been kept fully informed about matters regarding the airport.

Council Member Drekmeier asked whether the Peninsula Peace and Justice Center had an avenue to file a complaint against a Human Relations Commissioner whom they felt had damaged their reputation.

Mayor Kishimoto reminded Council there was a Closed Session on Tuesday, July 17, 2007 at 6:00 p.m. She noted the following: 1) the Downtown Promenade on Friday, July 20, 2007 from 4-9 p.m; 2) the Stanford Blood Center has an emergency blood appeal; 3) she and Supervisor Liz Kniss had met with Michael Burns, General Manager of VTA, regarding Palo Alto's position on Bus Line 88; 4) acknowledged the good work of the Police Department, Public Works, the Fire Department and the Planning Department on the Walgreen's fire and the recovery of the close-by businesses; and 5) Los Altos had passed along an offer to pay a prorated amount to fund Fire Station No. 8.

ADJOURNMENT: The meeting adjourned at 11:50 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

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