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October 20, 2008

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:02 p.m.

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

Absent:

### STUDY SESSION

#### 1. Joint Meeting with Youth Council Regarding Youth Issues.

The Youth Council and the City Council had a study session to discuss the Palo Alto Youth Council's plans for the 2008-09 school year. The Youth Council gave a PowerPoint presentation which covered the purpose of the Youth Council, the past year's accomplishments and this year's focus. The focus of the Youth Council this year will be the environment. Their main project will be an environmental faire for youth by youth to teach young people how they can make a difference.

### SPECIAL ORDERS OF THE DAY

#### 2. Resolution 8867 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Sam Zuccaro Upon His Retirement."

Vice Mayor Drekmeier read the Resolution regarding Sam Zuccaro and his retirement.

**MOTION:** Council Member Morton moved, seconded by Mayor Klein to adopt the Resolution expressing appreciation to Sam Zuccaro upon his retirement.

#### **MOTION PASSED:** 9-0

Director of Utilities, Valerie Fong, spoke in recognition of Mr. Zuccaro's career and accomplishments.

Utilities Electric Engineering Manager, Sam Zuccaro thanked the Mayor and members of the Council and spoke on his career in public service.

Mayor Klein thanked Mr. Zuccaro for his service.

#### 3. Appointment of Two Candidates to the Architectural Review Board for Two Three-Year Terms Ending September 30, 2011.

Council Member Barton advised that he would not be participating due to a conflict with a project that he has in his business going through the design review process.

Council Member Kishimoto abstained from voting as she was absent from the interviews of the candidates for the Architectural Review Board.

#### First Round of Voting for Two Architectural Review Board Members

Voting For Grace Lee: Burt, Drekmeier, Espinosa, Klein,  
Morton, Schmid, Yeh

Voting For Joseph Lee: Schmid

Voting For Tom Marcinik:

Voting For Clare Malone-Prichard: Burt, Drekmeier, Espinosa, Klein,  
Morton, Yeh

Voting For Tony Tam:

City Clerk Donna Grider announced that Grace Lee with 7 votes, and Clare Malone-Prichard with 6 votes were appointed to the Architectural Review Board for the terms ending September 30, 2011.

#### 4. Presentation of Voice of the People Awards

City Auditor, Lynda Brouchoud, announced Palo Alto had won the Voice of the People Award for the annual Service Efforts and Accomplishments (SEA) in five City Departments.

City Manager, James Keene, presented the awards for excellence in fire service, emergency medical services, recreation services, parks and public works.

Mayor Klein thanked all staff.

Fire Chief Nick Marinaro spoke for staff and colleagues in thanks for their awards.

#### CITY MANAGER COMMENTS

City Manager, James Keene, reported on the recent street robberies, crime rates and trend comparisons. The crime trends, for the most part,

compared to prior years are on the decline. He spoke to his department's increased efforts and strategies, along with the Police Department's efforts, with regard to a recent string of robberies in the city over the past six months. He announced the start of the construction phase of the Civic Center Infrastructure Project. It is a \$4 million Capital project for overdue repairs and investments in City Hall, ongoing until July 2009. He stated the Bay Area Super Urban Initiative conducted a survey of the communities in the 10 Bay Area Counties, and he identified the City and two other agencies as those with the strongest Emergency Operation Plans.

Council Member Morton added, not only had Sam Zuccaro been with the City for 31 years, but four City department heads had also received national recognition, and he expressed appreciation for the hard work the City does.

#### ORAL COMMUNICATIONS

Margaret Roberts, San Jose, presented City Clerk, Donna Grider, with her Master Municipal Clerk certification, a prestigious award among City Clerks worldwide. She spoke highly of Ms. Grider's career.

Bill Ross, 2103 Amherst Street, spoke regarding the residential parking permit program in College Terrace area. He stressed there were additional traffic level and intensity concerns that required further attention.

Mark Peterson Perez, 3088 Cowper Street, spoke on his concerns with the Palo Alto Police Department.

Aram James spoke regarding emergency preparedness, cited concerns over fleet management for the City of Palo Alto, with police, fire and ambulance equipment lacking, and hoped for the City's attention to these issues.

Palo Alto Fire Department, Fire Captain EMT, Catherine Capriles spoke regarding Breast Cancer Awareness, and revealed the pink fire helmet that would be worn by area firefighters in awareness of the cause, along with the pink ribbons on uniforms.

Annette Ashton, 2747 Bryant Street, spoke regarding emergency preparedness, and emphasized the Block Preparedness Awareness Program, as an important component in the neighborhood crime prevention efforts.

Sheri Furman, 3094 Greer Road, spoke on the Block Preparedness Coordinator Program, which held presentations, training sessions and block parties and united the community in its fight against crime. She gave an overview of the program, upcoming events and funding concerns.

Ray Bacchetti, 850 Webster Street, spoke regarding emergency preparedness, the Block Preparedness Program, and its role in civic engagement. He asked for staff's continued support and promotion.

Ronna Devincenzi, 2600 El Camino Real #100, spoke regarding emergency preparedness, the block program, and spoke to her continued work in this area.

Jeff Dean, 710 Chimalus, spoke regarding CPI and the Fire Department. He asked for clarification on what was actually going on with compliance issues with CPI.

Council Member Kishimoto added her congratulations to Ms. Grider and her staff.

### CONSENT CALENDAR

Council Members Barton and Espinosa registered a no vote on Agenda Item No. 12.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Schmid to move Agenda Item No. 14 from the Consent Calendar to be heard as Agenda Item No. 19A.

Herb Borock, P.O. Box 632, spoke regarding Agenda Item No. 12, and his concerns over the Record of Land Use Action, and he did not understand the wording in the Item.

Jean Wilcox, 4005 Sutherland Drive, spoke on Agenda Item No. 15, and the pick-up soccer games at Mitchell Park on Saturdays, which are causing problems for the children's soccer program along with damage to the park.

**MOTION:** Council Member Morton moved, seconded by Council Member Kishimoto to approve Consent Calendar Item Nos. 5-13, 15-19.

5. Resolution 8868 entitled "Resolution of the Council of the City of Palo Alto Amending Utility Rate Schedules E-1, E-1-G, E-2, E-2-G, E-4, E-4-TOU, E-4-G, E-7, E-7-TOU, E-7-G, E-18, E-18-G, G-1, G-2, G-3, G-4, G-6, S-1, S-2, W-1, W-2, W-3, W-4 and W-7; Repealing Utility Rate Schedules E-8, E-9, E-10, E-11, E-12, E-13 and E-17; Amending and Restating W-1-B and W-1-C as New Utility Rate Schedule RW-1, and Utility Rate Schedule G-COG as New Utility Rate Schedule G-8; Amending Utility Rules and Regulations 2, 3, 4, 5, 6, 7, 9, 11, 12, 21 and 23; Repealing Rule and Regulation 19; and Adding a New Utility



Rule and Regulation 29."

6. Resolution 8869 entitled, "Resolution of the Council of the City of Palo Alto Approving the Amended and Restated Northern California Power Agency Pooling Agreement and Associated Schedules."
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11. Resolution 8874 entitled "Resolution of the Council of the City of Palo Alto Formally Establishing a Corrective Action Reserve Within the Refuse Fund in Accordance With the California Integrated Waste Management Board Financial Assurance Requirements."
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15. Parks and Recreation Commission Recommendation Adopting Resolution 8875 entitled "Resolution of the Council of the City of Palo Alto Approving a Field Use Policy Applicable to Playing Fields in Palo Alto."
16. Approval of Amendment No. 3 to Management Agreement with Brad Lozares Golf Shop for Golf Professional Services at 1875 Embarcadero Road, Palo Alto.
17. Resolution 8876 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Execute the Implementation Agreement Between the City of Palo Alto and Bay Area Clean Water Agencies for the Disbursement of \$972,800 in State Grant Funds for the Mountain View/Moffett Area Recycled Water Pipeline Project (CIP WQ-04010)."
18. Resolution 8877 entitled "Resolution of the Council of the City of Palo Alto Opposing Proposition 7: The Solar and Clean Energy Act of 2008."
19. Approval of First Amendment to Option to Lease to the Environmental Volunteers for the Former Sea Scout Building at 2560 Embarcadero Road.

**MOTION PASSED for Agenda Item Numbers 5-11, 13, 15-19: 9-0**

**MOTION PASSED for Agenda Item Number 12: 7-2 Barton, Espinosa no**

19A. (Former No. 14.) Approval of a Purchase Order With Golden State Fire Apparatus in an Amount Not to Exceed \$3,295,765 for the Purchase of Six Type I Fire Engines.

Tony Spitaleri, President Palo Alto Firefighters Union, urged Council's support and thanked staff for their report and outline of the issues. He spoke to the need for an Equipment Allocations Fund, as a mechanism to put money aside for future needs and improvements.

Council Member Kishimoto congratulated the Fire Department for their Voice of the People Award. She asked staff to summarize the procurement process, to date. She cited concerns which arose after she read reports on

the procurement of high ticket items such as fire engines. She asked for staff's speculation in the scope beyond what is in the current Request for Proposal (RFP).

City Manager, James Keene, stated the business of procurement and building of fire engines in the United States is a distinctive business which has evolved with many traditional practices. He stated there are not a great number of companies from which to choose from, and for the most part these engines are custom-built with each company having their own specifications.

Director of Public Works, Glenn Roberts, gave a history of the procurement process, replacement schedules, reserves and budget decisions which have extended the current vehicles beyond their normal usage. He stated it has been a two-year process for procurement of these new vehicles, with an intentional do-over, the first time through, in order to address specification concerns and proprietary issues. He stated specifications have been revised to eliminate these concerns. He reassured Council that strict policies and procedures were followed through the entire process. He spoke to the concerns in the report Council Member Kishimoto mentioned, which had come out of New Jersey, and stressed the differences in their procurement process, which make them less of a concern.

Council Member Kishimoto, stated the circumstances are different, but stressed that the manufacturers in this instance were actually the same. She asked what the challenges had been in the bid process over the last two years.

Director of Administrative Services, Lalo Perez, expanded on Mr. Roberts' comments and the questions they had in the first round of the process one year ago. He stated they improved the clarity of their scope due to their questions and concerns; they pulled their bid petitions and went on to build an RFP with a better structure in scope and specifications. He stated their first and second round process involved contacting fleet managers, and other agency Fire Departments in order to better understand and deal with the concerns for a fair and open process.

Council Member Kishimoto stated this is a long process, and she was concerned that there was no hint to this process in the City Manager's Report.

Mr. Perez stated they could expand on the history and process of large spending projects, and could also consider adding a specification summary in the future.

Mr. Keene added he had asked about the RFP details and specifications not being in the report, and was told the practice was not to include this detailed information. He stated under Council's direction, they would be happy to do this in the future.

Council Member Kishimoto stated a summary, at least, of the scope or a link to that would be good for Council, and the public, and would help her in her decision-making process.

Council Member Morton stated that Pierce is a well known equipment supplier, and the specifications for equipment were truly modeled around the needs of Palo Alto in fighting both residential and wild land fires.

**MOTION:** Council Member Morton moved, seconded by Council Member Espinosa to accept staff recommendations to 1) approve and authorize the City Manager or his designee to execute a purchase order with Golden State Fire Apparatus, Inc. in an amount not to exceed \$3,243,585 for the purchase of six Type I Fire Engines; and 2) authorize the City Manager or his designee to negotiate and execute one or more change orders to the purchase order with Golden State Fire Apparatus, Inc. for related, additional but unforeseen costs which may develop such as new technologies that may have been developed since the specifications were written or new mandates that may be imposed, the total value of which shall not exceed \$52,180.

Council Member Espinosa supported staff's recommendation and the definite need for updated equipment to meet the community's needs.

Council Member Schmid stressed how current market issues affect Palo Alto's budget process and he asked that staff have a short-term response and long-term plan for managing purchases such as this.

Mr. Keene stated that the staff had embarked on a serious discussion on ensuring preparedness for the unknowns, financially and overall budget concerns.

Mr. Perez spoke to the overall liquidity and cash flow reserves and the proposed equipment purchases, and what would happen in a worst case scenario market picture. He stated in the short-term there was confidence to proceed with lesser concern over funding issues, and more concern over timing issues for future reimbursements. He agreed the nation's economy created further issues and stated the situation would be monitored. He stated the plan is to update the Finance Committee with a long-range plan in December and return to Council shortly thereafter with updated revenues, expenditures, status and possible adjustments.

Council Member Schmid stated the importance of these short and long-term plans for big budget items should not be on the Consent Calendar.

Mr. Perez stated the General Fund Reserves were within Council's reserve guidelines, which is a positive backup in the case that revenues fell short.

Council Member Burt agreed contingency planning was important and stressed Council would scrutinize these items fully. He stated funding for public safety and emergency preparation is a high responsibility and priority. He said supplemental links and information is also a good concept in moving ahead. He stated Reserve Fund strategies for the City remain conservative.

Mayor Klein agreed with Council Member Burt. He stressed the City's finances were in good shape, with a mindfulness for the nation's economic outlook. He stressed the need to move ahead with the plan.

**MOTION PASSED: 9-0**

#### UNFINISHED BUSINESS

20. Policy and Services Committee Recommendation to Approve a Pilot Program to Implement "Open City Hall" Online Service.

Council Member Kishimoto gave an overview of the item and its features, brought to them by Peak Democracy, for future online public engagement.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Barton to accept staff and Policy and Services Committee recommendation to approve a pilot program to implement "Open City Hall" online services as an additional means to further engage the residents of Palo Alto in the decision making process and adhere to one of Council's top four priorities (Civic Engagement) for this year. The elements of the pilot program are:

- a. 6-month pilot program at a cost of \$6,200 (\$5,000 set up fee + \$200/month
- b. Hosted on [www.OpenCityHall.com](http://www.OpenCityHall.com)
- c. Initially, staff will select 1-3 key Council agenda items to use as discussion topics each week on the forum during the pilot program
- d. Peak Democracy staff (founders of Open City Hall) will monitor the forum
- e. An evaluation of the program will be conducted at the end of the 6-month period. Guidelines to indicate the success of the program have yet to be determined; however, staff had identified key areas to evaluate: Participation, Discussion Items, and Resources.

Council Member Barton stated the City Manager's Report is very clear in that this \$6,200 will be well spent on this pilot project.

Council Member Schmid asked who will post questions on the site.

Management Fellow, Sherilyn Tran stated initially staff would select one or two of the most pertinent items to test it out. She stated the City Manager's office would create the question to be sent to Peak Democracy for posting. She stated agree/disagree responses to the item would be elicited.

City Attorney, Gary Baum stated when the Policy and Services Committee approved Peak Democracy, they recommended that Council not participate with Peak Democracy in keeping with the Brown Act and due process. Council can read, review and consider, but cannot enter the forum.

Mr. Keene reiterated that staff would exercise discretion to reframe titled items into questions for the forum. He stated they have had initial conversations on using an executive summary as part of the Agenda which would put items in a simple language format.

Council Member Schmid stated forum members could be anonymous or not anonymous, and asked if this would affect the activity on the forum as far as people dropping out.

Ms. Tran stated anonymous postings were allowed.

Council Member Schmid asked again if this would drive other posters out.

Ms. Tran stated potential forum posters would need to provide a legitimate email address, which would be kept private, and could then post anonymously if they so desired, with one post opportunity per email address.

Council Member Schmid asked if prohibition of Council Member's posting to the forum were in the Motion.

Mr. Baum stated it was in the Policy and Services Committee recommendation, and he stated that it should be part of the Motion.

Council Member Espinosa stated he would vote against the item. He does not understand what problem is being solved at the \$6,200 expense.

Council Member Morton asked if it were possible for the forum to be monitored for electronic civility.

Ms. Tran stated Peak Democracy would monitor the forum with a 4-hour turnaround time in which to filter comments, with email to the poster for language modification when needed.

Council Member Morton stated he supported the Motion.

Council Member Burt stated the program does cover, in part, one of Council's priorities to increase public engagement and stressed the importance of its innovative and learning focus.

Herb Borock, P.O. Box 632, stated he was against anonymous comments on the forum and spoke to the Brown Act, email comments, civic engagement, and the current number of Council meetings per month leading to a decline in civic engagement.

Mayor Klein was in favor of the program, but was hesitant to the idea of anonymous postings on the forum.

Council Member Schmid noted that he would propose a change to the wording from "prohibited" to "recommended" with regard to Council participation on the forum citing prohibition as unconstitutional.

Mr. Baum stated it was the City Attorney and Peak Democracy who recommended this, in that Council Members comments in writing online prior to the scheduled public meeting would raise legal concerns.

Council Member Schmid stated this was a public forum and stood with his proposed Amendment to change the wording.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER:** that due to Brown Act regulations the City Council policy is Council Members may not participate in the pilot program to implement "Open City Hall" Online Service.

Council Member Yeh stated he would vote in favor of the Motion and suggested building in a mechanism to determine the demographics of the users.

**MOTION PASSED:** 8-1 Espinosa no

#### PUBLIC HEARINGS

21. Consider Approval of a Mitigated Negative Declaration, Site and Design Review, Conditional Use Permit and Record of Land Use Action for a New Spa and Fitness Facility, Below Grade Parking, Tennis Court and

Other Site Improvements Located Within the Open Space (OS) Zone District at 3000 Alexis Drive.

Interim Director of Planning and Community Environment, Curtis Williams, stated this was the exact same item that was presented September 15, 2008, with all comments and deliberations as part of the hearing record. He stated the Record of Land Use Action was changed to include the modifications Council made at the prior meeting regarding social member approval numbers and the traffic demand measures. He stated the Mitigated Negative Declaration is a Mitigation Monitoring and Reporting Program.

Public Hearing opened at 9:15: p.m.

Stephen Pahl, Palo Alto Hills Golf and Country Club President, understood the reasons the item was brought back, but wished for onward movement of the item.

Herb Borock, P.O. Box 632, stated he had previously provided evidence of the Town of Los Altos Hills and their potential interest in the impacts of the project, and did not see evidence that they had been notified of their 22-day window to review the document.

Sal Giovannotto, 3090 Alexis Drive, spoke on the substantial revisions to the Mitigated Negative Declaration and the requirement that it be re-circulated for additional public review and comment. He commented on whether or not adequate attention had been given to environmental and climate issues.

Public Hearing closed at 9:22 p.m.

**MOTION:** Mayor Klein moved, seconded by Council Member Morton to accept staff, the Planning and Transportation Commission, and the Architectural Review Boards' recommendation to 1) approve the Mitigated Negative Declaration, prepared for the property located at 3000 Alexis Drive in accordance with the California Environmental Quality Act, 2) record a Record of Land Use Action approving Site and Design Review and Conditional Use Permit applications to allow the construction of a new spa and fitness facility, and other site improvements subject to the findings and conditions of approval contained in the draft Record of Land Use Action.

Mr. Baum stated it came back to Council because, even though the Negative Mitigated Declaration was referred to, the document required technical correction.



Mayor Klein asked if there were comments in addition to what was in the report.

Mr. Baum stated again the record included everything from the last Public Hearing, all the documents, testimony and Council comments. He stated global climate changes and greenhouse gas emissions were addressed in the Mitigated Negative Declaration. He stated the Office of Planning and Research and the Attorney General gave opinion with little or no guidance for any Mitigated Negative Declarations. He said, however, this issue has been adequately addressed.

Mr. Williams stated for the record that neighbors in the City of Los Altos Hills were noticed, and the City itself was not required to be noticed.

Vice Mayor Drekmeier asked if the documentation on environmental and climate information had come from staff.

Mr. Baum stated the information came from the Applicant, and staff had worked diligently on the issue. He stated his office worked with the Planning Department to develop internal guidelines to address this issue in future Environmental Impact Reports.

**MOTION PASSED: 9-0**

#### REPORTS OF OFFICIALS

22. Adoption of a Mitigated Negative Declaration; Approval of a New Agreement With GreenWaste of Palo Alto to Provide Solid Waste, Recyclable Materials, Organic Materials, and Yard Trimmings Collection and Processing Services Effective July 1, 2009; Approval of Fueling Permit to GreenWaste of Palo Alto; and Approval of a Lease Agreement With GreenWaste of Palo Alto.

Director of Public Works, Glenn Roberts gave a PowerPoint presentation on their objectives, the project timeline, highlights of the agreement, information on GreenWaste negotiations, compensation, projected rate increases and formal staff recommendations.

Council Member Morton asked what would happen with PASCO Sam.

Mr. Roberts stated there was a condition in the Palo Alto Sanitation Company (PASCO) settlement in that they did not have the sole rights to the name and trademark.

Council Member Morton stated PASCO was the City's label and highlighted community service, and supported staff's recommendation, and also voted for the survival of PASCO Sam.

Emily Renzel, 1056 Forest, spoke on the issue of inadequate readability of the website for this issue, and also spoke against the possibility of the City selling land next to the Municipal Service Center. She also had questions on the landfill closure date, yard trimming collection and other confusing issues.

Emily Hanson, GreenWaste, 1500 Berger Drive, gave an overview of GreenWaste's capabilities, expansions, services and mandatory participation programs.

Frank Weigel, 1500 Berger Drive, San Jose, Chief Operating Officer, GreenWaste spoke on the transition process, PASCO collaborations and employment offerings for prior PASCO employees.

**MOTION:** Vice Mayor Drekmeier moved, seconded by Council Member Kishimoto to approve staff recommendations to 1) adopt the Mitigated Negative Declaration and Mitigated Monitoring Plan for City-Wide Waste Hauling, 2) approve and authorize the City Manager or his designee to execute in substantially the same form the contract with GreenWaste of Palo Alto (GreenWaste) to provide solid waste, recycling materials, organic materials, yard trimmings collection and processing services for a term of up to twelve years effective July 1, 2009, 3) approve and authorize the City Manager or his designee to execute in substantially the same form the fueling permit to GreenWaste to fuel recycling vehicles with compressed natural gas (CNG) at the fueling station located at the City of Palo Alto's Municipal Services Center, and 4) approve and authorize the City Manager or his designee to execute in substantially the same form the lease agreement with GreenWaste for the nonparkland portion of the Geng Road Site.

Vice Mayor Drekmeier congratulated and thanked staff and community members who participated in the GreenWaste process.

Council Member Kishimoto complimented staff on their model process for such a complex and expensive contract, and thanked PASCO.

Council Member Barton thanked staff for their work.

Council Member Morton spoke in support of the project, and he hoped for continued composting in Palo Alto.

Council Member Burt spoke to Palo Alto's leadership in curbside recycling and he stressed the new program would maintain their leadership. He asked if staff had comments on Ms. Renzel's public comments.

Mr. Roberts stressed the timeline in the latest report is correct with regard to the landfill. He stated the landfill would be closed in 2010 in that it would discontinue accepting waste; however is not officially closed until the State of California's review and approval of the closure plan. He stated that could be an additional two-year process.

Council Member Burt asked for clarification on the negotiated item and cost impact of the three proposed route supervisors, as opposed to a lesser number.

Mr. Roberts stated the customer satisfaction level is dependent on the responsiveness of service, which is better handled by the three route supervisors. He stressed the budget for three takes into consideration, vacation and other time off, so there are always at least 2+ supervisors on the routes. If proved to be excessive, he stated it could be scaled back.

Council Member Burt asked for clarification on why the recycling center is included in the operational cost impacts, and why this was not part of the August presentation.

Mr. Roberts stated it was not in the August presentation as it was not part of the original Request for Proposal (RFP) since at the time it remained in a location on the landfill site, and a new location had not been chosen or approved at that time. He stated, after the RFP was issued, staff came back to Council with a site plan which was approved for the interim relocation of the recycling center.

Council Member Burt asked for clarification on the proposed additional costs for additional construction and debris box recycling, and whether this would be a cost recovery program through the construction contractors.

Mr. Roberts stated the issue would not be decided until March 2009 with the rate structure for the new contract.

Council Member Burt asked if it had been considered to require recycling of construction debris.

Mr. Roberts stated an Ordinance does require this.

Council Member Burt asked why this would be a disincentive issue if this were a requirement.

Mr. Roberts stated in the case of marginal users, it would be difficult to monitor the debris box usage.

Council Member Espinosa asked Mr. Roberts to speak to the remainder of the public comment issues.

Mr. Roberts stated there may be issues with the difference between commercial sector organic recycling and composting versus the residential sector. He reiterated the plan to continue with commercial organics, but residential organic recycling and composting has not been proven to be cost-effective. The contract has the option to revisit the issue in three years where additional land use may come into play.

Senior Assistant City Attorney, Cara Silver, clarified the terms "yard trimmings" and "organics" were used purposefully in the plan in that there is a distinction between them and the contract addressed the differences of these items in the detail section. This may not have been attached to the staff report, which may have caused additional confusion.

Mayor Klein followed up on whether or not the name and logo of PASCO Sam would be used.

Mr. Weigel stated their willingness to incorporate this into the scheme of the business.

Mr. Roberts stated there had been preliminary talks with GreenWaste and the City Manager's office on the branding for the new contract. He gave examples of possible tie-ins with PASCO Sam as they blend with GreenWaste.

Mayor Klein stated it would be a shame to lose PASCO Sam. He stated the solid waste contract work went over without a lot of public comment, but required a great deal of work with staff and Council involvement.

Council Member Schmid congratulated everyone on moving ahead. He spoke to more household involvement in composting in the future and he was also mindful of the effects of any rate increases for the new program's success.

**MOTION PASSED: 9-0**

**MOTION:** Council Member Morton moved, seconded by Council Member Schmid to move Agenda Item Number 24 before Agenda Item Number 23.

**MOTION PASSED:** 6-2 Drekmeier, Klein no, Yeh abstaining

#### REPORTS OF COMMITTEES AND COMMISSIONS

24. Policy and Services Committee and Human Relations Commission Recommendation to Adopt a Resolution 8878 entitled "Resolution of the Council of the City of Palo Alto Encouraging the U.S. Department of Homeland Security Immigration and Customs Enforcement Agency Under "Operation Return to Sender" to Enforce the U.S. Immigration and Customs Laws in a Manner That Complies With all Applicable Laws, Rules and Regulations, Including the Constitutional Protection Against Unreasonable Searches and Seizures.

Council Member Kishimoto stated this had passed unanimously with the Policy and Services Committee and was Tabled once by Council.

Director of Human Services, Kathy Espinosa-Howard, gave a brief overview of the Resolution's inception and progress, "Operation Return to Sender" issues, law and regulation compliance issues, the importance of this Resolution to the City and cited an incident report which led to the Resolution.

Donald Mendoza, Human Relations Commission Member, applauded Council for their stamina. He stated the current deportation practices protect the nation's border but spoke to the dehumanization of citizens in its actual process.

George Chippendale, 2241 Santa Ana Street, spoke on his work with St. Vincent DePaul and the impacts deportation has on family members left behind.

Arlene Schaupp, 2621 Greer Road, stated the Resolution is a step in the right direction, but additional work, is needed for due process and rights of those with immigration issues.

Sister Trinitas Hernandez, 308 Donohoe Street, East Palo Alto, reiterated the need for the passage of this Resolution to provide for the humane treatment for those with immigration issues.

Reverend Anna Lange-Soto, 178 Clinton Street, Redwood City, spoke in support of the Resolution, and gave examples of the effects immigration issues have on the community.

Rosa Mancilla, 160 N. Rengstorff Avenue, Mountain View, spoke in support of the Resolution, cited examples of important community members who were deported, and spoke of the families and community work they leave behind.

Philip C. Cosby, 18 Oxford Place, Belmont, spoke regarding the effects of these deportations on the community.

Reverend Nan Swanson, 1140 Cowper Street, spoke on behalf of families and the suffering incurred during the current deportation practices.

Norma Grench, 2828 South Court, Palo Alto, spoke in support of the Resolution and the importance of all human rights including for those with deportation issues.

Samina Faheem, 120 Park Avenue, Palo Alto, spoke in support of the Resolution and the continued need for humane treatment of community members with mixed status and deportation issues.

Ruth Robertson, Raging Grannies, spoke of the community outreach, marches and other activities in support of immigrants, and was in support of the Resolution.

**MOTION:** Council Member Morton moved, seconded by Vice Mayor Drekmeier to accept the recommendation by the Policy and Services Committee and the Human Relations Commission to adopt a resolution encouraging the U.S. Immigration and Customs Enforcement Agency, under "Operation Return to Sender," to enforce the immigration and customs laws in a manner that complies with all applicable laws, rules and regulations and the constitutional protection against unreasonable searches and seizures and is in accordance with principals of fair play and substantial justice.

Council Member Morton stated the Resolution simply assured that foreign community members will receive fair treatment and due process under the law regardless of their immigration status and urged Council's support.

Vice Mayor Drekmeier asked for Council support.

Mayor Klein spoke against the Resolution, but agreed there were abuses. He stated what was needed, was not the Resolution, but a change in Administration.

Council Member Barton stated he would vote no on the Resolution in that the larger question was the policy issues involved.

Council Member Espinosa spoke in favor of passage of the Resolution and he reiterated there are direct ways in which immigration issues have an effect on the community members.

Council Member Kishimoto stated her support.

Council Member Morton supported the Resolution as a local issue.

Council Member Yeh supported the Motion. He spoke to the extent that Federal immigration policies have affected the community.

**MOTION PASSED:** 6-2 Barton, Klein no, Burt abstaining

### STUDY SESSION

23. Water Supply Issues and San Francisco's Program EIR on the San Francisco Public Utilities Commission Water System Improvement Program.

Vice Mayor Drekmeier advised he would not be participating in this item as he has a conflict related to his employment.

Council Member Yeh advised he would not be participating in this item as he has a conflict related to his employment.

Mayor Klein noted the Bay Area Water Supply and Conservation Agency (BAWSCA) issued an opinion of recent actions by the Public Utilities Commission (PUC), and at his request staff included materials at Council's places and urged Council to note these materials.

Assistant Director of Utilities Jane Ratchye provided a presentation on an issue related to the City's water supply, the San Francisco Public Utilities Commission (SFPUC). On September 30, 2008, San Francisco released the Final Program Environmental Impact Program (PEIR) for the SFPUC's Water System Improvement Program (WSIP). The WSIP consists of a number of capital projects to repair and upgrade the regional water system that delivers water from the Hetch Hetchy Reservoir on the Tuolumne River in Yosemite National Park to Palo Alto and 27 other Bay Area communities. The Final PEIR included an analysis of a variation to the WSIP that freezes water deliveries at current levels until 2018 in order that the significant issues with diverting more water from the Tuolumne River can be delayed while completing the WSIP projects required to protect the regional water system and the Bay Area communities from significant water outages in case of a large earthquake. The Final PEIR is scheduled to be certified on October 30, 2008 and the SFPUC is scheduled to adopt the WSIP variant analyzed in the Final PEIR.

Council Member Espinosa asked what measures could be taken in public outreach regarding any rate increases.

Ms. Ratchye stated outreach has been done with the "All About Your Utilities" brochure, which may need an update, but they would consider further outreach efforts.

Jody Davidson thanked the Utility Department staff on their informational report and urged them to hold water allocations at the current levels with continued water conservation efforts and Tuolumne River issues.

Kirsten Essenmacher, 1524 Channing Avenue, spoke to the Tuolumne water diversion issues and the ecological health of the river and the delta area.

Elliott Wright, 147 Santa Rita, spoke regarding Acterra and the Green at Home program, its continued efforts for low flow water conservation efforts in area homes, and commented on Council Member Kishimoto's efforts in this area.

Council Member Espinosa asked what studies had been done to understand the off-benchmark water figures, and how much of this has to do with landscaping.

Council Member Burt stated he spent 25 years in industrial water conservation and pollution prevention at local and international levels. He offered that the current water conservation proposals and water recycling efforts are significant measures that can be achieved with the opportunity for increased goals for the next decade.

Mayor Klein asked for more information on guaranteed allocations and perpetuities.

Council Member Burt stated he has seen, on the commercial level, that once the model is established with an awareness of the cost effectiveness, others follow.

Ms. Ratchye went over San Francisco's rate graph allocation amounts for BAWSCA, each BAWSCA agency's supply assurance piece, and Palo Alto's high supply assurance relative to current usage. She stated other cities are at, near, or over their supply assurances, but as a group they are under these assurances. In an area that is growing, the other areas would need to come down in their usage to accommodate that growth.



She stated in the new water supply contract there are new area numbers for water allocation. She stated if the group goes above the total allocation limit, there are proposed penalty rates for agents exceeding their allocation. These collected penalties are used for environmental improvements on the Tuolumne River.

Council Member Morton stated, aside from the proactive and incentive measures for reduction, the market forces will apply to all program uses, resale and wholesale. He saw potential to return water to the Tuolumne River over the current baseline efforts. He stated the water rates should have built-in amortizations to deal with continued usage and conservation issues based on a worst case scenario basis.

Council Member Kishimoto spoke on average residential water usage on non-irrigation or winter months. She suggested getting those averages out there to educate the public. She stated the price tiers are done but the utility bill does not reflect any price incentives which would inspire more reduction efforts for residential customers.

Council Member Schmid stated there are huge conservation opportunities but also tradeoffs, in that keeping an area canopied, also requires more water usage. He asked if the San Francisco Public Utility Commission numbers are consistent with the Association of Bay Area Government (ABAG) growth numbers for the Bay Area population.

Ms. Ratchye stated the 2003-04 studies to prepare first demand projections used the ABAG projections but will be redone in BAWSCA's new efforts to continue to reflect the latest ABAG projections.

Council Member Schmid stated it would be useful if this could reflect per capita consumption issues. He asked about upstream water capture opportunities for the Palo Alto area.

Ms. Ratchye stated they looked at all of the water supply alternatives which do include groundwater, and would include a proposal to increase a natural recharge that would increase groundwater availability.

Council Member Schmid stated if water prices tripled, these alternatives would be sensible options to solve groundwater and storm drain issues.

Mayor Klein noted very big numbers for filtration would need to be factored in, as well as environmental impacts of the filtration plant, as well as where it could be located. He asked where they stand in relationship to the 27 BAWSCA agencies for usage per capita.

Ms. Ratchye stated the community is 23<sup>rd</sup> or 24<sup>th</sup> out of the 27 agencies.

### COUNCIL MATTERS

25. Colleagues Memo from Council Members Burt and Espinosa Requesting Adoption of a Resolution 8879 entitled "Resolution of the Council of the City of Palo Alto in Support of Santa Clara County Measure A, the Hospital Seismic Safety and Medical Facilities Bond."

City Attorney Gary Baum announced that Council Member Yeh would not be participating in this item due to a conflict related to his employment.

Council Member Espinosa spoke to Council Member Burt's leadership on the project, gave an overview of the projects goals for the seismic upgrades for the area medical facilities. He encouraged Council's endorsement.

**MOTION:** Council Member Espinosa moved, seconded by Council Member Burt to adopt a Resolution in support of Santa Clara County Measure A, the Hospital Seismic Safety and Medical Facilities Bond.

**MOTION PASSED:** 8-0 Yeh not participating

City Manager James Keene announced that Agenda Item Number 27 would be moved to the November 3, 2008 Council Agenda.

### CLOSED SESSION

26. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION  
Subject: Michael Schmidlin v. The City of Palo Alto, et al.;  
Santa Clara County Superior Court Case No.: 1-00-CV-794565  
Subject Authority: Government Code section 54956.9(a)

### ~~27. CONFERENCE WITH REAL PROPERTY NEGOTIATOR~~

~~Authority: Government Code Section 54956.8~~

~~Property: 3281 E. Bayshore Road, APN 8-5-005~~

~~Negotiating Party: John Anderson, AR Automotive, LLC dba Anderson Honda~~

~~City Negotiator: James Keene, Steve Emslie, Lalo Perez, Donald Larkin, Bill Fellman~~

~~Subject of Potential Negotiations: Price and Terms of Payment~~

Mayor Klein advised no reportable action taken.

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

Council Member Espinosa reported that on the weekend of October 25, 2008 there will be a library campaign event and he hopes that everyone who supports the measure will attend the event.

ADJOURNMENT: The meeting adjourned at 12:30 a.m.

ATTEST:

APPROVED:

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City Clerk

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Mayor

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