

Regular Meeting  
November 02, 2009

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:03 p.m.

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

Absent: Morton

#### SPECIAL ORDERS OF THE DAY

1. Proclamation Welcoming Honorable Mayor Nakagawa and Mr. Aoyama from Tsuchiura City, Japan.

Mayor Drekmeier read the proclamation honoring Mayor Nakagawa and Mr. Aoyama from Tsuchiura City, Japan.

Mayor Nakagawa extended his appreciation for the Sister City relationship with the City of Palo Alto.

Council Member Kishimoto recognized Ms. Keiko Nakajima and Mr. Aoyama.

#### CITY MANAGER COMMENTS

City Manager, James Keene stated the emergency water supply project drilling will begin at Eleanor Pardee Park this week. He wanted to recognize Aleksandr Pishchik in the Utilities Department for going above his duties to ensure the community was not affected by construction in an effort to vote, at their polling places on November 03, 2009.

#### ORAL COMMUNICATIONS

Paul Machado, Stanford Avenue, spoke regarding the zoning at 373 Oxford being out of character for the area which was zoned for single family residential.

Timothy Gray, 4173 Park Boulevard, spoke regarding refocusing the City on supporting the strengths and needs of the community.

Carroll Harrington, 830 Melville, spoke regarding the Palo Alto Goes Green speaking engagement on November 13, 2009.

Wynn Grcich, 30166 Industrial Parkway, Hayward, spoke regarding the chloramines in the drinking water.

Aram James spoke regarding the use of tasers.

Mike Francois, 22 Gardenia Way, East Palo Alto, spoke regarding chlorine and chloramines in the drinking water.

Margaret Adkins spoke regarding city employees retirement benefits.

Mark Weiss, 1788 Oak Creek Drive #217, spoke regarding public art appreciation in the community.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Barton moved, seconded by Council Member Kishimoto to approve the minutes of October 5, 2009.

**MOTION PASSED:** 8-0 Morton absent

Council Member Burt requested the City Manager provide information at a later date on whether Staff had researched the zoning at 373 Oxford.

#### CONSENT CALENDAR

Council Member Klein advised he would not be participating in Agenda Item No. 4 as his wife is on faculty at Stanford University.

Council Member Barton advised he would not be participating in Agenda Item No. 4 as he is on faculty at Stanford University.

**MOTION:** Council Member Burt moved, seconded by Council Member Kishimoto to pull Agenda Item No. 2 from the Consent Calendar to become Agenda Item No. 7a.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Burt to pull Agenda Item No. 6 from the Consent Calendar to become Agenda Item No. 7b.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Espinosa to approve Agenda Item Nos. 3-5, and 7.

- ~~2. Approval of Changes to the Compliance Procedures for Private Intrusion Alarm.~~
3. Ordinance 5064 entitled "Ordinance of the Council of the City of Palo Alto Repealing Chapter 16.17 of the Palo Alto Municipal Code and Amending Title 16 to Adopt a New Chapter 16.17, California Energy Code, 2008 Edition."
4. Annual Public Review of Compliance of Development Agreement with Stanford University for the Sand Hill Road Corridor Projects.
5. Acceptance of California Office of Traffic Safety Grant in the Amount of \$46,465 for Selective Traffic Enforcement Program.
- ~~6. Acceptance of Transmittal of Police Auditor's Final Report for 2008.~~
7. Finance Committee Recommendation to Accept the Auditor's Office Review of Telephone Rates and Charges.

**MOTION PASSED for Agenda Item Nos. 3, 5, and 7:** 8-0 Morton absent

**MOTION PASSED for Agenda Item No. 4:** 6-0 Barton, Klein not participating, Morton absent

#### AGENDA CHANGES, ADDITIONS, AND DELETIONS

7a. (Former No. 2) Approval of Changes to the Compliance Procedures for Private Intrusion Alarm.

Council Member Burt asked whether there were any actions being taken to correct possible wrong doings to citizens for alarm violations.

City Manager James Keene stated Staff had been requested to postpone issuing penalties until further discussion occurred with Council.

Director of Technical Services for the Police Department, Charles Cullen stated Staff had reviewed the alarm program for the prior seven years and determined, although the Ordinance indicated a fee would be initiated a month after the alarm contract had expired; the grace period had been six months. He stated the process of notification had been streamlined and

there was a secondary notice process implemented to ensure notification was received.

Council Member Burt asked whether there was a possibility of overturning the fine with a hearing.

Mr. Cullen stated he had attended a number of hearings where the Hearing Officer had decided for and against the fines. He stated under the law, on renewal fines his experience had been that the Hearing Officer had not overturned the fines.

Council Member Schmid asked for clarification on whether the police response to an alarm system call was of higher importance to that of a person phoning in an emergency.

Mr. Cullen stated no. When you have an alarm system, the system was connected to a private company who contacted the Police Department to respond to the call. He noted, in 2008 there were 2,500 alarm incidents where two percent were considered legitimate burglaries or attempted.

Council Member Schmid asked for clarification on there being six patrol officers on duty at any given time and if they were spending 1,000 hours responding to alarm incidents that reduced the time available to interact with the rest of the community.

Mr. Cullen stated alarm incidents did take a significant portion of officer's time, which may limit the amount of time the officers had to respond to potentially dangerous issues.

**MOTION:** Council Member Burt moved, seconded by Council Member Kishimoto to approve changes to the intrusion alarm ordinance compliance procedures. Staff proposes providing a late notice to alarm subscribers that fail to re-register their alarms within the period designated in the Ordinance (ten days after expiration) and approve a twenty (\$20) dollar late fee for registering after the expiration period. Further failure to comply with the registration requirements would result in an administrative citation rather than an invoice.

**MOTION PASSED:** 8-0 Morton absent

7b. (Former No. 6) Acceptance of Transmittal of Police Auditor's Office Final Report for 2008.

Herb Borock, P.O. Box 632, stated the original recommendation was for Council to receive two Police Auditor reports annually. He stated concern

with the reports lagging and questioned whether the independent auditor was reporting to the Council or the Police Department.

Aram James stated the Police Auditor reports appeared to minimize the use of taser related incidents that occurred in the Police Department.

Council Member Kishimoto asked why the reports were six months behind the scheduled due date.

City Manager, James Keene stated he had received the report in a timely manner and until he had met with the Police Auditor during the summer had not realized the Council had not yet received the report.

Council Member Kishimoto asked in the future if the Police Auditor would notify Council as well as Staff when the report was available.

Mr. Keene stated yes, that was the future procedure discussed with the Police Auditor.

Council Member Kishimoto asked whether there was follow-up with the Police Officer's involved in the taser incidents.

Mr. Keene stated he had met with the complainants and had given them direct and personal feedback on the changes the Police Department was making and the corrective action taken with the Officer's involved.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Espinosa to accept the Police Auditor's final report for 2008.

Council Member Klein stated the Police Auditor report needed to go directly to Council in a timely manner without Staff reviewing the content before hand. He asked when the upcoming report was expected.

Mr. Keene stated the report was forthcoming and he assured Council there would not be a delay in their receipt.

Council Member Burt stated there appeared to be a pattern of a reporting delay and he requested the Policy & Services Committee review the reporting process, who the Police Auditor was accountable to, clarify the timing of the reports due, and verify the reports were current.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that the Policy and Services Committee review the implementation practices and assure that they are followed in accordance with Council direction.

Mr. Keene stated there would be an explicit bi-annual schedule provided to the Policy & Services Committee in advance of each year.

**MOTION PASSED:** 8-0 Morton absent

UNFINISHED BUSINESS

8. Colleagues Memo from Council Members Espinosa, Kishimoto, and Schmid Directing Staff to Take Actions to Permit Early Opening of Portion of Byxbee Park.

Council Member Kishimoto stated she would be presenting two Motions, and that the first one was different than what had been discussed by the Authors of the Colleagues Memo.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member XXXX to: 1) Direct Staff to work with the Parks and Recreation Commission and Hargreaves and Associates or comparable landscape consultant to develop final park design goals for Phase II of Byxbee Park including provision to access and views and return to Council with a proposed implementation budget; furthermore the reviewing landscape consultant will also incorporate the previous Council Motion on October 19, 2009 regarding potential location of the composting site and the accompanying change of grade of the slope if deemed desirable, and 2) Direct Staff to take the necessary steps to open the completed and approved landfill area (Phase II A/B in the Baylands Master Plan) to the public as interim open space by the end of 2011 or sooner.

Emily Renzel, 1056 Forest Avenue, stated the Motion being proposed was not what was requested in the Colleagues Memo. She requested Council vote in favor of the original Colleagues Memo with Staff's report on the landfill compliance with the approved Hargreaves design plans for Byxbee Hills Park.

Roger Smith, 270 Tennyson, requested the Council approve the plans to move forward with the completion of the park for the good of the community.

**MOTION FAILED FOR LACK OF SECOND**

Council Member Kishimoto asked whether the use of the term landscape consultant needed to be used rather than specifying Hargreaves and Associates.

City Attorney, Gary Baum stated there was an exception to the purchasing rules based on the long-term relationship the City had with Hargreaves and Associates for a small contract.

Council Member Kishimoto stated the previous Motion was to approve the park design goals for Phase II.

**MOTION:** Council Member Espinosa moved, seconded by Council Member Schmid to: 1) Direct Staff to work with the Parks and Recreation Commission and Hargreaves and Associates to develop final park design goals for Phase II of Byxbee Park including provision to access and views and return to Council with a proposed implementation budget, and 2) Direct Staff to take the necessary steps to open the completed and approved landfill area (Phase II A/B in the Baylands Master Plan) to the public as interim open space by the end of 2011 or sooner.

Council Member Schmid stated Phase II A/B showed clearly no uses other than for Windrow composting for the forty-five acres of parkland. He stated once the Windrow composting system shut down in June of 2011 Phase II A/B could be opened at that time.

Council Member Klein asked for clarification on the financial impact of the first and second part of the Motion.

Deputy City Manager, Steven Emslie stated the immediate opening of the park involved the modification of the methane recovery system. He stated the monies had been set aside from the Refuse Fund.

Director of Public Works, Glenn Roberts stated the fence lines could be adjusted and the methane collection pipes moved underground utilizing the Refuse Funds and closure reserves which were designed for such expenses. He stated if Council's policy direction was to open the area, Staff would seek approval from the Santa Clara County Local Enforcement Agency (LEA). The LEA was the enforcement arm to the State of California Solid Waste Board which enforced the regulations cities needed to comply with in order to receive a permit to run a landfill.

Council Member Klein asked what the additional cost would be after 2011 in opening Phase A/B to the public.

Mr. Roberts stated the additional cost would be determined by the amount of work necessary to improve the current maintenance access roads for pedestrian pathways. Research would need to be completed to verify the amount of work necessary to complete the task.

Council Member Klein asked if there was an idea of the estimated cost to convert the pathways and he asked where the funds would come from.

Mr. Roberts stated the funds for that portion of the project would need to come from the General Fund or the Park Impact Fees.

Interim Director of Community Services, Greg Betts stated there was currently a CIP for Open Space Trails which was used for the maintenance of the current forty-five miles of trails in the Open Space Parks. He stated those same funds were being used for Phase I of Byxbee Park. He stated the estimated cost would be \$10 to \$15 thousand annually for trail maintenance, the cost for changing from maintenance roads to hiking trails was dependant upon the materials chosen.

Council Member Klein asked the amount received annually for the CIP Fund.

Mr. Betts stated the amount ranged from \$105 thousand to \$165 thousand depending on the projects occurring during that year.

Council Member Klein clarified in acceptance of this Colleagues Memo there was a commitment to utilize more than half of one years' worth of the trails budget.

Mr. Betts stated yes.

Council Member Barton asked the extent to which the two items were in conflict with one another.

Mr. Betts stated Staff had not found conflict between the design being reviewed for necessary restructure work and the location of the trails for Open Space.

Council Member Burt asked whether the intent was to use trail maintenance funds to convert new pathways.

Mr. Betts stated the CIP for Open Space Trails was intended for both, the ongoing maintenance, repair, erosion prevention and the building of trails.

Council Member Burt asked whether the Fund had sufficient monies to complete the intended purpose.

Mr. Betts stated there were funds available although to utilize them for this project meant deferral of other projects.

Council Member Burt asked if the deferral would be for necessary projects or discretionary projects.

Mr. Betts stated it would be deferral of necessary projects such as annual wear and tear of the roads that would need to be postponed.

Council Member Burt stated necessary work indicated the work needed to be completed. He clarified there was a policy decision on how funds were intended to be utilized. He asked whether Park Impact Fees could be used for building or re-routing trails.

Mr. Betts stated the nexus for Park Impact Fees was the fees would be used to expand the capacity of a park.

Council Member Burt asked the availability of those funds currently and the potential increase of them through the year 2011.

Mr. Betts stated he would return to Council with the information.

Council Member Burt asked whether the capping of the landfill expenses had included vegetation or erosion protection.

Mr. Roberts stated the areas needing to be capped had been reviewed by Hargreaves and appeared to be in compliance with the Byxbee Park Master Plan with minor adjustments. He stated the funding for basic landscaping was included in the Reserve Fund.

Council Member Burt asked whether the Refuse Funds could be used to supply the necessary vegetation for a proper closure of the landfill.

Mr. Roberts stated yes, it was probable to utilize the Refuse Fund.

Council Member Yeh asked the sufficiency of parking after Phase I and II were completed.

Mr. Betts stated the Master Plan emphasized alternative transportation and maintained the vision of parking was limited to encourage biking, hiking and using the shuttle.

Council Member Yeh asked whether there would be an analysis completed for future additional parking needs. He asked how other jurisdictions funded their parks as in Shoreline and Bay Front Park.

Mr. Betts stated he was uncertain of the funding source for the Bay Front Park but with the Shoreline Park there was an assessment on the businesses

east of Highway 101 which contributed to the maintenance of both the Amphitheater, Golf Course, and the park.

Mr. Roberts stated the understanding with Shoreline was there was a long-term contract with the City and County of San Francisco where they gave up their Refuse Funds for ten years, established an Endowment Fund for the park area, and there was a redevelopment area which generated revenues. He stated with Menlo Park there was funding from Landfill Reserve Operations and redevelopment in their industrial area.

Council Member Yeh asked what role the different Phases played as a buffer to the landfill.

Mr. Roberts stated the refuse landfill operation was confined to a lower elevation and no longer had issues with airborne debris. He stated the major concern with a buffer was with the existing composting operation and the dust it generated.

Council Member Yeh asked whether there would be a public health risk from the dust and debris.

Mr. Roberts stated once the City applied for the permit from the LEA, they performed a review to determine any health risks.

Council Member Kishimoto stated she approved the Colleagues Memo without her requested changes.

Council Member Espinosa clarified the Colleagues Memo was not approving dollars but rather asking Staff to return to Council with budget estimates.

Council Member Klein asked for an estimated cost for the expense for Hargreaves to develop final park design goals.

Mr. Roberts stated he would estimate the expense at \$25 to \$50 thousand.

Council Member Klein asked the source from which the expenses would be paid.

Mr. Roberts stated the funds would need to come from the General Fund or Park Impact Fees.

**SUBSTITUTE MOTION TO CONTINUE:** Council Member Klein moved, seconded by Council Member Barton to continue the Agenda Item until budget preparation for Fiscal Year 2011.

Council Member Barton stated the funds in discussion were of a fairly large amount and in direct competition with other necessary projects. He stated it would be beneficial to view all of the projects under a budgetary process prior to making a decision.

Council Member Schmid stated in a 2006 budget memo Council had approved charging the Refuse Fund rent for the use of the 46 acres of Open Space land. That rent was intended to be sufficient to cover the cost of landfill operations and made available for parkland development. He stated it was incumbent of the Council to decide the utilization of the land.

Council Member Burt stated the Refuse Fund was obligated to pay for the preliminary rudimentary landscaping which reduced the need to locate funding. There was a road system which could be modified into trails which reduced the cost of building a trail system. The timeframe of the Colleagues Memo was two years out which meant not necessarily in this budget system. He stated it was not reasonable to assume all of the new users of the park would be using alternative transportation. He noted there was a 100 yard gap in the bike path and that needed to be completed in order to accommodate the suggestion of biking to and through the park.

Council Member Kishimoto stated she would not be supporting the continuance.

**SUBSTITUTE MOTION TO CONTINUE FAILED:** 3-5 Barton, Drekmeier, Klein yes, Morton absent

Mayor Drekmeier stated having Staff return without a composting discussion did not seem efficient.

Council Member Burt asked whether Staff would be returning to Council with comments after or before the discussion on composting.

Mr. Roberts stated after Council gave policy direction on composting Staff would return with a park and composting facility design integrated.

Council Member Burt asked if the Colleagues Memo was approved, would Staff be engaging with Hargreaves prior to their return to Council.

Mr. Keene stated the funding source had not been identified for the work to begin and therefore Staff was requesting direction from Council. Staff would return with a specific schedule and funding options for Council's approval.

Council Member Burt stated Staff needed to return to Council to address the proposed funding concerns which would not happen prior to the return of the composting recommendation.

Council Member Klein stated the Motion was clearly a direction from Council to move forward, although there was not clear budget direction.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct Staff to report back to Council with an estimated budget for the work in both parts of the Motion in a timely manner.

Council Member Schmid asked how much time was needed to return to Council with a completed estimated budget and location of the funding source.

Mr. Keene stated although he had no specific timeframe he noted Staff would return quickly.

Council Member Espinosa wanted to clarify the action being taken was to alter the Motion to direct Staff to report back to Council with an estimated budget for the work in a timely manner. He stated the affect would be to have a discussion with numbers to clarify the cost and implementation of the project.

**MOTION PASSED:** 7-1 Drekmeier no, Morton absent

9. Policy & Services Committee Recommendation to Continue the Open City Hall Online Forum.

Assistant to the City Manager, Kelly Morariu gave a brief presentation on the Open City Hall Online Forum. She noted the cost of the Pilot program was \$5,000 for the initial set-up with a monthly fee of \$200.

Council Member Espinosa stated the vote at the Policy & Services Committee meeting was 2-1 with one member absent. He noted the minimum cost to initiate the process had already been paid and with the monthly fee not increasing it was a good step in civic engagement.

**MOTION:** Council Member Barton moved, seconded by Council Member Kishimoto to: 1) Continue utilizing the Open City Hall online discussion forum at a cost of \$200 per month, 2) Direct Staff to ensure a more timely delivery of comments, 3) Expand outreach, 4) Include occasional long term projects, 5) Embed Open City Hall onto the City's website, 6) Expand use to Board and Commissions, and 7) Include Social Networking sites.

Council Member Barton stated the project seemed to be consistent with the annual goals of outreach in a relatively inexpensive manner which was in the beginning stages of having an effect.

Council Member Kishimoto stated the community wanted to follow City Hall issues and this was a way for them to interact with Council, without needing to attend a late meeting.

Council Member Burt stated the Policy & Services Committee recommendations would elevate the program to its next level. He stated that while he did read the public comments online, he did not have the time to respond to each of them. As the program grew from tens to hundreds there would be less opportunity to respond individually, although each comment was being registered.

Council Member Espinosa stated he did not support the Motion.

Council Member Schmid stated he supported the Motion although he urged Staff to find a way to get through to the public the real issues.

Council Member Klein asked whether the forum would become part of the budget discussion next Fiscal Year.

Ms. Morariu stated yes, the assumption was the cost would be incorporated into the City Manager's Operating Budget.

Council Member Klein stated all of the City projects were in competition with everything else and noted in the event the program did not grow significantly, he would not be supporting its renewal in the future.

Council Member Yeh supported the Motion although he felt the comments were not received far enough in advance.

Ms. Morariu clarified when she mentioned the Staff screened the comments; she meant the Open City Hall staff screened the comments.

**MOTION PASSED:** 6-2 Drekmeier, Espinosa no, Morton absent

10. Policy & Services Committee Recommendation to Adopt Resolution 8995 entitled "Resolution of the Council of the City of Palo Alto Amending City Council Procedures to Add an Ad Hoc Committee Policy.

City Attorney, Gary Baum stated the proposed Resolution with the draft policy was at the request of Council.

**MOTION:** Council Member Espinosa moved, seconded by Council Member Kishimoto to accept the Policy and Services recommendation to adopt the Resolution amending the Ad Hoc Committee procedures.

Herb Borock, P.O. Box 632, recommended there be a time limit of six months for the committees and that committees not be extended because a new Council Member or Mayor had been elected. He urged the Council to follow the Municipal Code which required Council confirmation of Mayoral appointments to committees.

Council Member Espinosa stated the information mentioned by Mr. Borock was on the second page of the Colleagues Memo. He noted there was not a clear time limit identified by the Attorney General which was why the Colleagues Memo took the direction it did.

Council Member Burt asked for confirmation that there was a section in the Municipal Code stating the Council confirmed the Mayors' appointments to Ad Hoc and Standing Committees.

Mr. Baum stated his research determined the Municipal Code only referenced Council Standing Committees.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member Yeh to include; 1) Ad Hoc committees are created for a period not to exceed 6 months, and 2) Mayor shall ensure that an Ad Hoc Committee member provide a report of all activities of the Ad Hoc committee.

Council Member Schmid stated if there was an interest in open and transparent government, this Amendment would ensure a specific time limit. There should be a specific contact person for retrieving information on the Committee.

Mr. Baum stated the second point in the Amendment would make the Mayor a participant in the committee which would violate the Brown Act. He suggested a language change to "the Mayor shall ensure that a committee member provide a report".

Council Member Schmid asked if the report was given in an open session would the Brown Act be violated.

Mr. Baum stated the Mayor was not typically on a committee; therefore, the Mayor could ensure the report was received and reviewed.

Mayor Drekmeier asked for clarification that the desired effect was for the Mayor to agendaize the report or a Council Member could request the report status during Council Comments.

Council Member Schmid stated the goal was for the Council to have the right to request an update of any committee during any Council meeting.

Mr. Baum clarified in further research of the Municipal Code the Mayor appointed the Council Standing Committee members which did not require the Council to ratify the appointments. There was no reference to an Ad Hoc Committee appointment in the Municipal Code.

Mayor Drekmeier asked whether there was a specific time during a Council meeting when the report would be heard.

Council Member Schmid stated he wanted there to be a report each quarter. The Mayor could ask at any Council meeting for a report on the committee activities.

City Manager, James Keene clarified that there would be a regular reporting schedule for the Ad Hoc Committees and any Council Member could request an update from the Ad Hoc Committee outside of the specified schedule.

Mr. Baum stated if there was going to be a regular Agenda Item on the Council agenda, the Brown Act required the committee name be listed on the agenda.

Council Member Schmid asked why a Council Member could not ask for an update from the committee as a Council question.

Mr. Baum stated Council questions were specified as questions to an Agenda Item or as a direction to Staff to return. He stated the update needed to be agendaized as a report from the specified committee or at the close of any meeting Council could request at a future Council meeting the specified committee return with an updated report.

Council Member Schmid asked why the Brown Act would prohibit the public from receiving information.

Mr. Baum stated the Brown Act did not prohibit the information from being heard by the public, the Brown Act required the public be notified the information was being heard.

Mr. Keene stated a possible resolution would be to add a place on the Council agenda specifying Reports from Ad Hoc Committee and list all of the current committees.

Council Member Kishimoto stated she felt six months was too brief of a period of time to start a committee and get the information before dissolving it. She noted there was not currently a listing of all of the Ad Hoc committees and their members.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that any Ad Hoc Committee created will have the committee information posted on the City Council website.

Council Member Burt stated the six month time limit was unduly restrictive and he did not support this portion of the Motion. He agreed with posting all of the Ad Hoc committees, their members and their purpose on the website.

Mayor Drekmeier suggested at the end of a Council meeting during Council Comments any Council Member could request at the upcoming Council Meeting an update from a specified Ad Hoc Committee.

Council Member Yeh requested to split the Motion into two votes.

Council Member Espinosa stated Ad Hoc Committees were a necessary forum and throughout the years they had been informative in policy making by Council.

Council Member Schmid stated the duration guideline clearly noted if the Ad Hoc Committee had not completed its task by the end of the calendar year, it shall not continue unless re-appointed by the new Mayor. He noted that statement appeared to be open-ended.

Mr. Baum stated an Ad Hoc Committee could not have a fixed schedule of meetings and it must exist for a finite period of time.

Council Member Schmid asked whether a finite period of time was in affect if the same committee was re-appointed by a new Mayor.

Mr. Baum stated once the new Mayor re-appointed a committee it was in effect a new committee.

**AMENDMENT** (To limit Ad Hoc committee term to 6 months) **FAILED:** 1-7 Schmid yes, Morton absent

**AMENDMENT** (To allow any Council Member at the end of the Council meeting to request Ad Hoc committee report be agendaized for the following meeting) **PASSED:** 5-3 Burt, Espinosa, Klein no, Morton absent

**MOTION AS AMENDED PASSED:** 8-0 Morton absent

### ACTION ITEMS

11. Approval of the Extension of the Agreement Between San Mateo County Convention and Visitors Bureau and the City of Palo Alto for the Provision of Destination Palo Alto Visitorship Services in the Amount of \$240,000 for Fiscal Year 2009-10.

Director of Planning and Community Environment, Curtis Williams requested the approval of the second year of funding for Destination Palo Alto which was part of the economic development efforts.

Economic Development Manager, Susan Barnes gave a brief presentation on the mission, history, and status of the program.

Anne Le Clair, President and Chief Executive Officer, San Mateo County/Silicon Valley Convention and Visitor's Bureau (Bureau), stated although the economy had taken a dramatic downturn, there had been great success with the visitorship program which was growing.

Council Member Klein asked why there was a report stating metrics while Ms. Le Clair noted there were no metrics available.

Ms. Le Clair stated there were different types of metrics. The sales team for the Bureau controlled the sales lead metrics, however; there were no metrics to show whether or not those leads were productive.

Council Member Klein stated the report showed definite meeting events booked.

Ms. Le Clair stated yes, area-wide those meetings were booked through the leads from our sales team.

Council Member Klein clarified the report was not just for Palo Alto.

Ms. Le Clair stated that was correct, to date, Palo Alto reported a definite 11,600 hotel room nights booked.

Council Member Klein stated the numbers were misleading since the report was titled Destination Palo Alto but the numbers were area-wide.

Ms. Le Clair stated that was correct; however, City Staff had now requested a specific report for Palo Alto numbers.

Council Member Klein asked how the hotel room booked nights were calculated to reflect economic impact.

Ms. Le Clair stated they were using a standard rate of \$292 per night.

Council Member Klein asked why the brochure printed listed very little Palo Alto events.

Ms. Le Clair stated the Bureau sales team had a list to contact on a monthly basis regarding upcoming events. She noted there was an electronic link added to Palo Alto to check the City's on-line calendar of events which was updated regularly.

Council Member Klein asked how the Council could verify the program had returns on the investment.

Ms. Barnes stated the challenge was the leads were between eighteen to twenty-four months before an actual booking.

Council Member Klein asked why the report read the hotels were not being cooperative.

Ms. Le Clair clarified the hotels were being cooperative with the program, the report was referring to the survey portion of the program. Over the past year there had been very little cooperation through the hotels with having clientele complete the surveys.

Council Member Klein asked what City Staff was doing to increase the outcome of the situation.

Ms. Le Clair stated the surveys were filled out by the hotel clientele and were requested by the staff at the hotel. She noted the surveys were going out but were either not being returned or were being returned slowly.

Ms. Barnes stated the larger numbers seen in the quarterly report from Destination Palo Alto were aggregate numbers from the Bureau. The 11,600 was a specific number requested by City Staff of the Bureau to break-out Palo Alto numbers.

Mr. Keene stated if these were Palo Alto leads and the program definitely came through with \$292 per night equaling \$319,951 in Transient Occupancy Tax (TOT) funds he asked where this was reflected.

Council Member Klein asked for clarification on the statement of twenty people over fourteen days was a minimum of 350 room nights. He asked where the calculation came from.

Ms. Le Clair stated the calculation was incorrect and the correct number of people should have been twenty-five.

Council Member Klein asked when Council could expect to receive accurate metrics and whether this program was part of the Fiscal Year 2010-11 budget considerations.

Ms. Barnes stated Destination Palo Alto would be part of the Fiscal Year 2010-11 budget consideration.

Council Member Klein asked whether the metrics would be received by next spring.

Ms. Barnes stated yes.

Mr. Keene stated the Council was being asked to consider approval of the program for the second year of a two-year contract; therefore, the question of the metrics for the next budget year would only be informative if there was going to be a third year contract with Destination Palo Alto. He stated clear metrics needed to include a methodology of where the City was, where the City is and where the City would be without the Destination Palo Alto program.

Council Member Barton asked what the annual budget was.

Ms. Le Clair stated \$2.4 million.

Council Member Barton stated if the City was providing \$250,000 would it not be reasonable to expect to see ten percent of the leads in Palo Alto.

Ms. Le Clair stated Palo Alto room nights to date was 11,600, utilizing the old figures for calculations at \$292 per night which was now a higher economic impact of \$3.36 million on the books that had been brought in. She stated the program was exposing the possibility close to 100,000 room nights to a variety of city's while making sure Palo Alto had an equal chance at the business.

Council Member Barton asked whether there was anything Palo Alto could do to enhance the desire of visitors.

Ms. Le Clair stated it was a matter of educating people unfamiliar with the City and its amenities.

Council Member Burt asked whether the Bureau had previously booked locations outside of Palo Alto for Stanford events.

Ms. Le Clair stated yes, although once the Four Seasons in East Palo Alto had joined the program, the goal was to include the cities where there were activities such as Stanford.

Council Member Burt asked whether the intention of the calendar was to promote events based upon how worthy they were of a visitors' attention or equalization of participants.

Ms. Le Clair stated both cases applied.

Council Member Burt stated Stanford was a major draw for Palo Alto and a regional draw to surrounding cities; therefore one would believe Palo Alto would be covered more broadly on the events calendar.

Ms. Le Clair stated her agreement.

Council Member Burt asked whether Staff's intention was to provide the metrics given them by the Bureau or to work out a defined set of metrics of expectation.

Ms. Barnes stated Staff received the metrics from the Bureau, now Staff needed to gather what was being requested by Council in order to develop a specific table of metrics.

Council Member Burt stated a meaningful metric would be what occurred over the past year in the surrounding cities versus Palo Alto that information needed to be converted into dollars, and the impact of occupancy levels on average daily rates.

Council Member Espinosa stated when the program was initially brought to Council it was stated that there would be minimal data during the initial start-up. The first year had passed and the same questions were still being asked and the answers were the same.

Mr. Keene stated the data received showed the City had received a return on investment; however, he could not recommend to the Council to continue with Destination Palo Alto based on the metrics.

Council Member Espinosa asked whether there was a benchmark completed prior to the program beginning in order to present a comparable return on investment after the one year mark.

Ms. Le Clair stated the benchmarking process began last quarter. She stated the first year there were no metrics due to the length of time it took to book a room from the lead.

Council Member Espinosa stated what was requested was a baseline data to compare the program now to verify there were increases.

Council Member Kishimoto asked what benefits would be reduced if the budget to the program was reduced from \$240,000 to \$120,000.

Ms. Le Clair stated Palo Alto paid similar amounts as the surrounding cities.

Council Member Kishimoto clarified the amount requested was calculated proportionate by the number of rooms available.

Ms. Le Clair stated yes, and it worked out to a similar amount with what the other cities were paying.

Council Member Kishimoto asked about special assessments.

Ms. Le Clair stated a special assessment was a tourist fee passed on to the visitor.

Council Member Kishimoto asked the basis of the fee.

Ms. Le Clair stated it was \$0.15 to a \$1.50 dependent upon the size of meeting space and level of service.

Council Member Kishimoto asked whether it was a County-wide calculation.

Ms. Le Clair stated yes, there was a formula followed to achieve the specified amount.

Council Member Kishimoto asked whether the fee was considered a tax.

Ms. Le Clair stated no, it was a tourist fee which fell under the California Highway Code.

Council Member Kishimoto asked whether the fee needed to be passed by the Council.

Ms. Barnes stated the fee was adopted by the individual city then the hotels' paid into the Tourist Business Improvement District.

Council Member Kishimoto asked how long San Mateo County had been collecting the tourist fee.

Ms. Le Clair stated approximately nine years.

Mr. Keene noted Tucson, Arizona had a similar program and collected a tourist fee.

Council Member Kishimoto asked whether the future goal was to have the two-year program with the hope the hotel industry would find the program helpful.

Mr. Williams stated Destination Palo Alto was a two-year program, and at that point it would be re-evaluated.

Council Member Kishimoto asked the process in connecting with large employee based companies in scheduling rooms or events.

Ms. Le Clair stated the hotel industry had their own sales team to contact corporate facilities to schedule events. She stated the corporate accounts contacted were from out of the area.

Council Member Schmid stated the current recession created an improbable time to increase metrics with luxury or leisure expenditures.

Carla Cumpston, Palo Alto Chamber of Commerce, stated the sales process varied greatly and true long-term results would not always be easily or accurately measured in a short time period.

Paula Sandas, Palo Alto Chamber of Commerce, encouraged Council to extend the agreement with the Bureau. She stated when Council made the choice to invest in the Bureau, it was a smart investment in the economic future of Palo Alto.

Robert Moss, 4010 Orme, stated the concept of Destination Palo Alto was good; unfortunately the economy was not conducive to tourism.

Jim Rebosio, General Manager of Sheraton in Palo Alto, stated the exposure the Bureau had brought to the Sheraton was incredible. He supported the continuance of the program.

Council Member Klein asked why the Sheraton was not listed in the brochure.

Mr. Rebosio stated the Sheraton received bookings from the Bureau whether they were listed in the brochure or not.

Council Member Klein asked whether there was a specific reason why the Sheraton was not in the brochure.

Mr. Rebosio stated the Sheraton was at a novice level with the program. He felt they probably were not giving the program as much information as they could in order to provide the type and amount of business possible.

Mr. Keene suggested adding a condition to the continuance of the program that Staff would return in three months with a structured methodology with enough data for Council to feel comfortable funding the program.

Council Member Espinosa asked what recommendation would be given to proceed with the contract using the suggested scenario.

Mr. Keene stated under the existing terms of the contract there was an out clause with a sixty-day written notice of cancellation. He suggested continuing with the contract for the three months, review the numbers Staff will present and make a firm decision at that point.

Council Member Espinosa asked whether a new contract would need to be written or were there clauses incorporated into the existing contract which extended the contract without a full year commitment.

Mr. Keene stated he was uncertain of the specifics of the contract. Staff could return in three months and if Council was unsatisfied with the findings and wanted to cancel the contract, it would only be five months into the year.

Ms. Le Clair stated in the beginning of the process it was specified there needed to be a two-year contract in order for the partnership to be accepted by the Bureau.

Council Member Espinosa stated he recognized the amount of hard work which had gone into the process of the first year, but noted his concern of repeating the request for information.

Mr. Baum stated the contract ended on October 6, 2009 and the Bureau extended the contract under the same terms through November 6, 2009; however, the main contract cancellation clause had a cause provision. Therefore, the City was committed until October 2010 unless there was an amendment to the contract.

**MOTION:** Council Member Espinosa moved, seconded by Council Member Barton to; 1) Approve the extension of the agreement with the San Mateo County/Silicon Valley Convention and Visitors Bureau (SMC/SVCVB) and the City of Palo Alto for the provision of destination Palo Alto visitorship services in the amount of \$240,000 for fiscal year 2009-10, 2) Include an amendment to the contract of a 60-day cancellation clause, and 3) The City Manager will return to Council within three months with a detailed matrix of methodology and review of the program.

Council Member Barton stated he appreciated the work that had gone into the implementation for the program, although there was a point where Council needed to quantify the expenditure.

Council Member Yeh believed the program was an investment in the community. He stated investing in the business community in a difficult economy was a smart move.

Council Member Burt wanted to be clear the program was not a tourist bureau but a visitor's bureau. The drive was to forge beyond demand and he recognized the program had increased Palo Alto as a destination point.

Council Member Klein stated the brochure remained a concern for him in that Palo Alto needed to be showcased more and the metrics needed to show the cost of the program was justified.

Mayor Drekmeier stated the goal of Destination Palo Alto was not to bring in funds to the General Fund but the benefit was to support the businesses in Palo Alto.

**MOTION PASSED:** 8-0 Morton absent

12. Colleagues Memo from Mayor Drekmeier, Council Members Burt, Kishimoto, and Yeh Request for the Council to Adopt Resolution 8996 entitled "Resolution of the Council of the City of Palo Alto to Accept an Invitation to Participate in the United States-China Low-Carbon Cities, Communities, and Regions Program."

Council Member Yeh stated this was an exciting initiative with two countries who were the largest carbon admitters in the world. He stated there had been six cities selected within China and six cities and regions proposed within the United States. He stated there had been discussions of getting Palo Alto engaged as one of the six cities stemming from the connection with Stanford University.

**MOTION:** Council Member Yeh moved, seconded by Council Member Burt to pass a Resolution accepting an invitation to participate in the United States-China Low-Carbon Cities, Communities, and Regions Program.

Council Member Burt stated the participation of the program was a very important economic element as Palo Alto emerged as a recognized leader for a business investment in clean technology.

Council Member Espinosa asked the amount of resource impact on travel, budgets or Staff time.

Council Member Yeh stated in addition to foundation funding there had been private investors identified for funding and Staff time would be at a minimum.

Council Member Espinosa noted if Palo Alto was selected to participate it would be a benefit to share the honor with the Washington, DC lobbyist team.

Council Member Kishimoto stated the participation would solidify Palo Alto's role as a gateway between the U.S. and China.

**MOTION PASSED:** 8-0 Morton absent

#### COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Kishimoto reported on an upcoming meeting regarding the High Speed Rail and content sensitive solutions on Wednesday, November 4, 2009 in Burlingame.

Council Member Burt reported on the upcoming meeting of the Peninsula Cities Consortium meeting on November 6, 2009 which will also focus on High Speed Rail and content sensitive solutions.

ADJOURNMENT: The meeting adjourned at 11:52 p.m.