

# REPORT



FROM CITY ATTORNEY



Council Date: November 17, 2008

November 10, 2008

THE HONORABLE CITY COUNCIL  
Palo Alto, California

Report Type: Consent

RE: Adoption of an Ordinance Amending Palo Alto Municipal Code Section 2.28.240 (Settlement of Claims and Actions) to Increase the City Attorney's Settlement Authority from \$10,000 to \$35,000

Dear Members of the Council:

## RECOMMENDATION

The City Attorney recommends that Council adopt the attached ordinance increasing the City Attorney's settlement authority for claims or lawsuits to \$35,000.

## BACKGROUND AND DISCUSSION

Section 2.28.240 of the Palo Alto Municipal Code grants the City Attorney authority to accept, settle or reject claims and actions against the City, without prior approval of the Council, provided that no allowance, compromise or settlement exceeds \$10,000. Section 2.28.240 of the Palo Alto Municipal Code was last updated in 1995, and needs to be updated to reflect the monetary value of many actions against the City.

Increasing the City Attorney's authority to accept, settle or reject claims against the City in an amount of up to \$35,000 will facilitate the prompt resolution of claims and actions worthy of settlement. Approving this ordinance will also reduce the number of closed sessions, creating greater transparency in the settlement process. The City Attorney will continue to make biannual reports to the Council on actions taken on claims and actions against the City, pursuant to Palo Alto Municipal Code §2.28.240(d).

The suggestion to increase the City Attorney's authority originated from a few Council Members after a closed session was held on an issue with a low dollar value. The change will result in the swifter settlement of larger dollar claims. This could reduce the amount of lawsuits that become claims, and is more citizen friendly as legitimate claims would be paid more

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quickly. By comparison, the City Manager and Purchasing Manager both have \$85,000 contract approval authority.

RESOURCE IMPACT

Passage of this ordinance will result in approximately two fewer closed sessions per year. Assuming that outside counsel was present at each closed session, the savings to the City should exceed \$3,000 annually.

ENVIRONMENTAL REVIEW

Adoption of this ordinance does not require review under the California Environmental Quality Act because it does not meet the definition of a "project" pursuant to California Public Resources Codes §21065.

The City Attorney respectfully requests that Council approve the attached ordinance. If you have any questions concerning this proposal, I will be present at the City Council meeting to respond.

Respectfully submitted,

GARY M. BAUM  
City Attorney

GMB:mb  
Attachment

cc: James Keene, City Manager  
Kelly Morariu, Deputy City Manager  
Steve Emslie, Deputy City Manager  
Russ Carlsen, Human Resources Director  
Sandra Blanch, Risk Manager