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April 13, 2009

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ADJOURNMENT: The meeting adjourned at 12:02 a.m..... 361

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:00 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton arrived at 6:07 p.m., Schmid, Yeh

Absent:

### STUDY SESSION

1. Joint Meeting with the Public Art Commission Regarding Palo Alto Public Art Issues.

Public Art Commission Chair Einar Sunde opened by acknowledging and thanking the Council for the Colleagues Memo regarding the direction given to the Public Art Commission for the Mitchell Park Library and Community Center and the California Avenue fountain. He spoke to the Commission's Municipal Arts Plan developed during the Commission's retreat on October 11, 2008. The new plan maps out the Commission's priorities as they move forward. He followed with images of projects that the Public Art Commission has completed during the last year or that are currently in progress. Commissioners Terry Acebo-Davis, Larisa Usich, Ally Richter, and Elise DeMarzo joined in the presentation and discussed the following projects: Annual Youth Art Awards, artist designed bike racks, the proposed re-siting of the sculpture *Filaree* from the Municipal Services Center (MSC) to Greer Park, the Bill Bliss Memorial Art Project, California Avenue Fountain replacement, Mitchell Park Community Center/Library Percent for Art in City Project, the completed artwork sited at the San Francisquito Creek Storm Water Pump Station, upgrading the Commission's website, and the maintenance of the City's collection. Mr. Sunde emphasized that a major goal of the Commission is extending outreach about the Art in Public Places program to community members and neighborhood groups. Actions towards this goal have been to produce a lecture series featuring artists in the City's collection speaking to the community about the public art process; creation of a logo and creative template that brands the Public Art Commission, to be used on all informational and promotional materials; and updating the website to include a searchable database of the entire permanent collection, both 2-dimensional and 3-dimensional work.

### SPECIAL ORDERS OF THE DAY

2. Proclamation Honoring the Anniversary of 45 Years of Sister City Relations with the City of Oaxaca, Oaxaca, Mexico.

Mayor Drekmeier requested the visitors from the City of Oaxaca, Mexico to join him at the dais. He spoke on his personal experiences visiting the City

of Oaxaca, Mexico. He thanked Neighbors Abroad for their involvement with the Sister City Program.

Council Member Espinosa read the Proclamation honoring the anniversary of 45 years of Sister City relations with the City of Oaxaca, Mexico.

Mayor Drekmeier presented the visitors from the City of Oaxaca, Mexico with a gift.

A spokesperson from the City of Oaxaca, Mexico stated her gratitude for the Sister City relationship, presented a proclamation signed by the Mayor of the City of Oaxaca, Mexico, and presented a gift.

The Fire Chief from the City of Oaxaca, Mexico stated his gratitude for the donation of fire equipment by the City of Palo Alto that continually helps save lives and property in the City of Oaxaca, Mexico.

Mayor Drekmeier thanked former City of Palo Alto Fire Chief Ruben Grijalva and current Fire Chief Nick Marinaro for their services working in conjunction with the Sister City program to donate Fire equipment to the City of Oaxaca, Mexico.

3. Proclamation Declaring April 19-25, 2009 as the Week of the Young Child.

Vice Mayor Morton read the proclamation declaring April 19-25, 2009 as the Week of the Young Child.

Executive Director of the Palo Alto Community Child Care, Janice Shaul, thanked the City of Palo Alto for supporting programs for young children.

4. Proclamation Recognizing Congresswoman Anna G. Eshoo's Environmental Leadership and Her 14<sup>th</sup> Congressional District Office at 698 Emerson Street, Palo Alto as the "Greenest" Congressional District Office.

Mayor Drekmeier thanked Jim Baer for his labor on Ms. Eshoo's Congressional District Office through the WaveOne Project.

5. Demonstration of the New Utility Online Bill Pay System.

Assistant Director of Administrative Services, David Ramberg provided an overview on the outreach efforts for the Utility Online Bill Pay System (System). He shared a timeline of events that would lead up to the June 2009 customer interface go-live date, and the timeline for the July 2009 go-live date of the GreenWaste interface. He shared the key objectives and benefits the System will encompass, as follows: 1) provides new online services for utility customers; 2) achieves efficiencies through integrating

the City's financial systems together; and 3) improves collection systems through improved reporting and tracking. He indicated an outdated legacy system would be phased out.

Utilities Resource Planner, Jon Abendschein spoke on civic engagement and public outreach efforts for the System. He stated two beneficial aspects of the System was the ability for customers to pay their bills online and paperless billing. He indicated paperless billing would help the City achieve green goals by producing less paper waste. He stated 800 current utility customers would be involved in the beta testing scheduled in May and June 2009. He indicated community outreach had been carried out as follows: 1) informed customers they would receive a new account number;; 2) encouraged customer participation in the beta testing phase; 3) informed customers that the old services would be unavailable in May and June 2009; and 4) encouraged customers to call the Utilities Department if they had any questions during the transition. He indicated press releases, website postings, community groups meetings, and emailing customers directly had been made. He stated a prominent notification would appear on utility customer bills in the months of May, June, and July notifying customers their account numbers would be changing.

Utilities Account Representative, Vic Farisato overviewed the interface module of the System. He highlighted the Resident Energy Efficiency Program that would be incorporated within the System. He stated customers may view their account history up to five years. He stated utility payment may be made through an automatic checking or savings account, debit card, or credit card. He indicated customers using credit cards would be required to re-enter their credit card account number information on a monthly basis for security purposes.

Council Member Espinosa inquired if there would be previous billing information saved on the System.

Mr. Farisato stated the interface would include 13 months of customers' consumption history, and would not include any billing history prior to the go-live date.

Council Member Kishimoto inquired whether a rate tier system for water and electricity usage would be seen on the System's interface.

Utilities Director, Valerie Fong stated this feature would not be seen in the first phase. She indicated Staff was looking into a future phase of the System that would include a design showing rate and service usage tier levels and using graphs and tables.

Council Member Kishimoto inquired on a uniform log-in feature that could include all City services that connect with the SAP System.

Mr. Ramberg stated a uniform sign-in feature for all City services using SAP had not been researched. He indicated separate modules were distinctly used for the log-ins of City services, and protecting utility payment information was essential.

Council Member Barton inquired if City announcements would be included in the System and on the paperless receipts.

Mr. Farisato stated Staff was working on linking information onto the System to provide the type of information that was currently mailed to customers with their utility bills.

Council Member Yeh inquired if new customers would be automatically added to the online utility newsletters.

Mr. Farisato stated yes.

Council Member Yeh inquired on data security of the System.

Mr. Farisato stated one-time bill pay was offered for customers using credit cards, and credit card information would not be saved for security reasons.

Council Member Yeh inquired how the City was communicating security measures to the City's utility customers.

Mr. Abendschein stated information on security measures would be added to Frequently Asked Questions of the System that would be posted onto the City's website.

Council Member Espinosa stated his preference would be to integrate all City services utilizing the SAP System into one log-in site.

Mayor Drekmeier stated the City Council Meeting scheduled for Monday, April 27, 2009 would focus on the City's environmental projects. He stated a Green Tech Expo, co-sponsored by Sustainable Silicon Valley, would be held outside City Hall between 3:00 p.m. and 7:00 p.m., and a Forum would be held in the City Council Chambers between 4:00 p.m. and 6:30 p.m.

#### CITY MANAGER COMMENTS

City Manager, James Keene commented on several City subjects, as follows: 1) Earth Day event on Saturday, April 18, 2009 from 10:00 a.m. to 2:00 p.m. at the Lucie Stern Community Center; 2) Palo Alto Community Farm Shop (Farm Shop) at the Civic Center Plaza on Wednesday, April 22, 2009 from 4:00 p.m. to 6:00 p.m. He indicated the Farm Shop was designed to build a stronger connection between farmers and consumers, and build community through neighborhood events; and 3) Water Quality Control Plant issued a five-year discharge permit to the City with minimal new

requirements. He stated this permit was a reflection of the existing quality of operations and hard work done by Staff.

### ORAL COMMUNICATIONS

Service Employees International Union (SEIU) Chapter Chair, Lynn Krug spoke on general SEIU concerns, cost saving measures SEIU members felt the City should consider, and recent community activities SEIU members participated in.

Robert Moss, 4010 Orme Street, spoke on employee compensations as defined by salaries, benefits, pensions, and employee working conditions. It was his belief that all four categories should be analyzed in considering personnel costs. He felt management to SEIU employee ratio should be adjusted to expand the span of control of management.

### APPROVAL OF MINUTES

**MOTION:** Council Member Barton moved, seconded by Vice Mayor Morton to approve the minutes of March 16, 2009.

**MOTION PASSED:** 8-0 Klein abstaining

### CONSENT CALENDAR

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Barton to approve Consent Calendar Item Nos. 6,8.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Schmid to remove Agenda Item Number 7 from the Consent Calendar to become Agenda Item Number 12.

6. Resolution 8918 entitled "Resolution of the Council of the City of Palo Alto Designating 2300 Wellesley Street, Known as the College Terrace Library, to be Eligible as a "Sender Site" in the Transfer of Development Rights Program and Approval of Revision to Policy 1-46 Concerning the Procedure for Sale/Transfer of Development Rights for City-Owned Property."

~~7. Policy & Services Committee Recommendation to Adopt a Resolution Approving Revised City Council Procedures~~

8. Approval of a Contract with Mark Thomas & Company in the Amount of \$214,800 for Design Services for the Stanford Avenue/El Camino Real Context-Sensitive Streetscape and Intersection Improvements Project.

**MOTION PASSED for items 6 & 8:** 9-0

## AGENDA CHANGES, ADDITIONS, AND DELETIONS

**MOTION:** Council Member Burt moved, seconded by Council Member Klein to move Agenda Item Number 9 to the end of the agenda to become Agenda Item Number 12A.

**MOTION PASSED:** 9-0

## PUBLIC HEARINGS

10. Adoption of an Ordinance Amending Sections 18.16.060 (D) (Neighborhood, Community, and Service Commercial Zoning Districts), 18.18.060 (D) (Downtown Commercial District), 18.30(D) (Hotel Combining District), and 18.34.050 (Pedestrian and Transit Oriented Development Combining District) of Title 18 (Zoning) of the Palo Alto Municipal Code Regarding Development Criteria for Hotel Development and Adoption of a Resolution 8917 to Adopt a Comprehensive Plan Amendment to Commercial Land Use Definitions Providing Maximum Floor Area Ratios Allowed for Hotel Uses Consistent with Zoning Regulations.

Interim Director of Planning & Community Environment, Curtis Williams stated Staff requested Zoning Ordinance Amendments and Comprehensive Plan text revisions. The intent of the proposed Ordinance was to limit the potential for hotel development to create occupancy opportunities for hotel guests to stay beyond 30 days, which would otherwise reduce transient occupancy tax (TOT) revenues, and to correct errors in the enactment of the Hotel Combining District Regulations in the Zoning Ordinance Update in 2006. He stated the proposed Ordinance would include an increased Floor Area Ratio (FAR) of 2.0. He stated long term stay in hotels was the primary initiator of this proposed Ordinance Amendment. He indicated four hotels and several hotel expansions were currently proposed in Palo Alto, comprising about 560 potential new hotel rooms. These include the Ming's Restaurant site, 441 Page Mill Road, Palo Alto Bowl site, and the Stanford Shopping Center expansion.

Lee I. Lippert, AIA, stated the Planning & Transportation Commission (P&TC) agreed with Staff's recommendation. He stated the P&TC unanimously recommended that the City Council approve the Zoning and Comprehensive Plan revisions.

Council Member Klein inquired what would happen if a hotel guest stayed over the permitted 30 days, and the hotel did not submit a request for an extension agreement to the City.

Mr. Williams stated Staff would monitor the revenues collected from hotels and any concerns would be directed to the City's code enforcement

personnel. He stated Staff would notice a decline in revenues if a substantial amount of rooms were not providing a TOT.

Council Member Klein inquired why a penalty for staying in a hotel over the allotted 30 days was not included in the proposed Ordinance. He indicated the City had other Ordinances with penalties to enforce behavior.

Director of Administrative Services, Lalo Perez stated the proposed Ordinance's language allows for hotel stays over 30 days as being exempt from the TOT. He indicated a hotel would be required to inform the City ahead of time for guests staying over 30 days.

Council Member Klein stated hotel personnel that do not report occupancy stays in excess of the 30 day maximum would be in violation of the proposed Ordinance. He inquired what the penalty would be in this case.

City Attorney, Gary Baum stated the issue would initially be handled through code enforcement. If compliance was not reached, the matter would be handled as an administrative matter with fines up to \$1000, or the hotel would be charged with an infraction or misdemeanor. He indicated a lack of enforcement at this point would warrant a civil injunction. He stated adding a penalty to address this matter could be added to the Administrative Penalty List that was scheduled to be brought to the City Council for approval.

Council Member Klein inquired what the penalty might be.

Mr. Baum stated approximately \$250. He stated he would confer with Staff.

Council Member Klein referred to Section C of the proposed Ordinance and read as follows, "A minimum FAR of 1.0 shall be provided for the hotel/condominium building(s)". He requested clarification on this section.

Mr. Williams stated if the City were to provide the incentive, and potentially allow residential condominium use, there needed to be a critical mass of revenue in comparison to the size of the hotel. Section C was to provide a threshold of 1.0, before the residential component of the hotel was approved.

Council Member Klein asked if a hotel could be built with a FAR less than 1.0.

Mr. Williams stated yes.

Council Member Klein inquired if paragraph D was created to be consistent with paragraph B in the proposed Ordinance.

Mr. Williams stated yes. He stated paragraph B and D restricted the developer from building half the hotel as residential units and half the hotel as long- term stay units.

Council Member Klein inquired why Staff chose to limit the language in the proposed Ordinance as TOT being the only benefit to the City. He indicated there were multiple benefits to the proposed Ordinance.

Mr. Williams stated language could be added into the proposed Ordinance such as "results in economic benefits including TOT".

Council Member Klein believed broader language regarding the benefits to the City should be included in the proposed Ordinance.

Public Hearing opened and closed without public comment at 8:35 p.m.

Council Member Burt stated the City had encouraged Extended Stay Hotel to build in Palo Alto, and the proposed Ordinance would discourage this type of hotel. He inquired why the City would encourage Extended Stay Hotel to build in Palo Alto, while adopting an Ordinance that would restrict the type of lodging Extended Stay was known for. He inquired why Staff did not include language in the proposed Ordinance that mandated a hotel guest to check-in and check-out after 30 days and repay the TOT.

Mr. Baum stated State law prohibits charging hotel guests the TOT beyond 30 days.

Council Member Burt stated whether a guest chose to check-out of a hotel after 30 days, and recheck-in at the same hotel, would there be anything that would prohibit this action.

Mr. Baum stated there was a prohibition in the Revenue and Taxation Code of the State law that prohibits a collection of TOT after 30 days of stay by a hotel guest.

Council Member Burt inquired if there could be a voluntary work-around the 30 day restriction between the hotel and the hotel guest.

Mr. Williams stated the P&TC discussed this inquiry and concluded that through an agreement with the City, the City would allow an occupant to check-in and check-out. He indicated this voluntary action from the hotel and hotel guest would satisfy the TOT requirements.

Council Member Burt inquired if a system was in place to collect TOT on residential condos that were privately owned and rented by hotel management companies.

Mr. Williams stated there was a system in place to collect TOT on privately owned condos that were rented through hotel management companies.

Council Member Burt inquired whether owners of condos would be required to pay the TOT if they did not rent their condos through hotel management companies.

Mr. Williams stated condo owners legally had an obligation to pay the TOT.

Council Member Burt inquired on the City's administration practices in these circumstances.

Mr. Perez stated Staff was currently not monitoring or enforcing these activities.

Council Member Burt stated monitoring and enforcement mechanisms should be studied.

Council Member Schmid inquired where the hotel overlays were on the Research, Office and Limited Manufacturing District (ROLM), Research Park District (RP), and the General Manufacturing District (GM) zones.

Mr. Williams stated there were presently no hotel overlays in those areas; however, approval of this Staff report would create an opportunity for an applicant to create a hotel overlay in the ROLM district, RP district, and the GM zone pursuant to regulations.

Council Member Schmid inquired whether the hotel overlays would apply to specific parcels, or parcels that possessed subsequent zoning decisions previously approved.

Mr. Williams stated both situations were correct.

Council Member Schmid inquired on the zoning designation of Ming's Restaurant site.

Mr. Williams stated the Ming's Restaurant site was currently a Planned Community (PC) site that possessed a service commercial designation in the Comprehensive Plan. He stated the property could be rezoned to commercial service with the approval of the Staff report.

Council Member Schmid inquired if a PC zone designation site would require rezoning.

Mr. Williams stated the PC conditions would only apply to a restaurant within the hotel.

Vice Mayor Morton stated the intention of the proposed Ordinance was to encourage additional hotel rooms, and expand the FAR, in order to create a larger TOT. He inquired whether room stays in excess of 30 days that were approved by the City could result in the collection of TOT.

Mr. Williams stated no. He stated TOT could not legally be applied beyond a 30 day stay.

Vice Mayor Morton stated Staff should look into another kind of revenue, such as an extended stay or a temporary stay revenue. He inquired if there was a preferred ratio in the density of condominium or extended stay units in hotels.

Mr. Williams stated hotels could not apply for more than 25 percent residential condominium use.

Vice Mayor Morton inquired whether the 25 percent condominium use would be subject to the TOT.

Mr. Williams stated yes.

Council Member Yeh inquired whether Staff had discussions with potential hotel developers to gather additional perspectives.

Mr. Williams stated yes. He indicated there were no potential issues raised regarding the way the proposed Ordinance was written.

Council Member Yeh inquired on the methodology used by Staff to analyze the lost revenue from extended stay in hotels.

Mr. Williams stated four examples were looked at in Southern California, and formulas for obtaining revenues were studied by Staff.

Council Member Yeh inquired whether a methodology on revenue collections would come forth in regards to future proposed developments.

Mr. Williams stated yes.

Council Member Yeh inquired whether the proposed Ordinance included existing hotel developments as well as future hotel developments.

Mr. Williams stated he was not aware of a current regulation that would prevent an existing hotel from expanding to include an extended stay section as long as they abided by the rules in the proposed Ordinance.

Mr. Baum stated Staff would look at the approved zoning permits for each existing hotel development to see if there were any limitations. He stated the proposed Ordinance itself was not retroactive.

Council Member Yeh inquired whether a hotel was subject to the proposed Ordinance if it was to convert or expand as an extended stay hotel. He stated his question was in reference to existing hotels.

Mr. Baum stated if a hotel owner did not apply for a new permit for expanding the hotel, the existing zoning permit would be enforced.

Council Member Schmid created a scenario where hotel guests stayed longer than 30 days unintentionally. In his scenario, he stated the guests may be family members of medical patients being treated at the Stanford Medical Center.

Mr. Williams stated the Stanford Project was not subject to this Staff report's regulations and was under a Development Agreement. He indicated the Shopping Center Development Agreement would be amended in this case, and an extended stay hotel would be covered by that Agreement.

**MOTION:** Council Member Espinosa moved, seconded by Vice Mayor Morton to:

1) Adopt the draft Ordinance amending the Palo Alto Municipal Code Title 18, Zoning, to revise:

A) Section 18.16.060 (D); and

B) Section 18.18.060 (D); and

C) Section 18.30 (D); and

D) Section 18.34.050 to assure that incentives for hotel development are appropriately applied to developments that generate Transient Occupancy Taxes, and to make corrections to the Hotel (H) combining districts; and

2) Adopt the draft Resolution for a Comprehensive Plan Amendment to the Commercial land use definitions on pages L-11 and L-12 for Service Commercial and Commercial Hotel to reference a maximum hotel Floor Area Ratio (FAR) allowance of up to 2.0:1 and to add a sentence to the Neighborhood Commercial definition to allow up to 0.5 FAR for non-residential floor area for mixed use development on El Camino Real.

Vice Mayor Morton stated the proposed Ordinance was brought forward in the past to increase TOT. He hoped this proposed Ordinance would encourage hotel development in the City limits.

Council Member Kishimoto inquired on the inclusion of the zoning designation to the Neighborhood Commercial (CN) and Service Commercial (CS) regulations.

Mr. Williams stated the CS zoning contained hotel development as a permitted use up to 2.0 FAR. He stated extended stay provisions applied in that instance.

Council Member Kishimoto stated there were several CS zoned buildings along El Camino and they backed up to single family homes. She inquired whether there were discussions regarding this matter from the P&TC.

Mr. Lippert stated there were no discussions from the P&TC; the CS zones already allowed developers to build up to a 2.0 FAR.

Mr. Williams stated there was an Architectural Review and a Site and Design Review requirement, and achieving approval of 2.0 FAR would not likely be approved in a residential area.

Council Member Kishimoto questioned if the height on the buildings close to residential areas was around 35 feet.

Mr. Williams stated yes; he stated the daylight plane regulation applied.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Ordinance when it is brought back for second reading that the benefits be expanded beyond the Transient Occupancy Tax to include business climate, sales tax revenues and that proposed appropriate penalties for enforcing the 30-day stay limitation be included.

Council Member Burt requested clarification for developments that may possess adjacency issues. He inquired if the proposed Ordinance would prevent an existing development, at a lower FAR, to be eligible for a hotel bonus on a commercial property to add an extended stay hotel.

Mr. Williams stated yes.

Council Member Burt stated studies have shown hotels are among the lowest developments in the City to contribute to peak-hour traffic, and have a low impact on the community. He felt zoning incentives were a great compliment to drive demand to the City's Destination Palo Alto program.

**MOTION PASSED: 9-0**

#### REPORTS OF OFFICIALS

Vice Mayor Morton advised that he would not be participating in this item as he owns stock in Verizon and other network companies.

11. Recommendation to Terminate Ultra-High-Speed Broadband Request for Proposals Process Due to Lack of Financial Resources of the 180

Connect Network Services Inc./Packetfront Inc./Axia NetMedia Corporation Consortium's Proposal to Build a Citywide Ultra-High-Speed Broadband System and Approval of Actions for Proceeding with the Broadband Initiative.

City Manager, James Keene stated the Staff report recommends the City Council to approve the following: 1) Direct Staff to formally terminate the Ultra-High-Speed Broadband Request for Proposals Process. He indicated issues were raised at the February 25, 2009 Council Meeting; and on March 9, 2009, the City received a letter from Axia withdrawing from the Ultra-High-Speed Broadband Project (Project). 2) Request specific and formal direction from the City Council to direct Staff to pursue federal economic stimulus and federal appropriation money to fund network capital costs and utilize fiber-optic funds to pay for the services needed to support the Federal Stimulus Grant project. He indicated developing a plan was essential in order to be competitive in securing federal stimulus grant funding. He stated specific information would return to the City Council in late May or early June 2009; and 3) Recommend Staff to conduct the Community Interest Survey to gauge citizen interest in broadband services. However, he recommended the last action not be voted on, but to focus on stimulus funding.

Deputy Director of Administrative Services, Joe Saccio iterated Staff's request that the City Council terminate the Ultra-High-Speed Broadband Request for Proposals Process. He provided an update on Staff efforts of the federal stimulus grant funding. He indicated the City had hired a Washington DC lobbyist, and an expert telecommunications lawyer that are working closely with the City Attorney's Office. He stated Staff would be submitting comments to the National Telecommunications and Information Administration (NTIA) in order to lend ideas to the application process. He stated Staff spoke with a Sacramento lobbyist who may be able to work on the City's behalf if federal stimulus money is allocated to the State government and then distributed to the localities. He stated contracting a consultant, to assist in creating a document to accompany the application for federal stimulus funding, would be beneficial to receiving funding. He stated the consultant would work on a document that would define and cost out a short-term low risk project to leverage the City's existing assets, extend the communication ability within the City, and lay a stepping stone toward the fiber network in Palo Alto. He stated the City's current consultant had worked on the negotiations with the consortium. He stated Staff recommended the remaining funds, in the amount of \$300,000 from the dark fiber fund, be allocated for this purpose. He stated NTIA applications were due in July 2009.

Andy Poggio, spoke on the differences between the use of wireless and fiber. He indicated that once the City's fiber technology was in place, it would be easy to add a wireless overlay on top of the fiber.

Bob Harrington, spoke on his observations during the negotiations. He stated as the City builds its capability investing in fiber and relationships with content providers and perspective users, it would contribute to community strength in fiber network.

Mr. Poggio spoke on using the fiber ring revenue for this Project. He stated the City should develop a go-slow approach. It was his belief the Calaveras Utilities Fund and City Grid Idea should be looked at as a possible source of revenue. It was his belief that once the Project was developed and mature, net revenue for the City would possibly reach \$7,000,000.

Robert Smith, 2291 Greer Road, spoke on the complexity of the Project and marketing issues. It was his belief the City should build relationships, and welcome providers such as Comcast and AT&T to service the City.

Jeff Hoel, 731 Colorado Avenue, spoke on the importance of the Project; further stating it should be dealt with strategically.

Harry Stangel, 960 Commercial Street, spoke on the benefits of fiber-to-the-premises for small business owners.

Robert Moss, 4010 Orme Street, spoke on the benefits of a high quality broadband service. It was his belief there were opportunities in the City's Utilities and Electric Funds, and the City should move forward with this Project.

Ellie Gioumousis, 992 Loma Verde Avenue, spoke on her negative experiences dealing with internet providers that service the City. It was her belief that supporting this Project would be a good investment for the City.

Herb Borock, P.O. Box 632, spoke on the need for transparency when developing the Ultra-High-Speed Broadband Project.

Michael Eager, 1960 Park Boulevard, spoke on bad decisions made on the Project from previous City Council Members. It was his belief revisiting the same issue was not productive. He felt funding a fiber-to-the-premises network would be valuable, but costly.

Council Member Espinosa inquired on a regional approach in pursuing the federal economic stimulus and federal appropriation money to fund the Project.

Mr. Saccio stated there were regional partnerships and Staff was considering these partnerships; however, he was unsure of the legal ramifications for applying for money that would benefit multiple cities. He stated no regional plan was in effect.

Mr. Keene stated a time schedule, I-Net, and the need for a back-up plan were discussed at a Tri-Cities Mayors Meeting that was held with the Cities of Palo Alto, East Palo Alto, and Menlo Park.

Council Member Espinosa questioned why Staff was recommending a go-slow approach, and not pursuing efforts to generate another Request for Proposal (RFP).

Mr. Saccio stated the RFP process had not been successful in the past.

**MOTION:** Council Member Klein moved, seconded by Council Member Barton to:

- 1) Terminate the Ultra-High-Speed Broadband Request for Proposals relationship with the Axia NetMedia Consortium; and
- 2) Direct Staff to continue to pursue federal economic stimulus and federal appropriations money to fund Network capital costs. Authorize the use of Fiber Optics Fund resources to pay for engineering, legal and other professional services needed to support the grant application process; and
- 3) Direct Staff to contact other providers (such as the winning applicants in Australia and Singapore, AT&T, Comcast) to see if there is a possibility of a partnership; and
- 4) Develop a plan for phased build-out of the existing backbone once the first three priorities have been completed.

Council Member Klein spoke on his attendance at the National League of Cities Meeting held in March 2009, and a seminar he attended which focused on Ultra-High-Speed Broadband. He felt there was stimulus funding worth perusing for this Project, and Staff should continue to monitor the Federal Communications Commission (FCC).

Council Member Barton stated the more the City can do to create Ultra-High-Speed Broadband in Palo Alto, the better the City will be in attracting businesses and services in Palo Alto.

Council Member Schmid stated the City was facing a set-back due to the termination of the contract with Axia; however, he complimented Staff with their ideas on moving forward. He stated pursuing the stimulus funds was an appropriate direction to take. He stated directing Staff to reach out and talk to vendors would open up the possibility to gaining insight on the City's original vision. He did not agree with a phased build-out project, or creating debt.

Council Member Burt stated the Project was a key component in creating a leading-edge technology community. He felt the City should move forward with the Project.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to assure all future expenditures come from the Fiber Optics Funds.

Mr. Keene stated the funds were currently allocated from the Fiber Optics Fund; however, the motion would ensure this process in the future.

**AMENDMENT:** Council Member Burt moved, seconded by Council Member Kishimoto to include evaluation of broadband wireless.

Council Member Burt stated the prior RFP had certain restrictions and incentives that were added by the City, that were not in the original intentions of Staff that dealt with dark fiber strands and revenues from City sources.

Council Member Kishimoto stated the importance of the Project. She stated the Project was the City's number one economic development tool. She stated her concern with I-Net. She stated the Calaveras Electric Fund should be looked into as a possible funding source. She supported outdoor wireless in Palo Alto as a service, but not as a substitute for fiber.

Council Member Yeh stated his concern of prioritizing wireless, and diverting Staff and financial resources away from fiber.

Mr. Keene stated discussions with Axia led Staff to believe a new RFP should be issued because the initial conditions were too restrictive. He indicated the direction the City is going does not preclude the City from issuing a new RFP in the future.

Council Member Yeh inquired when the Project would return to the City Council.

Mr. Saccio stated Staff would gather information and return to the City Council with an update on conversations held with vendors. He indicated the Staff report could potentially return with the Staff report on stimulus funding.

Mr. Keene stated that report would be in June 2009.

Council Member Yeh inquired whether the Calaveras Fund Reserve was being looked at as a potential funding source for fiber-to-the-premises by the Utilities Advisory Commission (UAC).

Utilities Director, Valerie Fong stated a clear conclusion had not been drawn between the fiber-to-the-premises and benefits to the electric ratepayer.

She stated Staff was currently working on funding studies and a smart grid proposal to be reviewed by the UAC.

Council Member Yeh inquired how Staff defined "more risky", as noted in the Staff report.

Mr. Saccio stated fiber-to-the-premises was a "more risky" venture because it was dependent on the revenue streams from the market. He stated the revenue stream was not guaranteed due to competition with other vendors.

**AMENDMENT WITHDRAWN.**

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to change Number 4 of the Motion to; Develop a plan to proceed with a phased build-out of the existing backbone or other advanced technologies that would accomplish the same goals.

Mr. Keene stated the intent of the Staff report was to shape the vision created by Staff to create incremental work in moving forward with the Project.

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

**12A.** (Former No. 7) Policy & Services Committee Recommendation to Adopt a Resolution Approving Revised City Council Procedures.

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Barton to continue Agenda Item 12A to a date uncertain.

**MOTION PASSED:** 9-0

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Burt deferred reporting on the VTA Policy Advisory Committee meeting until the meeting on April 27, 2009.

Meeting adjourned into Closed Session at 10:27 p.m.

CLOSED SESSION

12A. (Former No. 9) CONFERENCE WITH LABOR NEGOTIATOR  
City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray)  
Employee Organization: Local 521, Service Employees International Union (SEIU) - SEIU Hourly Unit  
Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray)

Employee Organization: Local 521, Service Employees International Union

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray)

Employee Organization: Palo Alto Peace Officers' Association

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray)

Employee Organization: Local 1319, International Association of Fire Fighters

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray)

Employee Organization: Palo Alto Fire Chiefs' Association

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (James Keene, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray)

Employee Organization: Unrepresented Employee Group Management and Professional Personnel and Council Appointees

Authority: Government Code section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (James Keene, Russ Carlsen, Lalo Perez, Sandra Blanch, Darrell Murray)

Employee Organization: Unrepresented Employee Group Limited Hourly Employees

Authority: Government Code section 54957.6(a)

The Council reconvened in the Council Chambers at 12:01 a.m. and City Attorney Gary Baum announced there was no reportable action taken.

ADJOURNMENT: The meeting adjourned at 12:02 a.m.

ATTEST:

APPROVED:

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City Clerk

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Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.