



FINANCE COMMITTEE

Regular Meeting
July 21, 2009

Chairperson Burt called the meeting to order at 7:09 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Burt (chair), Morton, Schmid

Absent: Klein

1. Oral Communications
2. Request to Preliminarily Approve FY 2009 Reappropriations Requests.

Director of Administrative Services, Lalo Perez said as part of the year-end process Staff brings FY 2009 reappropriations for the Finance Committee to preliminarily approve. The term "reappropriations" refers to items that were budgeted for and approved by the City Council for the previous FY year, but Staff was not able to award contracts for those items. This process is requesting those funds to be carried over from FY 2009 to FY 2010. The total amount is about \$3 million Citywide. Approximately \$2.3 million is for the General Fund. The majority of that is \$2 million which is the City Manager's housing equity share and loan. The Enterprise Fund has about \$521,000, and the Internal Service Fund has \$180,000.

Vice Mayor Morton asked Staff if it was their intent that Council "approves in concept" these dollar amounts since each of these items were large contracts that would eventually come to Council on the Consent Calendar.

Mr. Perez said that is one step. The other time Staff would request appropriations for approval would be when the books are closed after the audit.

Council Member Schmid said this is an opportunity for oversight on spending. He stated that \$32,000 was for the Comprehensive Plan Amendment. In January 2009, when the Committee was approving the work program, there was a promise that a quarterly report to the Council would be made, and that the Council would be engaged on policy, programs,



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and vision statement issues. He stated the Council has not had any activity in this. He questioned whether it would be appropriate to approve budget expansions, or to have a statement about delivery of the work program given this situation.

Mr. Perez explained that these reappropriations aren't additions. They are carryovers from a previously approved budget.

Interim Planning & Community Director, Curtis Williams said that they are trying to schedule a session in October to come to the Council with vision statements, perhaps in a joint study session with the Planning and Transportation Commission. He agreed that the format for the quarterly reports has not been completed, but believed the study session would be a good kick off for that process.

Chair Burt asked if these expenses were unencumbered expenses for Fiscal Year 2009.

Mr. Perez confirmed that they were.

Chair Burt asked why the report was worded to suggest that they were approving 2009 reappropriation requests. He asked if they were approving requests from Fiscal Year 2009 to Fiscal Year 2010.

Mr. Perez said that they were FY 2009 to FY 2010. He then explained that an encumbered expense is one that is awarded to a vendor and assigned a purchase order. In a reappropriation request there is no assignment to a purchase order, because Staff is requesting preapproved money to be carried over to the following year.

Chair Burt thought it might be confusing to the public the way it was worded. He suggested "reappropriation of 2009 appropriations carried over to 2010".

Mr. Perez agreed with Chair Burt's points that Staff should try to clarify the process.

Herb Borock PO Box 632, spoke regarding the speed survey required to justify radar enforcement, as one of the appropriation items. He stated the law dictates that speed surveys are not enough for radar enforcement. Areas near schools and senior centers don't require the surveys. Every



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place else requires the survey and enactment of an ordinance to authorize the use of the radar. The surveys must be done every 5 years. No Ordinance has been passed in Palo Alto since 1995. There was an RFP (126867) last year for speed surveys, yet no action was taken on the part of the Council.

Mr. Williams stated that the issue of speed surveys came up at the budget hearing. The surveys in use are still valid for the use of radar. There are exceptions that the State grants that extend the period of time in between surveys. He also stated that the surveys will expire soon, so new surveys will have to be done and Staff will have to come back to the Council for an Ordinance.

MOTION: Vice Mayor Morton moved, seconded by Council Member Schmid, that the Finance Committee recommend that the City Council approve the Fiscal Year 2009 reappropriations into Fiscal Year 2010.

MOTION PASSED: 3-0 Klein absent

3. Adoption of a Resolution Approving the Ameresco Johnson Canyon Landfill Gas Renewable Energy Power Purchase Agreement for the Acquisition of Up to Two Average Megawatts of Energy Over Twenty Years at an Estimated Cost Not to Exceed \$30 Million.

Senior Resource Originator, Tom Kabat provided a presentation about Palo Alto's locally adopted Renewable Portfolio Standard (RPS) and the Ameresco Johnson Canyon Power Purchase Agreement (PPA) under consideration. He said that in 2002 the Council originally adopted a target of 20 percent of electric load to be met with renewable power using resources acquired to assure no more than a half cent retail rate impact. In 2007, the City Council adopted a revised RPS target of 33 percent renewables by 2015 while staying within a half cent per kilowatt (kWh) retail rate impact. The City of Palo Alto sells about 1 million megawatt-hours per year. At 1.5 cents per kWh, multiplied by 1 million megawatt-hours; there is a \$5 million allowable green resource premium. This year, 18 percent of the load is being met by renewables. Staff is looking for new renewables, with six good proposals currently under consideration, one of which is Ameresco. Palo Alto is a member of the Northern California Power Agencies (NCPA) Green Project and participates in their RFPs and in negotiating proposals. Ameresco Johnson responded to a spring 2009 RFP. When factoring in price and certainty to develop, they were in the top six of those that responded and



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negotiations commenced. The Ameresco Johnson Canyon PPA describes a 1.4 megawatt generator on a small landfill that sits on a much larger property in Gonzalez, California. That landfill is slated for growth, which would produce more gas. Initially it will produce about 11 thousand megawatt-hours per year or 1.1 percent of Palo Alto's use. Ameresco made a proposal in response to the RFP, but gave a short turn around time before they would take it to others. Palo Alto currently takes energy from 3 other Ameresco projects and a fourth is being developed in Butte County. This PPA price is reasonable, at 10.9 cents per kWh and escalates at 1.5 percent for twenty years, and is in line with the benchmark Market Price Referent (MPR). Power delivery would begin in mid 2010, and Palo Alto will only pay for power it receives. The output is base loaded, meaning it runs flat around the clock, year round. The site has good expansion opportunities; with growth it could provide one quarter percent per year of Palo Alto's electric needs. It's a small project generating 1.4 megawatts with one engine, at a seemingly high cost, but it will lay the ground work for future projects. The PPA gives Ameresco the right to sell expansion output to Palo Alto priced at 85 percent of the then applicable MPR. If they price any additional power at a fixed price of 85 percent of this external price benchmark, Palo Alto must purchase it at that rate. If they are only able to produce power at a higher price, then Palo Alto has the right of first refusal. The price is comparable to what we are finding currently in the market. Johnson Canyon output is priced at 10.9 cents per kWh compared to 9.8 cents/kWh for the Butte County landfill gas project that was negotiated in July 2008. They both escalate at 1.5 percent per year. Prices for renewables have risen substantially around the market due to legislative efforts increasing the RPS's statewide, which drove up the demand faster than the output. Legislative efforts favoring California renewables above out of state renewables also drive up prices for California renewables. This MPR is a benchmark price calculation determined by the California Public Utilities Commission (CPUC). It is the levelized cost of building and operating a combined cycle, gas fired power plant and purchasing carbon dioxide offsets. This MPR is 11.4 cents per kWh, flat over 20 years for contracts starting in 2010. The MPR is renegotiated each year and it's estimated to drop about one cent this fall. From a historical perspective Palo Alto has made commitments to the High Winds Project, Santa Cruz Landfill Gas Project and the Half Moon Bay Landfill Gas Project in 2004. Back then green premiums were small, or sometimes negative. Those contracts were close to the MPR. The Johnson Canyon Landfill PPA price starts at 10.9 cents, or \$109 per megawatt hour, escalating annually at 1.5 percent for a levelized price of \$124 per megawatt-hour. The current economic conditions have lowered



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brown prices, but it hasn't had the same affect with renewables. Staff is finding the Johnson Canyon project is near the MPR even those with small expandable projects. Staff has negotiated terms that allow the projects to come in at 85 percent MPR. Each project committed to over the years has consumed a piece of that \$5 million green premium. The first seven projects consumed only \$300,000 of the allotted \$5 million per year in green premiums. The Johnson Canyon project will consume about \$600,000 of the remaining for a total of about \$900,000 out of \$5 million. Staff will continue pursuing other renewables to meet 12 percent of the portfolio by 2015. Staff will continue to negotiate the top five to seven proposals. If needed, another RFP can be issued in 2010. Palo Alto may need to consider other arrangements such as payments ahead of delivery. NCPA has said that Western Geopower has had financing trouble and Palo Alto may need to resize their participation.

Council Member Schmid asked if this meant that Palo Alto is now paying twice the market rates per kWh.

Mr. Kabat said that 20 year contracts are taken into consideration. The 20 year levelized number indicates it's somewhere around twice the current brown market price.

Council Member Schmid asked how a half cent premium is calculated.

Mr. Kabat said that the Council approved a guideline for Utilities to pursue the renewables up to 33 percent of the City's needs while assuring the retail rate impact did not exceed the 1.5 cents per kWh. Staff applies the calculation to see if this guideline is being met. Staff looks at the levelized cost for the brown and renewable markets. Making the costs level is looking at the nominal trajectory of cost, 10.9 cents per kWh, escalating at 1.5 percent per year, that stream is discounted by by applying the Utilities Time Value of Money which is about 4.5 percent. This present valuing shrinks future prices to today's dollars. Then that accumulated present value is levelized by amortizing it over the 20 years at the interest rate of the Utilities Time Value of Money. That creates a sort of mortgage payment equivalent for energy.

Council Member Schmid asked how many kilowatt-hours are sold in Palo Alto.



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Mr. Kabat said about one billion a year, and the half cent times a billion is \$5 million.

Council Member Schmid said that it's important to tell utility rate payers what they are paying in given year. Both Geopower and Ameresco Canyon are costing well over \$500,000. Geopower might have a 20 percent bump. Geopower and Ameresco combined count for 3 percent of our energy, paying a premium of about \$1.2 million a year. It's not easy to get there from saying it's half a cent per kWh. It might be useful to have a discussion on the current market cost to the rate payer for both contracts.

Director of Utilities, Valerie Fong reminded the Committee that the Council approved the RPS of 33 percent by 2015. She stated that Palo Alto has missed the 20 percent by 2008 target. Staff's goal is to get to that 33 percent with out impacting rates more than one half percent per kWh. Buying brown power would set Palo Alto further from those renewable goals.

Council Member Schmid said the RPS was set in 2004 or 2005, when the two markets were similar. Now the markets are so far apart that it might be a good time to step back and reevaluate how it's working.

Ms. Fong said that the Governor and the State Legislature have moved toward mandating a 33 percent goal to take effect prior to 2020. Every municipality will be facing this, which creates pressure on the market and that's why there is such a differential between renewable and brown energy. If Palo Alto abandoned our goals they would be imposed anyway.

Council Member Schmid said that Staff should take a look at where Palo Alto stands now regardless of what's going on in Sacramento. He questioned how the goals set in 2001 are affecting rates now.

Chair Burt said that high start up costs at Ameresco go with the potential to take advantage of lower incremental rate costs going forward. Other than Palo Alto having first right of refusal Ameresco can sell expanded output at whatever the market will bear. First right of refusal only gives Palo Alto the right to match what the market will bear. But not to share in the benefits Ameresco is getting off of Palo Alto's investment with their high start up costs. How does Palo Alto assure it is a good deal.

Mr. Kabat said Staff has not locked in the certainty that they will price below market to Palo Alto. Palo Alto's experience with Ameresco provides a basis



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of understanding their value in ease of contracting. Palo Alto is a 100 percent off-taker of the project. If Ameresco signed with another party to take up the start up costs they'd have to split the gas between Palo Alto and the others. Then they have to decide how to handle potential output shortfalls. They need to keep fully filling our engines, as we have not agreed to a split. Ameresco won't want too many off-takers that will want to have equal treatment. They will tend to leave a little on the table to keep their contracting simple and to stay with Palo Alto. But, there is no guarantee.

Chair Burt said that hopefully it will work out. With Western GeoPower there is a big bump in the cost. He asked how the contract was set up and why does Palo Alto have to pick up that cost.

Mr. Kabat said that Palo Alto is not obliged to absorb that bump. The matter will need to go to Council for a decision on the Western GeoPower Project. Staff will present to Council the decision to decline out of the project, to stay in at the 10-12 percent, or to be ready to step into more should one of the other NCPA members wish to decline. If no one wants to go forward Western GeoPower is free to take that to the market.

Chair Burt asked if Staff is certain that the rate increase is because Western GeoPower can't get their finances together.

Mr. Kabat said that is their assertion, though he said he has not personally reviewed their current financial documents. Several companies have now had to form a consortium and Western GeoPower is one. They are repackaging their ability to finance.

Chair Burt stated that it seems coincidental that the rate they'll be increasing to is the current market rate that Palo Alto is currently paying for renewables.

Mr. Kabat agreed and reiterated that this is very new information so he hasn't had an opportunity to push back on them yet.

Chair Burt asked if the original negotiations with Western GeoPower included cost sharing.

Mr. Kabat said the deal with them was a straight Power Purchase Agreement where they bore all of that cost. Although there is one interaction where



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they contracted with NCPA to drill in the area, and they did find steam. He said he hasn't kept track of the bills on that.

Chair Burt asked how the purchases of Palo Alto Green fall into percentage of renewable calculation.

Mr. Kabat said the RPS is applied to the general portfolio that goes to every customer. The customers will get that as their default portfolio. Those that want to go above and beyond can pay the extra 1.5 cents per kWh to upgrade voluntarily to the Palo Alto Green program. The money from that program is collected and used to buy the renewable energy certificates equal to the volume of consumption.

Chair Burt asked what percentage of Palo Alto's power is purchased through Palo Alto Green.

Mr. Kabat said about 6 percent. It is purchased by about 20 percent of our customers.

Chair Burt said that it seems like several different calculations should be visible to Council: 1) the traditional calculations for the RPS percent, 2) folding in the non-CO2 generating large hydro, and 3) folding in Palo Alto Green, showing the aggregate renewable and non-CO2 generating renewables combined.

Mr. Kabat said the large hydro is 50 percent of Palo Alto's portfolio in average years. This region has been in drought conditions for three years now, so it's down a bit. Over the long haul it is 50 percent. Palo Alto now has an 18 percent of its needs met by RPS resources, 50 and 18 is 68 percent. And 6 percent is the amount of coverage volunteered by customers through Palo Alto Green, adding that on it comes to 74 percent.

Chair Burt asked if there is a dilution factor.

Mr. Kabat said there is not. There is complete coverage of every kWh with a new renewable energy certificate even though some of the customer's existing portfolio is already coming from hydro and RPS renewables.

Chair Burt asked if a Palo Alto baseline customer has 18 percent renewables and 50 percent large hydro and their neighbor has Palo Alto Green at 100



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percent renewable then the portion that went into renewable is additive of that 6 percent.

Mr. Kabat said in that scenario, it would be 50 percent hydro plus 18 percent RPS renewables leaving 32 percent brown. The other neighbor is 68 percent hydro plus RPS renewables plus 100 percent renewable energy certificates for a total of 168 percent.

Chair Burt said that when that baseline customer purchases their Palo Alto Green their energy is renewable. He asked why it affects their neighbor's percentage. A tool may be needed to help residents understand it. He then asked about the increasing gap between brown and renewable wholesale prices. The focus has been on increasing acquisition of renewables, conservation and energy efficiency. Yet there is no way to see where the dollar is best spent to benefit the consumer and reduce greenhouse gas emissions. If Palo Alto is able to reduce usage by 10 percent suddenly usage is up to 28 percent renewable because brown energy isn't required. If acquisition was increased to the cheaper energy how does that affect cost? Is there a more beneficial way to achieve our reduction? Prior Council framed the issue as reduction of green house gas emissions. Then they equated acquisition of renewables as the way to do that. But it's not necessarily the way to do it or the correct metric to measure. We should be looking at how much brown is purchased and what is left over. Not how much green is purchased.

Ms. Fong said that Staff definitely agrees and will plan to bring this discussion to the Utilities Advisory Commission (UAC), then the Finance Committee, and ultimately to the Council. It may take some time with new UAC members, but it will happen.

Vice Mayor Morton complimented Staff on completing the laddering. The portfolio itself is a \$900,000 premium for the mix. The last ones will cost more and the \$5 million may go faster, in which case a policy decision will need to be made. He said odds are Palo Alto will be willing to pay premium to be greener, but the availability will only get harder.

MOTION: Vice Mayor Morton moved, seconded by Council Member Burt, that the Finance Committee recommend that the City Council adopt a Resolution approving the Power Purchase agreement with Ameresco Johnson Canyon, LLC and that Council waives the application of the investment-grade



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credit rating requirement of Section 2.30.340(d) of the Palo Alto Municipal Code to this transaction.

Chair Burt said that he supports the Motion but he is concerned that CO2 generation goals have been achieved at a minimal cost difference to the rate payers. Now that there is a divergence from the past trends, the past trends may no longer be accurate predictors of the future. There is a danger in looking at these successes and having them indicate that everything is positive going forward. It's getting harder to find these sources, not because of leveling of renewables, but of an increase in demand. We've had a great demand for them. He expected both those trends to continue. He asked if Palo Alto has enough to keep up with legislative demand. He stated that Palo Alto is on a course that is similar to statewide demands.

MOTION PASSED: 3-0, Klein absent

Council Member Schmid recalled the last time the State went through energy reform the City ended up with the stranded cost of Calaveras.

MOTION: Council Member Schmid moved, seconded by Chair Burt, to direct Staff to work with the UAC on: 1) re-examining the goals, and 2) the matrix used in the Alternate Energy Program.

Ms. Fong said it would be better for Staff if the two issues were separate.

Vice Mayor Morton said that for the new members of the UAC this will be a useful review. This is an issue close to the hearts of the Council, and he wondered if it could be part of the Study Session.

Ms. Fong said that the study session was canceled due to vacations and the pending vacancies on the UAC. They are planning on rescheduling it in a month or two.

Chair Burt asked if it would be appropriate to modify the Motion to have the goals and matrix reexamined during the study session between the Council and the UAC in September or October.

Council Member Schmid said the intent was to have a study session with recommendations, not an open ended discussion such as happens in a study session.



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Chair Burt said that maybe they should have the UAC discuss it first, and then the Council can discuss the issues later. He asked who would initiate the discussion. He also asked if it should be the Council, as a whole, making a recommendation to the UAC, without delving into details or making a policy recommendation or for the UAC to evaluate the issue and then the UAC would come back to the Council with a recommendation and then the Council would act. If it is the UAC acting first, the study session might be useful.

Council Member Schmid said that in study session the Council can't make a decision.

Vice Mayor Morton said that is correct, but since it is a Council policy, and the issue is going back to an advisory board, without input from Council, it may be useful to have this discussion and to layout the changes. There is so much policy tied up in this it may be useful for Council to give input to the UAC.

Chair Burt stated that either way the Council wouldn't make any decision during the first discussion; they are only making a request to the UAC for a recommendation. Perhaps the way to launch this to discuss it with the UAC at the study session, giving informal direction, and then agendaize for next Council meeting whether to put it as a formal request to the UAC.

Ms. Fong agreed that that could be a way to launch the discussion. She said that the UAC works with a 12 month rolling calendar. A discussion is scheduled in the next 3-4 months regarding a long term energy acquisition plan, which this is part of. This study session would be for the UAC to hear where Council is and then move into this long term. She didn't think Council would need to take extra action as it is already on the 12 month rolling calendar.

Chair Burt said that the Council would not need to initiate that, other than the UAC may get a sense of the areas of interest to the Council. He suggested the Motion should reflect that the Council will give input to the UAC at the study session.

Vice Mayor Morton said that the Motion should also clearly request a UAC response and after that Council would come back with a recommendation.



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Chair Burt said if they were asking the UAC to come back to Council with recommendations that are different than they would have done under their standard rolling calendar, then his sense was that should not come out of the study session but rather an agendized Council action.

Council Member Schmid said the Motion that was already approved was to recommend to the Council that they act on tonight's Staff recommendation.

Chair Burt said that he has apprehensions about that. The Committee evolved into this discussion, whether it was an inherent part or not, he wasn't sure. They would look at a specific contract with the Council and whether or not anyone wishes to see a more clear Council request of the UAC for evaluation of this broader policy of energy acquisition, not just goals but conservation and efficiency goals. There could be two items agendized on the same evening. One agendized item to the UAC reporting back in some time frame under whatever parameters the Council would agree on. It sounds not very different than what the UAC would be doing under the rolling 12 month plan but it might differ somewhat from where they are heading giving it a more specific time frame and focus.

Ms. Fong said that it really is in the UAC work plan. She reiterated that there are four new members coming on board so she can not gauge where they are on these issues. The UAC will bring this to the Finance Committee after it's discussed at the UAC and then bring it to the Council. A study session that does include the UAC and the Council would foster a healthy discussion and would guide and inform the UAC where this should be taken without specific Council action.

Chair Burt said he believed the sense of the Finance Committee was that they would like to have the Council look at a more clear direction on what they are seeking in the upcoming months. It may or may not be different than what they are already receiving from the UAC. He didn't know if the more thorough evaluation of a greater emphasis on conservation of energy use reduction would have been as high on the priority list as it might be coming from the Council. He said there are two options: 1) deferring to the study session with the UAC to figure out what the Council wants and then to make a more specific request at an agendized meeting, or 2) request now that this subject be a second agendized item at the time that we discuss item three as tonight.



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MOTION RESTATED: Council Member Schmid moved, seconded by Chair Burt, to direct Staff to work with the UAC and then report back to the Finance Committee with a re-examination of the goals and the matrix that are being used in the alternate energy program as a second agenda item when the UAC discusses the Power Purchase Agreement with Ameresco Johnson Canyon, LLC with the Council.

MOTION PASSED: 3-0 Klein absent

4. Approval of Scope of Services for the Ambulance Billing Contract Request for Proposal (RFP).

Fire Chief, Nick Marinaro said the City Auditor requested approval of the Ambulance Billing Contract audit on February 3, 2009. At that time the Committee wanted a better look at the scope of services to insure they would correlate with the audit. The Finance Committee also requested to develop an additional document with consequences of non performance. Staff looked at Emergency Medical Services counterparts and couldn't find a single one that had that type of a clause in their contract. That clause creates contract increases in the rate of collection. Because the Committee requested it, we went ahead and developed both. Vendors will be bidding on scope of service and on attachment of penalties for non performance. The City Auditor's audit report had six recommendations related to the contract, and we are confident we have compliance now.

Vice Mayor Morton asked if Staff has thought about renegotiating if no one is willing to accept the terms requested.

Mr. Marinaro said the way Staff is approaching the project is to have the vendors submit proposals for both scenarios and then Staff can decide which the better deal is.

Council Member Schmid asked what the loss rate is on collected amounts currently.

Mr. Marino said that he didn't have those numbers with him, but that it has improved significantly as better safe guards have been put in place.

Senior Financial Analyst, Josie Stokes said the collection rate is currently 56 to 57 percent which is high for the industry.



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Council Member Schmid asked if Staff could provide an idea of the cost of the collection.

Mr. Marinaro said that they are currently at 7 percent while other agencies are about 5 percent, which will be the goal for Palo Alto.

Council Member Schmid asked what the penalty to the vendor would be for non-performance.

Mr. Marinaro said the Staff tried to present some reasonable parameters. In a month, theoretically it could add up to 10 percent per month or \$375 per item.

Chair Burt asked how many bidders we usually have for this type of program.

Ms. Stokes said the last bid generated five responses.

Chair Burt said that bidding both ways is asking the vendors to come up with a proposal that will defeat a penalty clause. Staff should ask for bids that accommodate the City's goals. It's an aggressive market. A better performance contract is what the Committee asked Staff to come back with. Instead Staff brought back two options, one of which will undermine the other. That's not what the Committee asked for. He said he wants to hear Staff's response but he wasn't interested in having the bids come back both ways.

Director of Administrative Services, Lalo Perez said Staff was trying to avoid getting responses that were out of the market. Once the Fire Department found out that no other contracts like this are out there, Staff made the decision in an attempt to avoid going back out.

Chair Burt said he would be more open to considering an extension rather than the double bidding.

Mr. Perez said the contract is technically due in December but Staff will go out in September to allow a transition time.

Chair Burt said that he wanted to make sure there is an option that allows a fall back mechanism in case there are no bidders to avoid disrupting service.



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MOTION: Chair Burt moved, seconded by Council Member XXXX to go out to bid with the proposal on Attach A-1 only and not the alternative.

Council Member Schmid asked what Attachment A-1 says.

Mr. Marinaro said that it is the proposal that doesn't ask for two separate bids.

Chair Burt said that it is the proposal to get the penalty clause added whereas Staff wanted to request proposals with and without.

Council Member Schmid said it was hard to find other places with penalty clauses so this would be unique.

Chair Burt said that when the Committee discussed this before there were objectives such as incentivizing best performance. Different results will not be achieved going about this the same way. Better performance was the goal. He then asked if there was a second to the motion.

MOTION FAILED FOR LACK OF SECOND

Vice Mayor Morton said the contract is based on compliance. He said the vendors are in business to process these things, unless things get sloppy the penalty is relatively small. So all the contractor will do is up their rates on the bid. If we want a lower rate the City will have to accept that risk and do more spot checks.

Council Member Schmid said that Attachment A-1 refers to 95 percent compliance and asked if that parallels the 57 percent loss rate.

Ms. Stokes said that it does not. The compliance rate is associated with the items identified. There are guidelines that vendors have to meet for compliance.

Council Member Schmid asked if the reduction of the collection amount is their fee or is it referring to the total collected.

Ms. Stokes said that is the fee the vendor would charge the City.



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Council Member Morton said that establishing performance will require testing, and that in itself is the enforcement. Billing should simply include a small monetary compensation.

City Auditor, Lynda Brouchoud said there some concerns expressed in the audit about contractor performance and some language in the previous contract. The goal now is to ensure that performance expectations are clarified. In terms of building incentives into the contract, Staff reviewed key contract terms where there had been lack of clarity in the wording of the contract.

MOTION: Vice Mayor Morton moved, seconded by Council Member XXXX to set a scope of services with a shorter time frame of one year, and renewal only if performance standards are met up to a five year automatic extension. Staff will review performance after one year, and have clear parameters to establish performance expectations.

Chief Marinaro said that the current proposal says that it will be renewed on an annual basis up to 3 years.

Council Member Morton said since it has determined the 95 percent cash penalty is not where the City will be making money; it's through these Staff audits. If these guidelines are met the collection rate goes up. He said that he would be happy to not include the performance penalties and then make sure it gets reviewed in one year.

MOTION FAILED FOR LACK OF SECOND

Council Member Schmid said there are three things the Committee is looking at: 1) staff will go out with an RFP with both options, or 2) to do no performance penalties but a short renewal time, or 3) get bids that only include performance penalties. He asked what the renewal rate would be with option 1.

Mr. Perez said that under all scenarios Staff is recommending an annual review.

Council Member Schmid asked if Staff's recommendation is to do the dual RFP.



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Mr. Perez said that Staff didn't know what value a vendor would place on the penalty clause. This would give us an opportunity to not go out again and perhaps to negotiate based on our needs.

MOTION: Chair Burt moved, seconded by Council Member Schmid to direct Staff to bid with the proposal on Attachment A-1 only and not the alternative.

Chair Burt said that he thinks these are not onerous penalties but they are large enough to incentivize. It's likely the value of the contract is such that a bidder will want it and perhaps look at improving their efficiency. He said he hopes Staff and the Council will continue to be good innovators, and while this is aggressive it's not over the top.

MOTION PASSED: 2-1 Morton no, Klein absent

Mr. Perez said that Staff will incorporate the changes and put the RFP out. They may have to come back directly to Council due to timing.

5. Audit of Police Investigative Fund.

City Auditor, Lynda Brouchoud said that Staff is reviewing an audit of the Police Department's investigative funds. This audit was precipitated during the FY 2009 workplan and the former Police Chief asked that this be added to our workplan. The audit consists of a surprise count of the cash on hand in the Police Department Investigative Fund that they use for informants, and narcotics and such, so the fund amount is limited to \$1500. At the time of our audit, we found that the balance was accurately reported as \$888, it was properly secured, and access was controlled. Since our last audit in April 2007 there had only been 3 transactions. We made three minor audit recommendations to insure that the most effective procedures were in place. The Police Department concurred with each one and they have taken steps to implement the recommendations. Part of the reason for this audit request was the Police Department's internal procedures had a requirement to ask us to do this. We are asking for some clarification of the roles to make sure we are not auditing these small funds and the revenue collections staff knows they have this fund on their cash counts as well.

Council Member Schmid asked if Staff does a lot of these small audits



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Ms. Brouchoud said they do not do a lot of these types of audits. They have typically done this audit for the reasons mentioned. The Revenue Collections Staff are charged with the cash counts around the City. All funds are eligible for being audited but this was an anomaly.

Administrative Services Director, Lalo Perez said that Ms. Stokes is in charge of the Revenue Collections Team and it is her goal to rotate all departments.

Council Member Schmid confirmed that the action of the auditor is fairly unique.

Ms. Brouchoud said that is correct. It's more of a performance audit. The external financial auditors routinely sample different cash funds.

Council Member Schmid said that he was surprised that this fund with \$100 in transactions over two years was picked out.

Ms. Brouchoud said that Staff's hope is this will be resolved with the improved coordination.

Chair Burt asked if it is cost effective to put this type of audit, where only small problems are found, on an annual basis.

Ms. Brouchoud said she believed the Revenue Collections Staff will put this item on their list of cash funds they will review regularly. This fund would be treated as the other funds and subject to random audits.

Chair Burt asked if the fund was set up for an annual audit.

Ms. Brouchoud confirmed that it is not.

Vice Mayor Morton said that he doesn't know that the Committee needs to approve it.

Ms. Brouchoud said that Staff is recommending that the Finance Committee review and recommend that the Council accept the Audit of the Police Department's Investigative Fund.



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MOTION: Vice Mayor Morton moved, seconded by Council Member Schmid, that the Finance Committee recommends that the City Council approve the Audit of the Police Department's Investigative Fund.

MOTION PASSED: 3-0 Klein absent

6. Auditor's Office Quarterly Report as of June 30, 2009.

City Auditor, Lynda Brouchoud said this report represents the wrap up of the last fiscal year. The report details the completed projects that the Auditors Office has completed including audit projects and other projects such as sales tax allocation reviews. Our sales tax monitoring this year uncovered close to \$85,000 in recoveries. This is lower than our target of \$150,000 and is likely a reflection of the current economy. There is also an increase in the backlog of inquiries at the State. Staff is hoping that will clear out in time. The Auditor's office initiated additional recovery efforts this year through the Federal Alternative Fuel Tax program we hope to see the results of those efforts. We also have a number of projects in process. We have a review of telephone charges, and the Vehicle Replacement and Maintenance Fund. Staff has initiated the City Wide Cash Handling Audit as it was a clear priority of the Committee. She pointed out as part of the proposed budget, Staff asked the external Auditor to voluntarily forgo the CPI that was built into their contract, and they have agreed to do so.

Chair Burt thanked Maze and Associates for doing their part to help financially. He said it affirms the efforts of looking for sharing in this cost burden. It's a reasonable approach that Council and Staff should continue to explore.

Council Member Schmid said it's hard to assess the overall impact of the office. That's why an annual review at the Council level is done. In terms of work projects there are classes of products like the annual survey and sales revenue audit that are major reports. Secondly there are audit topics that have been identified which are the longer term projects like cash handling. A third element is the smaller topics that come up like the Police Investigative Fund. It's the Auditors job to allocate the Audit Department resources. There is value in completing those smaller items. To take a quick look at them is helpful at the Council level for allocating resources.

Ms. Brouchoud thanked the Committee for the input. She reminded the Committee that the Audit team is the smallest work group in the City and



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they are charged with the internal controls of the City. She said that when she was hired in September 2008 there had been a six month long Auditor vacancy, and the key Senior Auditor was preparing to leave. As soon as that replacement was on board in March, he was assigned the cash handling project, so the Auditor's Office did take that priority seriously. The Auditor Staff has limited resources and manages to consistently balance the priorities and deliver quality product. When there are smaller audits to be done, the Staff tends to fill them in between the larger audits to help maintain that work flow.

Council Member Morton said that auditors peer reviews are important to assist the Auditor develop their work plan. The peer review wants to know if they have looked at the range of things. That's the real importance of that peer review is making sure the Auditor isn't just reacting to political pressure. He commended Ms. Brouchoud and her Staff for balancing all of that in the last nine months. He noted that the peer review was amazed that this small Staff meets these professional requirements.

MOTION: Council Member Schmid moved, seconded by Council Member Burt that the Finance Committee recommends to the City Council acceptance of the Auditor's Office Quarterly Report as of June 30, 2009.

MOTION PASSED: 3-0 Klein absent

7. Discussion for Future Meeting Schedules and Agendas

Chair Burt said when Agenda Item Number 4 goes before Council the benefits the City will receive through the tightening of the contract and the incentives should the vendor perform at the higher standard will need to be addressed.

Mr. Perez said the result of the audit having additional transparency will be good. Staff is open to that.

Chair Burt asked Staff about upcoming meetings.

Mr. Perez said the Council break overlaps this Committees timeline. The next meeting is scheduled for September 15, 2009. The City Manager will be unavailable and there is already a double meeting that night. Otherwise the next meeting will be October 6, 2009. The Tentative Agenda already has



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the Telephone Audit, a status on Revenues and Expenditures with more current data, and Staff wants to discuss the money the State is taking away.

Council Member Morton said that historically he isn't available on September 15.

Chair Burt suggested the Committee check for September 8, 2009 or September 22, 2009.

Mr. Perez reminded the Chair that Council is on vacation through September 11, 2009.

Chair Burt asked if any other Committee Member had any conflict on the 22nd. He stated that given the changing finance circumstances, it would be unwise to push it out until October.

Mr. Perez said there is a lack of rooms on the September 22nd and asked for alternate dates.

Chair Burt suggested the Committee consider the September 8th even though Council will still be on vacation, but they would have to wait for Council Member Klein to agree and for Mr. Perez to check on the procedure of having a meeting during break.

ADJOURNMENT: The meeting was adjourned at 9:18 p.m.