



CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

July 25, 2011

**The Honorable City Council
Palo Alto, California**

Policy and Services Committee Recommendation to Approve the Implementation Plan for the Proposed Employee Hotline

Recommendation

The Policy and Services Committee recommends that the City Council approve the implementation plan for establishing an employee hotline on an 18-month pilot basis, with an implementation date of January 1, 2012.

Executive Summary

In July 2010, the Policy and Services Committee (Committee) recommended that the City establish an employee-only fraud, waste, and abuse hotline organized under the City Auditor's Office on a 12-18 month pilot basis. In accordance with the Committee's recommendation, the Interim City Auditor has developed an implementation plan to establish an employee-only hotline on an 18-month pilot basis beginning January 1, 2012 and ending June 30, 2013. Attachment A identifies operational aspects of the proposed hotline and required actions to implement the hotline by January 1, 2012. These actions include: selecting and contracting with a vendor to receive complaints, developing policies and procedures for administering the hotline, developing appropriate whistleblower protections for City Council consideration, informing employees of the hotline, and obtaining formal authorization from the City Council to implement the hotline. The Interim City Auditor also proposes to establish a complaint review committee to review complaints and determine appropriate follow-up in response to complaints. The proposed complaint review committee would include the following staff or their designees: City Manager, City Attorney, and City Auditor.

Committee Review and Recommendations

At the July 14, 2011 meeting of the Policy and Services Committee, the Interim City Auditor presented an implementation plan for establishing an employee hotline on 18-month trial basis, with an implementation date of January 1, 2012. After discussing the proposed hotline, the Policy and Services Committee unanimously recommended approval of the implementation plan with the clarification that the City Auditor would provide the Policy and Services Committee a quarterly status report on operational issues regarding the hotline.

Respectfully submitted,

Michael A. Edmonds

Michael Edmonds
Interim City Auditor

ATTACHMENTS:

- Attachment A: Report to the Policy and Services Committee Meeting dated July 14, 2011, including Policy and Services Committee Minutes Excerpts for November 30, 2009, and July 29, 2010 (PDF)
- Attachment B: Policy and Services Committee Draft Excerpt Minutes (July 14, 2011) (PDF)

Department Head: Mike Edmonds, Acting City Auditor



CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

July 14, 2011

**The Honorable City Council
Attention: Policy & Services Committee
Palo Alto, California**

Discussion and Recommendation on the Proposed Implementation Plan for the Employee Hotline

Recommendation

The Policy and Services Committee should discuss and recommend the City Council approve the Interim City Auditor's Proposed Implementation Plan for an employee-only Fraud, Waste, and Abuse Hotline.

Background

In 2008, the City Auditor's Office (Auditor's Office) issued an Audit of Employee Ethics Policies. The audit recommended the City adopt an employee code of ethics, formalize an employee ethics program, and also form a working group to implement a hotline to review complaints involving fraud, waste, or abuse of City resources.

In November 2009, the Policy and Services Committee reviewed the recommendation to establish a hotline and requested the Auditor's Office to return to the Policy and Services Committee with a follow-up discussion on the formation of a hotline and how best to implement a hotline program (See Attachment A for Policy and Services Committee minutes).

In July 2010, the Auditor's Office reported on various options to implement a Fraud, Waste, and Abuse Hotline Program. The Policy and Services Committee recommended the following:

- The City Council establish an employee-only hotline organized under the Auditor's Office on a 12-18 month pilot basis
- The Auditor's Office should hire a contractor to receive and forward complaints
- The Auditor's Office should establish policies and procedures prior to implementing the hotline (See Attachment B for Policy and Services Committee minutes)

In accordance with the Policy and Services Committee's direction, the Interim City Auditor proposes to implement an employee-only hotline by January 1, 2012. The proposed hotline will be implemented on a pilot basis through June 30, 2013. The City Manager has expressed the importance of the hotline being deployed within a larger context of fostering an ethics and

public trust based organizational culture for the City. To this end, the City Manager's Office has retained Dr. Tom Shanks of The Ethics Company to assist the City in developing an ethics-based code of conduct and an ethics training program.

Described below are the operational aspects of the proposed hotline, legislation regarding hotlines, and the implementation plan for the hotline.

Operational Aspects of the Hotline

Types of complaints

Complaints from employees involving the misuse of public resources will be investigated to assess whether or not the complaint can be substantiated. Examples of the type of complaints that the hotline program could investigate include:

- Theft of City resources
- Accounting irregularities
- Intentional misuse of City property or equipment
- Contractor fraud
- Falsifying records
- Payroll or timekeeping fraud
- Kickbacks or bribes
- Gross disregard of policy and procedural controls

Labor-related complaints or complaints related to sexual harassment or discrimination that are the responsibility of the Human Resources Department or the City Manager's Office will not be investigated. Customer service complaints or other complaints that are not related to fraud, waste, or abuse will also not be investigated. Rather, these complaints will be referred to the appropriate department or agency.

Receiving and Processing Complaints

The Auditor's Office will contract with an outside vendor that will provide employees with the ability to file anonymous reports 24 hours a day, 7 days a week using a secure website or a toll-free telephone number. The Auditor's Office will conduct a Request for Proposal (RFP) to select an outside vendor to receive complaints.

The Auditor's Office proposes that a complaint review committee be established, comprised of the following staff or their designees: City Manager, City Attorney, and City Auditor. The committee will meet regularly to review and discuss complaints made through the hotline or through other means.

Reporting on complaints

On a quarterly basis, the Auditor's Office will provide a summary in its Quarterly Report to the City Council and the Finance Committee regarding the number of complaints received, reviewed, status, and call disposition. In addition, the Auditor's Office will prepare a report at the end of the 18-month pilot project assessing the costs and benefits of the hotline during the pilot period.

Resources and costs

Hotlines have two cost components: the cost to operate the hotline and the cost to review and investigate complaints. The cost of contracting with an outside vendor will be approximately \$3,000 to \$6,000 annually. Additional start-up costs of about \$2,000 to \$3,000 may also be incurred. Since we anticipate implementing the hotline at the beginning of 2012, the Fiscal Year 2012 costs should be approximately half of the normal annual costs. The Auditor's Office will absorb these costs out of its Fiscal Year 2012 budget.

Implementing the hotline will also have an impact on staff resources within the City Manager's Office, the City Attorney's Office, City Auditor's Office, and other City departments.

Legislation Regarding Hotlines

Section 53087.6 of the Government Code authorizes city auditors in California to establish and manage hotlines and to maintain the confidentiality of the reporting parties. Section 53087.6 of the Government Code also requires that an appointed city auditor obtain approval from the legislative body of that agency, prior to establishing the whistleblower hotline. Thus, the City Council must formally authorize the City Auditor prior to the implementation of the hotline. The Auditor's Office will return to the City Council prior to the implementation date to obtain formal authorization to proceed with the hotline.

The California Whistleblower Protection Act in Government Code Section 8547.1-8547.12 established whistleblower protections for State employees. For example, Section 8547.1 established the expectation that "State employees should be free to report waste, fraud, abuse of authority, violation of law, or threat to public health without fear of retribution...and declares that public servants best serve the citizenry when they can be candid and honest without reservation in conducting the people's business.

Local governments that have established hotlines have also passed their own whistleblower protection legislation. For example, the cities of San Diego, Oakland, and Los Angeles, and the City and County of San Francisco adopted whistleblower legislation to protect whistleblowers from retaliation.

Proposed Implementation Plan for the hotline

The Interim City Auditor proposes that the hotline be operational no later than January 1, 2012. The following actions, requiring the involvement of the City Auditor, City Manager, and City Attorney, must be completed prior to implementing the hotline:

- Select and contract with a vendor to receive complaints
- Develop policies and procedures for administering the hotline
- Develop a whistleblower policy
- Inform employees of the hotline and make them aware of their responsibilities for reporting fraud, waste, and abuse
- Obtain authorization from the City Council to implement the hotline

Select and contract with an outside vendor

The Auditor's Office will conduct a Request for Proposal (RFP) to select an outside vendor to receive complaints. This process will be initiated as soon as the City Council has approved the implementation plan. This process should be completed by mid-September.

Develop policies and procedures for administering the hotline

The Auditor's Office, in conjunction with the City Manager's Office and the City Attorney's Office, will develop policies and procedures for administering the hotline. These policies and procedures will be completed before the implementation of the hotline.

Whistleblower policy

The City of Palo Alto currently does not have a formal whistleblower ordinance. The Auditor's Office will work with the City Attorney's Office and City Manager's Office to develop such an ordinance. The proposed ordinance will be sent to the City Council for approval prior to the implementation of the hotline.

Inform employees of the hotline

The Auditor's Office and City Manager's Office will meet with employees and employee groups, prior to the implementation of the hotline. The purpose of these meetings will be to inform employees of the hotline and how it is to be used. These meetings will also address employee responsibilities for reporting instances of fraud, waste, and abuse.

Obtain authorization from the City Council

After the above tasks are completed, the Auditor's Office will update the City Council on the actions to implement the hotline and seek authorization to implement the hotline.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael A. Edmonds". The signature is written in a cursive style with a large, stylized initial 'M'.

Michael Edmonds
Interim City Auditor

ATTACHMENTS:

- Attachment A: Policy and Services Committee Minutes Excerpt (November 30, 2009) (PDF)
- Attachment B: Policy and Services Committee Minutes Excerpt (July 29, 2010) (PDF)

Department Head: Mike Edmonds, Acting City Auditor



POLICY AND SERVICES COMMITTEE - EXCERPT

Special Meeting
November 30, 2009

Chairperson Espinosa called the meeting to order at 7:02 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Espinosa (Chair), Barton, Kishimoto, Yeh

2. Status of Audit Recommendations

City Auditor Lynda Brouchoud presented the status report for all of the audit recommendations. She said Staff wanted to bring this to the Committee because two of the audit reports were originally heard by the Committee. One of those audits was the 2003 Audit of Code Enforcement, which had two outstanding audit recommendations at the time of the review. She reported that both had been resolved or implemented. The second audit was the 2008 Audit of Employee Ethics Policies. At the time of the review three out of the original seven audit recommendations had been implemented and one was in process. One of these recommendations was the Form 700 training which had been implemented by the City Attorneys Office and Human Resources. The supervisory review of Form 700s with reportable interests was still in process at the time of the report. Three of the recommendations had not been started, including the development of a City wide code of ethics, development of an ethics policy and training, and the implementation of a fraud waste and abuse hotline. Staff recommended a dialogue with the Policy and Services Committee regarding the hotline and how to implement it as it entails resources and specific State laws.

Council Member Yeh noted the savings that had been identified in the report. He asked what characteristics the Council should consider for the hotline or a 3-1-1 system.

Ms. Brouchoud said a 3-1-1 system would be primarily designed to handle non-emergency calls and take some of the burden from the emergency system. The audit recommendation was for a fraud waste and abuse hotline, which would be different. The hotline would need to maintain confidentiality and independence. A State law was enacted in 2008 which allows City Auditors to establish hotlines.

Council Member Yeh asked if Staff had researched other jurisdictions integrate the two, or if they were typically separate.

Ms. Brouchoud said they were typically separate. The only city she was aware of that combined the two was San Francisco, where they had a 3-1-1 system and the City Services Auditor handled all the fraud waste and abuse.

Council Member Yeh asked for specific information about the risks of fraud waste and abuse.

Ms. Brouchoud said a follow-up report could be created to detail the risks. The Association of Certified Fraud Examiners (ACFE) publishes a report called The Report to the Nation which covers among other things, statistics regarding hotlines. They estimated up to 7% of an organizations revenues were lost to fraud and reported that hotlines were an effective way to reduce that loss.

Senior Auditor Edwin Young said the ACFE study determined that fraud was often detected through hotline calls.

Ms. Brouchoud recalled that over half of the frauds were detected through hotline calls.

Council Member Yeh asked what type of impact this would have on resources.

Ms. Brouchoud said there would be two categories of costs. A contractor to run the hotline would cost between \$4,500 and \$6,500 a year. Staff time investigating complaints would be the biggest cost, and a difficult one to estimate without knowing how many complaints will come in.

City Manager James Keene added that the cost could be spread across the organization.

Chair Espinosa asked about the relationship between audits and the recommendations. The three recommendations that had not been done are listed as "to be determined" having been delayed due to other priorities. The Policy & Services Committee has asked repeatedly about them, and there was still no delivery date. He asked if Staff had an idea of when these items would come back to the Committee and what the relationship between the Auditors Office and the completion of the audit recommendations was.

Mr. Keene said it was primarily the organizational capacity that dictated the ability to respond. Normally Kelly Morariu would support this program, but the City Managers office has been short staffed and there hasn't been time to

manage these issues. The alternative would be to look at spending more money by outsourcing the work.

Chair Espinosa agreed with Mr. Keene's comments. He added there has been a long list of outstanding audit recommendations and it had been shrinking. There had been, for example, some ethics issues within the City and Council requested a response. The holdup has been the City Managers Office.

Council Member Barton agreed with Mr. Keene regarding the larger issue of institutional capacity to get work done. The economy has been a major factor as well. He also discussed the finite time that Staff has to accomplish many goals. He suggested with the new Council coming board, Staff should propose their goals and be upfront about the ability of the institution to get things done.

Council Member Kishimoto said she would prioritize the hotline since 7% of fraud being detected through hotlines was a compelling statistic.

Mr. Keene said that it would be unethical for him to make up a deadline if it can't be met. He said Staff was moving into a reality where priorities will need to be rethought. Every meeting a new project is added, but they are never taken off. Staff will need to work with new Council to make sure the priorities that are the most important to Council are what Staff will be working on. The ethics policy can be outsourced. The hotline should be discussed and defined.

Council Member Kishimoto said the public becomes frustrated when they call with questions and get bumped around.

Mr. Keene agreed, saying it was not a good use of customer or Staff time.

Council Member Kishimoto asked if there had been discussion about a central number for the public to call.

Mr. Keene said that there has been discussion about opening communications with public in a responsive manner.

Planning Director Curtis Williams said each department must understand who does what. Code Enforcement gets most calls, whether or not they have the authority to deal with the problem. The Code Enforcement Staff was very knowledgeable, he said, and distributed the calls around the organization or external resources as needed.

Council Member Kishimoto asked if they were available on weekends.

Mr. Williams said they are on-call on weekends.

Council Member Kishimoto asked what would happen if a member of the public called the Police instead of Code Enforcement.

Mr. Williams said the Police will go out and talk with the public and can issue citations.

Council Member Kishimoto asked how the complaints are tracked.

Mr. Williams said he was not sure whether or not a specific case number was assigned and given to the public, but the complaints were tracked.

Council Member Kishimoto asked if there was enough cross training between departments.

Mr. Williams said it could probably be better, but the Code Enforcement Officers were knowledgeable.

Council Member Kishimoto asked if there could be a website that instructs the public where to call.

Mr. Williams said that would be possible, if it doesn't already exist.

Chair Espinosa asked who would look at that.

Mr. Williams said the Committee would be a good avenue to instruct Staff.

Chair Espinosa said that using search engines to help the public would be useful.

Mr. Keene added that a small number of Staff is testing some pilots on a customer based call system.

A member of the public, Emily Rensel said that her experience with the City was to be bounced around. She said Planning doesn't enforce their own site and design reviews.

Chair Espinosa suggested the Committee look into this.

Ms. Brouchoud stated that the audit contains recommended processes including for ethics and a hotline.

Mr. Young added that Phoenix, AZ was a model city for code of ethics and hotline issues.

Chair Espinosa said he understood the lack of resources. He said that if resources dictate that a project must be delayed, the Council needs to know that so they can adjust priorities if needed. He said he still doesn't know when these projects might be delivered.

Mr. Keene said Staff would send the Committee revised comments.

Assistant to the City Manager Kelly Morariu said the follow up report could come at the same time as the hotline report.

Council Member Yeh said he preferred an independent hotline. The employees and members of the public must be able to be anonymous. It falls on an auditor to audit the calls. Creating a culture that fraud waste and abuse will not be tolerated is important with the public.

Mr. Keene said that was helpful feedback.

Chair Espinosa confirmed that Staff would report back to the Committee.

MOTION: Council Member Barton moved, seconded by Council Member Yeh that the Policy and Services Committee accept the Report of the Status of Audit Recommendations.

Motion Passed: 4-0



POLICY AND SERVICES COMMITTEE - EXCERPT

Special Meeting
Thursday, July 29, 2010

Chairperson Yeh called the meeting to order at 7:00 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Yeh (Chair), Holman, Price, Shepherd

Absent: None

2. Follow-Up Discussion of Options to Implement a Fraud, Waste, and Abuse Hotline Program

City Auditor, Lynda Brouchoud said that in 2008 the City Auditor's Office issued an Audit of Employee Ethics Policies which included the recommendation to implement a hotline. She said there was currently no development of a hotline to accept or review complaints involving fraud, waste, or abuse. Whistleblower legislation took effect in 2009 allowing City Auditors to establish and manage hotlines. In November of 2009, the Policy and Services Committee reviewed the recommendations and requested a follow up meeting with Staff. She recommended the following considerations for determining next steps: 1) should a hotline be established, 2) if so, what type of hotline should be implemented, 3) who would manage the hotline, and 4) what costs would be associated with the program. She said research indicated a reduction of fraud when a program such as this was in place. Further research indicated that organizations with hotlines tend to detect fraud activity seven months earlier, and lessen the financial impact by as much as 60%. She said the law that was passed in 2008 allows City Auditors to take the calls from a hotline, distribute them to appropriate Staff and provide documentation for disciplinary purposes. She said it was important to maintain confidentiality. She said that the bill has been amended to include a definition of fraud, waste, or abuse. She said the City Auditor's Staff had surveyed comparable organizations regarding hotlines. The results showed that some organizations have them, some don't, and some were considering implementing them. She said the City of San Francisco had a public hotline and she demonstrated what that looked like. She said they produce reports based off of the hotline data that included information on

claims that were investigated. She said that the City of Stockton had an employee hotline. They reported results via a newsletter. She discussed options. Staff recommended that it would be best to incorporate a hotline into an organization-wide ethics program. She recommended piloting a limited, employees only hotline. Staff also recommended that contract options for the investigation component of the program should be researched as there was concern over Staff's ability to manage the workload.

Assistant City Manager, Pamela Antil said that the legislation allows the City Auditor to create and maintain a hotline, but it does not require one. She said the City Manager's Office supports the idea of an outside contractor to vet the calls. The City Manager's Office also recommended the establishment of a committee consisting of the four Council Appointed Officers (CAO's) and the Chief Financial Officer (CFO) vet the calls. She said she can't recommend hiring additional Staff. She said the 3-1-1 system might be a good approach.

Council Member Holman asked what prompted the first audit that sparked this finding.

Ms. Brouchoud said it was based off of some past issues and recommended practices. She said that the City Auditor and Staff are charged with reviewing fraud, waste, and abuse at all times, regardless of a hotline.

Council Member Holman asked if having a Staff Member that was certified to handle fraud, waste, and abuse was required.

Ms. Brouchoud said the only requirement was for the City Auditor to be a Certified Internal Auditor.

Council Member Holman said there were a variety of perspectives on the next step recommendations. She said that any program will have problems, but the Policy and Services Committee (P&S) should work toward making it as easy as possible.

Ms. Antil said that Staff complaints should always be handled by a third party. The City Manager's Office wasn't recommending that the CAO's perform the audits, but rather they determine how the audits would be conducted. Some might be appropriate to go through the City Auditor Staff because of their training. She added that the process should have some transparency.

Ms. Brouchoud agreed that a committee approach was appropriate. The complaints that were in the fraud, waste, and abuse category would need to be reviewed by an appropriate party.

Council Member Price asked for clarification regarding the committee model. She wanted to know who would actually conduct the investigations.

Ms. Brouchoud said there was a concern regarding Staff's workload. It was difficult to answer whether or not an outside source would be required because it was impossible to predict the number of significant complaints.

Council Member Price said that the complaints would need to be sorted and prioritized. She said that she supported the hotline concept. She wanted to know who, out of the CAO's would take the lead on the committee.

Ms. Brouchoud said that there were two different elements to contractors; one would be contractor management of the actual hotline. The contractor would place the calls into categories as an initial cut. The task of the CAO Committee would be to review either the cut list or the whole body of complaints. She said that in the City of Stockton the City Auditor filters the messages through to the appropriate parties.

Council Member Price asked if they could discuss implementation.

Ms. Antil said that there were opinions, including that of the Ethics Manager at ICMA, that this type of complaint should be routed through the City Manager's Office. She said that the CAO's were capable of vetting the complaints appropriately. She said that budget was an important component to the project. She could not recommend bringing another City Auditor Staff Member to the organization. As a result, some tasks on the City Auditor's Workplan would have to be diverted to manage the complaints.

Assistant to the City Manager Kelly Morariu said they should discuss whether or not they were going to implement a hotline. If a hotline was approved, there were options such as either a dedicated line or the incorporation of a hotline into a more general 3-1-1 system.

Ms. Antil said Staff would like to link it all together.

Council Member Price said it would be advisable to implement the hotline as part of a broader ethics policy.

Council Member Shepherd asked if the CAO Committee model was used, what would happen if a whistleblower was on a CAO's team.

Ms. Antil said it was a good question. There would be a notification.

Ms. Brouchoud said there would be a process in place to manage that, to explain how issues go to the user. It would be a little more difficult to keep the anonymity with the CAO Committee.

Ms. Antil said the Palo Alto Staff did not tend to be shy about bringing issues forward, even without a system. She voiced concern about complaints being more frequent as a result of the shrinking employee base. An ethics policy could either be rules based or values based, the City Manager's vision was to have a values based policy. With or without a hotline, a values based policy would be what Staff would prefer to focus on. She expressed concern about a hotline being set up ahead of Staff training and the mixed message it might send.

Council Member Price asked what the difference was between a CAO Committee and the roles of the CAO's involvement in the process.

Ms. Antil said that in the first round of vetting all complaints would go through the City Auditor.

Council Member Shepherd asked where the budget for the program would come from.

Ms. Brouchoud said that was one of the trade-offs. The hotline itself could cost around \$6,500 and would have to come out of the City Auditor's contract budget. She expressed concern about the impact on other audit work. The non-fraud, waste, and abuse calls would still have to be forwarded somewhere, likely to the City Manager's Office. She said Staff wasn't able to compile much data regarding actual workload, but the City of Stockton had 33 calls annually.

Council Member Shepherd asked if Stockton had identified any savings from that.

Ms. Brouchoud said it was difficult to quantify what is prevented and any actual findings are kept confidential.

Council Member Holman asked for clarification regarding complaints that go straight to a CAO.

Ms. Antil said that often cities the size of Palo Alto do not have City Auditors and may or may not have hotlines. She said that calls come in to the City Manager and then are filtered down to the appropriate Staff. She said that Palo Alto Staff has struggled with the process since calls are infrequent. A process

needed to be developed. She said some organizations have an elected Auditor that handles the calls, or they may be routed through a Controller's office. She said that the last city she worked in was about the same size as Palo Alto and functioned without a hotline and complaints were still managed effectively. She said that some Staff Members may not trust the confidentiality of the hotline.

Council Member Holman said the State's recommendation was that the hotline should be run through the City Auditor's Office.

Ms. Antil said the State law was that a hotline may run through the City Auditor's Office.

Council Member Holman said that she read it as "should be." She said the estimate of 7% of annual revenue lost to fraudulent activity was an interesting number. She discussed a recent case involving a former City Staff Member who filed a complaint after they left, yet they were still labeled as a disgruntled employee. She said this situation with what happened to someone after they left the organization, made her think about the process for Staff that are still on the payroll. She said that 63% of the cases reported to a hotline were based on fraud committed by a manager or executive. She said that someone certified in fraud, waste, and abuse cases should handle the calls. She asked for a follow up on the progress being made in the development of an ethics program.

Ms. Antil said a consultant will work on it.

Ms Morariu said it was the same consultant that had worked with the City of Santa Clara. Staff was reviewing his proposal.

Council Member Holman asked for a timeline.

Ms. Morariu said Staff hoped to start rolling out a phased approach to an ethics program in the fall with values development and training in the spring.

Council Member Holman asked about the City Manager's interest in the 3-1-1 line.

Ms. Antil suggested the claims should be vetted.

Council Member Holman asked for clarification on the CAO's role in the vetting.

Ms. Antil said a contractor would decide what level the complaints would fall to, and the CAO's would decide if the organization had the resources to handle the complaint internally or not.

Ms. Brouchoud reiterated that the calls would be placed into predefined categories and then would need to be vetted into the appropriate dispositions.

Ms. Morariu said the initial vetting also would determine the validity of the complaint.

Ms. Brouchoud said they would transcribe and categorize the complaints. A determination on whether to investigate or not would have to be made on the calls.

Ms. Morariu said there were several ways to process the calls. The contractor, for example, would be able to vet the complaints.

Ms. Brouchoud said the contractor could categorize the complaints, but may not be qualified to determine if the complaint qualified for investigation.

Ms. Antil said the City Manager's Office may have additional information that could help determine whether a complaint should be investigated, information that the City Auditor may not have. She said action had to be taken on complaints in a timely manner and voiced concerns about the City Auditor Staff having the ability to do so.

Council Member Holman said the City Auditor should be able to determine the City Auditor's Department workload. Priorities would have to be shuffled around as issues come up.

Ms. Brouchoud said it was part of the broader workplan discussed with the Council.

Ms. Morariu said, regarding the 3-1-1 number, that type of system has a mechanism to automatically route calls eliminating the need for the CAO vetting scenario. It may be awhile out, but implementing the system would help alleviate some of the concerns over Staff resources.

Council Member Yeh said that in Oakland, they had a fraud, waste, and abuse hotline contracted out. There was no budget for investigators. The number of calls increased considerably when the hotline became available to the public. It is a separate function from the 3-1-1 line. If it is appropriately tailored for employees, the inappropriate calls would be limited. He said that he would

support moving forward with a fraud, waste, and abuse hotline, separating it from a 3-1-1 hotline, and housing it in the City Auditor's Office. Clear policies would need to be developed for the use of the hotline to ensure fairness and equity across the board. An external contractor also helps to keep anonymity. A resource combined with a culture is the most powerful and an ethics policy should be implemented.

Council Member Shepherd said that she supported the trial period. She said ethics issues tended to occur during difficult financial times such as these and having that policy in place would help.

Ms. Brouchoud said that the policies should be in place prior to establishing a hotline. Previous discussions suggested six months to develop policies and find a contractor as well as 12-18 months to test a program.

Council Member Shepherd asked if the contractor would assist in the policy creation process.

Ms. Brouchoud said there were some pre-planned policies that some contractors had.

Council Member Price asked about the anonymity option.

Ms. Brouchoud said they could opt out of filing anonymously. She asked if they would like a draft policy to be presented.

MOTION: Council Member Yeh moved, seconded by Council Member Price, that the Policy and Services Committee recommends the City Council: 1) establish a fraud, waste, and abuse hotline that is organized under the City Auditor's Office; 2) that clear policies and procedures should be established prior to the hotline implementation; 3) the hotline will be for employees only; 4) Auditor's office has six months to develop policies and find a contractor; and 4) there be a 12-18 month time period to test a program.

Council Member Shepherd said it could go straight to Council.

Council Member Holman said she was trying to integrate the timing with the policies that were not in place yet. She also would like to see how it would be implemented prior to approval.

Council Member Yeh suggested an informational report could be brought back to P&S.

Council Member Holman said it was a complicated issue and she would like more clarity about how it would be implemented.

Council Member Shepherd said there wasn't really any more detailed they could be at the policy level prior to the pilot.

Council Member Yeh said there should be continued dialogue regarding opportunities. He suggested an informational report to Council would be useful. He said that issues such as potential expenditures prior to implementing a policy would be an important topic.

Ms. Brouchoud agreed that expenditures were important to discuss. She said that information regarding expenditures was not available yet because discussions had not progressed that far with a contractor. She said that Staff would prepare a follow-up list of recommendations and return to P&S on the ethics audit recommendations.

Ms. Antil suggested the City Auditor may have a little bit of training prepared at that time for both City Staff and the City Auditor's team that will be handling the complaints.

Council Member Holman asked what levels of certification they had.

Ms. Brouchoud said she was a Certified Internal Auditor, but there were other levels of certification as well.

Council Member Holman wanted to know how that increased certification fit the timeline of the ethics policies implementation. She suggested Staff work toward a smooth transition to the policy. She also stated that she didn't expect many complaints once the program was implemented.

Council Member Price liked having an informational report tying all of this together. She said it might be more efficient if it went straight to Council.

Council Member Holman said she was struggling with not having more information. She wanted to see across the board what steps were being taken.

Council Member Shepherd said Staff would integrate that vision into the process.

Ms. Morariu said that by the time the item went to the Council there would be more information available and incorporated into the report.

Ms. Antil said that the City Manager's Office and the City Auditor's Office were in agreement on the type of ethics program that should be created.

MOTION PASSED 4-0.



POLICY AND SERVICES COMMITTEE – DRAFT EXCERPT

Regular Meeting
Thursday, July 14, 2011

Chairperson Price called the meeting to order at 7:02 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Price (Chair), Holman, Klein

Absent: Burt

Council Member Burt arrived at 7:07 p.m.

4. Discussion and Recommendation on the Proposed Implementation Plan for the Employee Hotline

Michael Edmonds, Interim City Auditor, recommended the Policy and Services Committee discuss this item and recommend to the City Council to approve the proposed implementation of an employee hotline. In 2008, the City Auditor's Office issued an audit of employee ethics policies. The audit recommended the City adopt an employee code of ethics, formalize a formal ethics program and form a working group to establish a hotline to review complaints involving fraud, waste and abuse of City resources. In 2009, the Committee requested the Office return at a later date with a follow up discussion on the proposal to implement a hotline. In 2010, the Office proposed various options and the Policy and Services Committee recommended a 12-18 month pilot program for the employee hotline. He said that in accordance with that direction, the City Auditor's Office is proposing a hotline run as a pilot program from January 1, 2012 through June 30, 2013. He stated that complaints would deal with fraud, waste and abuse. The hotline would not investigate labor, harassment or discrimination complaints. Human Resources or the City Manager's Staff would be responsible for these types of complaints. The plan would be to contract with an outside vendor where complaints would

be fielded either through a toll free number or a web site. He said if the proposal is passed by Council, the next step would be to send out a Request for Proposal (RFP). The City Manager's Office, City Attorney's Office, and City Auditor's Office would then form a complaint-review committee to oversee the process. He stated that the City Auditor's Office would provide an update regarding complaints fielded through the employee hotline on the quarterly reports to Council. At the end of the pilot program, the City Auditor's Office will generate a report summarizing the program to the Policy and Services Committee. He outlined two primary costs of the program: 1) cost of the vendor, which would range from approximately \$3,000 to \$6,000 for the pilot program, and 2) the cost of reviewing complaints in the form of Staff resources.

Council Member Holman asked Mr. Edmonds to explain the last bullet point under "types of complaints" on page 2 of the report ("Gross disregard of policy and procedural controls").

Mr. Edmonds responded with a hypothetical example of a situation: Purchasing is required to get bids for a purchase, but instead selects a vendor without following normal protocol.

Council Member Holman asked if this type of complaint includes a situation where a Staff Member didn't follow the procedures of a process for a specific project.

Mr. Edmonds answered yes. He said some criteria would need to be developed as far as what types of complaints should be investigated. If a complaint involved fraud, waste or abuse it would be investigated.

James Keene, City Manager, stated this hotline would not change any procedures the City already followed. The examples in this report were designed to be illustrative and not meant to be inclusive. Even now without the hotline Staff receives complaints and grievances all the time and we have to assess their merits and agree on what action needs to be taken.

Council Member Holman asked if the hotline would include customer service complaints since this would be an employee-only hotline.

Mr. Edmonds responded by saying most customer service complaints would come externally, but the point was to clarify things we would not take into consideration.

Mr. Keene said the only difference between is the process with a hotline and the current process is the hotline is an anonymous phone call.

Council Member Burt asked if the complaint review committee (page 2 of the report) was different from current practice.

Mr. Keene answered that it would be different in that the current process was informal.

Council Member Burt clarified the difference would be a defined group rather than an ad hoc committee.

Council Member Holman said the quarterly report of the hotline should be presented to the Policy and Services Committee, rather than the Finance Committee.

Mr. Edmonds said the City Auditor's Office was seeking policy direction from the Policy and Services Committee. Once the hotline becomes operational, the quarterly report would go to the Finance Committee as all other audit reports.

Council Member Holman established that the check-ins would concern this committee and not the Finance Committee. This was not a financial issue – it was a policy issue.

Council Member Burt questioned if 1) these types of complaints would go to the Finance Committee for any specific reason, and 2) audit reports were both financial and non-financial based. He questioned whether each audit report should be reviewed individually to determine if they should go to the Finance Committee or the Policy and Services Committee.

Mr. Edmonds said audit reports have gone to both Committees in the past.

Council Member Burt clarified that maybe the Policy and Services Committee should decide whether each audit report should go to one committee or the other.

Mr. Keene agreed that they should not be presented to both committees.

Council Member Klein questioned if there was a real need for this hotline. He asked if the City really had a problem.

Mr. Edmonds said that he could not answer that, but stated fraud and abuse occur and hotlines have proven to be effective in preventing and deterring fraud. He said organizations establish hotlines because employees find comfort in the anonymity. Despite this, there was no known hesitation amongst current employees to report complaints.

Mr. Keene said the City Manager's Office currently fields anonymous complaints. This hotline would formalize this process.

Council Member Klein asked if the City Manager's Office had data regarding the number of complaints currently received. That data could be used as a baseline.

Mr. Keene said he did not have the specific quantity, but it was a small number.

Mr. Edmonds stated the City of San Jose's hotline helped improve reporting on the number of complaints received.

Chair Price said she likes the idea of a baseline. She asked if it could be identifiable.

Mr. Keene said he hopes the hotline would generate only a minority percentage of the complaints the City fields Anonymous complaints have side-effects in an organization.

Council Member Klein asked if the City Auditor's Office ran a surplus in their budget since the cost of the program would be absorbed by the City Auditor's Office.

Mr. Edmonds responded that there was a slim surplus. In year one of the program, would be half of the \$3,000 to \$6,000. He indicated that the real cost was not with the vendor chosen, but the time spent from the Council Appointed Officers and Staff.

Council Member Klein indicated his hope that the City will track time spent on this project.

Council Member Klein said that when the possibility of this hotline first arose, City Manager Keene was opposed to the idea. He asked if the City Manager was comfortable with the proposition currently.

Mr. Keene said his main concern previously was that the hotline would be managed completely by the City Auditor's Office, whereas now it was collaborative effort. He voiced his concern with the vagueness that applies to the reporting of "waste".

Chair Price said there would be an issue of trust and distrust. She questioned whether employees would use this frivolously or take it seriously. She stated that the hotline should provide a visible structure (another vehicle) for transparency. She also asked if Staff could determine how effective this hotline would be from other cities.

Mr. Edmonds said the overall sentiment from organizations that have implemented hotlines was that it was a worthwhile investment. Hotlines provide a means for employees to report on issues and this model lent itself to cooperation.

Chair Price asked if there was an issue of maintaining confidentiality.

Mr. Edmonds asserted that state law mandates the City Auditor's Office maintain confidentiality.

Council Member Holman questioned whether there was a requirement that the City needed to maintain a hotline to receive federal funding.

Mr. Edmonds said he has heard that as well and did some review of the Recovery Act, but he had not found any evidence of there being a specific requirement.

Council Member Holman said currently, when a grievance is filed, Staff time is spent. She asked if the time taken would be different once we implement a hotline.

Mr. Keene responded not necessarily, but there would be an issue if we receive a grievance and a hotline complaint on the same issue simultaneously.

Council Member Holman voiced concern about maintaining anonymity through the entire process. More details would be needed.

Mr. Edmonds said if any complaint yields a criminal investigation, anonymity could be lost.

Council Member Burt stated that if there was a complaint about a procedure and Staff was able to independently verify it, then there was no need to release the identity of the complainant. He realized that there was no means of identifying the person because the system was intended to be anonymous.

Mr. Keene said policies and procedures should be in place for all types of situations.

Mr. Edmonds stated the complaints would come through a third party and they had processes to protect the complainant and maintain anonymity.

MOTION: Council Member Holman moved, seconded by Chair Price to recommend the City Council implement the employee-only waste, fraud, and abuse hotline with quarterly reports being provided to the Policy and Services Committee.

Council Member Holman stated the Interim City Auditor's comment that other organizations maintained hotlines was evidence that they were effective. She hoped this hotline would provide an avenue for healthier access to dialogue.

Mr. Keene questioned how this hotline would change the culture of the organization. A downside was people can be inaccurate or mistaken leading to someone being falsely accused.

Council Member Holman said people can have different perspectives. This would be why the oversight committee and quarterly reports will be established.

Chair Price said there as an issue with the fact that the City had no control over an individual's behavior. There was always a possibility of a misunderstanding.

Council Member Klein stated that if a grudge case ever arises, he hoped the accused person wouldn't have anything in their employee file.

Mr. Keene confirmed that such a situation would not occur. These were the kinds of policies that needed to be in place.

Council Member Holman asked what the Committee should anticipate in the quarterly reports.

Mr. Edmonds said he envisioned the reports would provide a status report on complaints received and processed, as well as any issues that arise.

MOTION PASSED 4-0.

Meeting adjourned at 8:55 p.m.