

SAN MATEO

**LOCAL AGENCY FORMATION COMMISSION**

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

October 15, 2009

To: Members Formation Commission

From: Martha Poyatos, Executive Officer

Subject: Recommended Draft Municipal Service Review
Determinations and Sphere of Influence Determinations
and recommendation to Reaffirm Sphere of influence and
City of East Palo Alto

The attached July 7, 2009 Municipal Service Review and Sphere of Influence Update (MSR/SOI) for the City of East Palo Alto was continued at your July 15 and September 16 meetings. At the September 16 hearing the Commission received oral and written comments from the City of East Palo Alto and interested individuals. Written comments and LAFCo staff responses are summarized below.

Staff recommends that the Commission consider the report and written comments and adopt the recommended municipal service review and sphere of influence determinations detailed in Exhibit A (attached) and reaffirm the City's sphere of influence as coterminous with City boundaries.

Written Comments**City of East Palo Alto:**

The City of East Palo Alto Council considered the MSR/SOI and City staff responses at the September 15, 2009 council meeting and adopted Resolution No. 2972 supporting the Municipal Service Review and recommendation to reaffirm the City's sphere of influence, which is coterminous with city boundaries. The City staff response considered by the Council agreed with most areas of the MSR/SOI and provided additional information regarding the following:

- a) City efforts to address concerns of Woodland Park LLP regarding responsiveness to municipal service needs, in particular police service.
- b) City's current review of a capital improvement plan and progress in securing funding for: improvement of segments of Bay road, Pulgas Avenue and Woodland Avenue; Safe Routes to School projects, bus shelters for free shuttle route; drainage improvements; pavement improvements and a \$1.1 million grant for water supply improvements.
- c) The City response clarifies that while the City does not own the library facility it is a member of the San Mateo County Library Joint Power Authority (JPA) and a share of property tax collected in City boundaries funds the JPA.¹

Minor changes shown in strike out and italic have been made to the determinations shown in Exhibit A to reflect additional information regarding on-going initiatives to address service needs or funding deficiencies.

Fair Rent Coalition:

The Fair Rent Coalition responds to previous comments on behalf of Woodland Park Management LLC (Woodland Park), noting that the properties managed by Woodland Park do not overlap with the University Circle Redevelopment Agency and that representatives of affiliates of Woodland Park provided contradictory information about adequacy of public safety to an investment board.

No changes have been made to the recommended determinations based on these comments.

William D. Ross, representing Woodland Park Management, LLC

William D. Ross, representing Woodland Park Management LLC (Woodland Park),² submitted a September 16, 2009 letter including attachments of the City of East Palo Alto September 15 comments and copies of Writ of Mandate for a San Mateo County superior court case involving the City and Woodland Park. Woodland Park

¹ Because the Library Fund was levying a tax before Proposition 13, the Library Fund (JPA) receives a share of the 1% property tax in unincorporated areas and eleven member cities. The JPA is funded primarily from this revenue. Member cities are responsible for maintenance of city owned library facilities. In this regard the City of East Palo Alto differs from other JPA members because the City of East Palo Alto does not own the library facility. The County, also a member of the JPA, owns the library facility and funds maintenance of the library.

² Woodland Park is an affiliated limited liability corporation of Page Mill Properties LLC and is petitioner in legal action against the City of East Palo Alto in matters related to the City's Rent Stabilization ordinance and just cause for Eviction Ordinance.

manages approximately 1,700 units of residential apartments in East Palo Alto, west of U.S. 101.

In his September 16 letter,³ Mr. Ross refers to the Commission on Local Governance for the 21st Century "Growth Within Bounds Report" and states that the City of East Palo Alto has failed to provide LAFCo with sufficient information to prepare a comprehensive MSR, that the MSR fails to consider alternatives to current City service providers and that the MSR is legally deficient because it is not based on detailed, analytical studies. In his conclusion Mr. Ross states that the City of East Palo Alto will not be able to provide adequate public services, especially law enforcement and crime prevention, areas where a Commission MSR process should determine how the most efficient means of governmental service is required.

LAFCo staff notes that the legislation that resulted from "Growth Within Bounds", Assembly Bill 2838 (Hertzberg), incorporated many, not all, of the recommendations contained in "Growth Within Bounds". Enacted as the Cortese Knox Hertzberg Act of 2000 (Act), the Act included Section 56430 governing municipal service reviews. In 2006, Section 56430 was revised to reduce determinations from nine areas of determination to six and removed reference to the California Office of Planning and Research MSR Guidelines. Section 56430 directs LAFCo to comprehensively review all agencies that provide service in the area under study.⁴

Based on City budgets, audits, and other information, including information provided by Mr. Ross and others, the July 7, 2009 Municipal Service Review and the Recommended Determinations contained in Exhibit A and dated October 14, 2009 include information about service deficiencies, police staffing level, the City's structural budget deficit, inadequate reserve and opportunities for the City to partner with other agencies to meet service needs. Recommended Determination C under Financial Ability of City to Provide Services specifically states: *Due to the structural budget deficit compounded by economic uncertainties, the City will need to frequently re-examine and adjust the Adopted Budget and alternatives including contracting*

³ Prior comments request that the area including Woodland Park Apartments be removed from the City's Sphere of influence to provide for formation of a Community Services District to provide municipal services.

⁴ Section 56430 also provides that LAFCo may study any geographic region or subregion as is appropriate for an analysis of services to be analyzed. In this case the area under study is City of East Palo Alto. The City is served by Menlo Park Fire Protection District and East Palo Alto Sanitary District, for which service reviews have already been prepared.

for service to meet the most essential of city service priorities, particularly public safety.

No changes have been made to the recommended determinations based on comments from Woodland Park LLC.

Conclusion and Recommendation:

The Municipal Service Review and Sphere of Influence Update for the City of East Palo Alto are based on budgets, audits, reports and comments from interested agencies and parties. The MSR/SOI includes determinations and recommendations to address municipal service delivery pursuant to Sections 56430 and 56425, including accountability, adequacy of community service needs, fiscal vulnerabilities and opportunities to share resources and or contracting with other entities, all of which are under the jurisdiction of the City, not LAFCo, to implement. This would include as noted in Determination C cited above, regular monitoring of revenues, expenditures, cost containment measures, efficiencies and opportunities for resource sharing.

Staff recommends that the Commission approve the City of East Palo Alto Municipal Service Review and Sphere of Influence Update by taking the following action. By resolution:

- a) Accept the Municipal Service Review and Sphere of Influence Update Report
- b) Adopt the Municipal Service Review and Sphere of Influence Determinations contained in Exhibit A
- c) Reaffirm the sphere of influence of the City of East Palo, which is coterminous with current City boundaries.

Respectfully submitted,

Martha Poyatos
Executive Officer

Exhibit ACity of East Palo AltoRecommended Service Review & Sphere DeterminationsGovernance, accountability for community service needs,
including governmental structure and operational efficiencies

- a. It is recommend that the City website be updated to include links and contact information for the Menlo Park Fire Protection District (www.menlofire.org), East Palo Alto Sanitary District (www.epasd.com) and West Bay Sanitary District (www.westbaysanitary.org) as well as contact information for the mutual water companies.
- b. It is recommended that the City's website include staff reports including but not limited those items listed on council, committee and board agendas to make information readily available to the public.
- c. Based on comments on the service review, it is recommended that the City review policies and practices related to publication and circulation of council, board and committee agendas in compliance with the Brown Act to assure public participation.
- d. Based on comments, it is recommended that the City continue to facilitate a process to assess and respond to concerns regarding adequacy of city services, including but not limited to deficient development review, public safety and police, street lighting and street maintenance.

Growth and Population Projections

- a. While trends indicate that the East Palo Alto population will continue to grow relative to creation of new housing and jobs, ABAG policy-based growth projections do not reflect economic conditions that support the rate of growth or the financial ability of the city to serve such growth.

Present and Planned Capacity of Public Facilities and Adequacy of Public Services including Infrastructure Needs or Deficiencies:

- a) The 2009-10 Proposed Budgets and 2008-09 Adopted Budgets contain limited information concerning the City's Capital Improvement Plan, which is currently under review and not adopted, which provides for the construction, maintenance, and repair of City streets, traffic and transportation systems, public buildings, parks, infrastructure systems, and other City facilities.
- b) Given the fragmented pattern of public and private water service delivery with both SFPUC water supplies and local supplies and metered and unmetered service, the city and private water utilities are encouraged to work together to maximize efficient use of water, storage opportunities and emergency supply. This includes, at a minimum, periodic meetings of agency representatives to discuss opportunities for shared resources, interties, and best practices to best serve the community.
- c) The City's Pavement Management Program cites that approximately 60% of city streets were in good/fair condition and 40% were in poor to very poor condition and included a recommendation that the City needs to spend \$15.7 million in pavement maintenance and rehabilitation in the next five years, in order to essentially repair all streets and avoid costly reconstruction in the future.
- d) The City has assumed ownership and service responsibility for the previously County-governed lighting infrastructure consisting of 803 lights. The City was also successor to a fund balance and annual revenues to fund street lighting. Comments on the Service Review indicate the need to improve street lighting service in some areas.
- e) The City has assumed ownership and service responsibility for the previously County governed drainage infrastructure including the O'Connor Street Pump Station. Improvements and maintenance are subject to limited annual revenues and improvements related to new development where possible.
- f) The City lacks water storage facilities, last estimated to cost \$3.925 million and has no identified funding source beyond a recently awarded \$1.1 million federal grant.
- g) The City police staffing level is lower than communities with similar population and lower crime rate/demand for service. An opportunity exists with the Update the Public Safety Element of the City's General Plan or a specific

study to evaluate the appropriate public safety staffing level to best provide for public safety.

- h) The City reports that based on a recommended three acres per 1000 of population or ninety acres of parkland and the existing 16 acres of parks and open space, the City needs an additional 21 acres of neighborhood servicing parks.
- i) The City of East Palo Alto does not own library facilities.

Financial Ability of City to Provide Services

- a. While the City has made progress to enhance revenue and reduce operating costs to close an ongoing structural budget deficit, it does not contain adequate reserves to offset sustained economic downturn.
- b. Information from the San Mateo County Assessors' Office indicates that the City's property tax revenue will continue to decline in the short term and the City projects that sales tax revenue growth will slow and remain flat.
- c. Due to the structural budget deficit compounded by economic uncertainties, the City will need to frequently re-examine and adjust the Adopted Budget and alternatives including contracting for service to meet the most essential of city service priorities, particularly public safety.

Recommended Determinations: Status of, and opportunities for, shared facilities

- a) By necessity and best practice, the City of East Palo Alto practices resource sharing and shared facilities.
- b) The City is examining additional opportunities and is encouraged to continue to work with neighboring cities, Menlo Park Fire District, East Palo Alto Sanitary District and other agencies to meet community essential service needs through service sharing, joint power opportunities and contracting for services.

Recommended Sphere of Influence Determinations

1. *The present and planned land uses in the area, including agricultural and open-space lands.*

The City of East Palo Alto includes a broad spectrum of commercial/industrial/retail, residential, institutional and open space/baylands. Planned development includes additional housing, retail and commercial office space to provide jobs and expand the City's revenue base.

2. *The present and probable need for public facilities and services in the area.*

The City's estimated Department of Finance January 2009 population is 33,174. The existing population and projected growth demonstrate a need for a broad set of municipal services and facilities as outlined in the service review.

3. *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

The Municipal Service Review identifies inadequate funding to provide municipal services and in particular deficiencies in police protection based on demand for service.

4. *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

As noted in the Municipal Service Review and Sphere Update, the City of East Palo Alto is wholly surrounded by the City of Menlo Park, San Francisco Bay and the City of Palo Alto. Divided by U.S. 101, with the majority located east of the Highway the City is accessed connected to the western portion by University Avenue. The City is included in the Ravenswood City School District and Sequoia Union High School District.

**AGENDA ITEM
REGULAR JOINT CITY COUNCIL/REDEVELOPMENT
AGENCY MEETING**

TUESDAY, SEPTEMBER 15, 2009 ITEM No. VIIIA4

POLICY AND ACTION

**Response to San Mateo County Local Agency Formation
Commission Service Review and Sphere of Influence Update
Regarding City of East Palo Alto – (Alvin D. James, City Manager)**



CITY OF EAST PALO ALTO

OFFICE OF THE CITY MANAGER

2415 University Avenue • East Palo Alto, CA 94303-1164

DATE: September 15, 2009

TO: Honorable Mayor and Members of the East Palo Alto City Council
Chair and Members of the Redevelopment Agency

FROM: Alvin D. James, City Manager

SUBJECT: Response Regarding San Mateo Local Agency Formation Commission (LAFCo)
Municipal Service Review and Sphere of Influence Update – City of East Palo
Alto

RECOMMENDATION:

That Council Adopt a Resolution Supporting the LAFCo Executive Officer's Conclusions and Recommendation that LAFCo Reaffirm the City's Sphere of Influence and that It Remain Coterminous as Presently Delineated

BACKGROUND:

Government Code Section 56430 requires that LAFCo complete municipal service reviews. Municipal service reviews are conducted in order for the LAFCo to update spheres of influence in accordance with Section 56425. Section 56425(g) indicates that "(o)n or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence." Section 56425(h) further indicates that "(t)he commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations."

DISCUSSION:

Consistent with the mandate of Government Code Sections 56430 and 56425, San Mateo County LAFCo is presently conducting a municipal service review and sphere of influence update evaluation for the City of East Palo Alto. In furtherance of that effort, LAFCo staff has previously requested and city staff provided, information in a variety of areas to assist in the preparation of the review. A draft municipal service review was prepared by Martha Poyatos, LAFCo Executive Officer and circulated for review and comment. Mr. William D. Ross, attorney, submitted voluminous public comments on behalf of Woodland Park Management, LLC essentially challenging the adequacy of information provided and, the adequacy of municipal services provided in areas of the city in which properties managed by his client are located. The response accompanying this staff report specifically raised in the LAFCo draft review's discussion and recommended determinations. To the extent pertinent, it also addresses public comments raised regarding the adequacy of city information as well as provides additional information regarding municipal services provided in the areas of concern.

LAFCo Municipal Service Review And Sphere of Influence Update

The LAFCo Executive Officer prepared a draft Municipal Review (draft review), the most recent draft is dated July 7, 2009 and is attached for City Council consideration. Staff believes that the draft review is thorough and fairly reflects City of East Palo Alto municipal operations and general fund-based service capacities. In light of issues raised during public comment on the draft document, LAFCo staff had revised the document to provide such additional information as it had to respond to concerns expressed. At the July LAFCo meeting, the City Manager addressed the commission and indicated that the City Council had not had an opportunity to review the draft review and would not have such an opportunity until September given its extremely heavy meeting agenda schedule and pending August recess. The Commission agreed to postpone further consideration until its September 16th meeting.

After reviewing the draft review, city staff has prepared the attached response to supplement the information that has presented to LAFCo for consideration. Staff is recommending that, in addition to the response, that the City Council authorize the submission of a resolution on its behalf concurring in the conclusions and recommendation of the LAFCo Executive Officer that LAFCo reaffirm the City's sphere of influence and that it remain coterminous as presently delineated.

FISCAL IMPACT:

This is an information report. There are no associated fiscal impacts.

Attachments:

- LAFCo Municipal Review and Sphere of Influence Update Response
- Attachment 1 – 2007 Brann Letter
- Attachment 2 – Police Department Summary Report, December 26, 2008
- Attachment 3 – UCR Crime Comparison Information 2005 – 2008
- Attachment 4 - Beat Four Report, November 1, 2007 – July 31, 2009
- Attachment 5 – ShotSpotter Gunshot Detection System Activity Report, June 15, 2009
- Attachment 6 – Public Works Department EPA Community Shuttle : New Bus Stops

A RESOLUTION OF THE CITY OF EAST PALO ALTO REQUESTING THAT THE SAN MATEO LOCAL AGENCY FORMATION COMMISSION (LAFCO) SUPPORT THE LAFCO EXECUTIVE OFFICER'S CONCLUSIONS AND RECOMMENDATION THAT THE COMMISSION REAFFIRM THE CITY'S SPHERE OF INFLUENCE KEEPING IT COTERMINOUS AS PRESENTLY DELINEATED

WHEREAS, LAFCo is a State-mandated, independent commission with countywide jurisdiction over the boundaries and organization of cities and special districts including annexations, detachments, incorporations, formations and dissolutions, and

WHEREAS, among the purposes of the commission are efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances, and

WHEREAS, Government Code Section 56430 requires that LAFCo complete municipal service reviews, and

WHEREAS, the municipal service review is not a proposal for reorganization of agencies, rather a state-mandated study of service provision in regard to six areas of determination as set forth in Section 56430, and

WHEREAS, municipal service reviews are conducted in order for the LAFCo to update spheres of influence in accordance with Government Code Section 56425, and

WHEREAS, Section 56425(g) indicates that "(o)n or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence."

WHEREAS, the City of East Palo Alto is General Law City duly and lawfully incorporated on July 1, 1983, and

WHEREAS, the City of East Palo Alto is a full service city that provides a range of municipal services to and on behalf of the residents, and business currently situated within the city, and

WHEREAS, the LAFCo Executive Officer has prepared an in-depth Municipal Service Review and Sphere of Influence related to the City of East Palo Alto for the Commissions consideration, and

WHEREAS, the Municipal Service Review recognizes the progress the City of East Palo Alto has made in recent years in economic development, assumption of water, lighting and drainage services, and working to establish fiscal policies and practices to meet city service needs, and

WHEREAS, while recognizing constraints and obstacles facing the city, the Sphere of Influence Update as prepared by the LAFCo Executive Officer concludes that reducing the City's sphere of

influence and fragmenting service delivery for one area of the city would detract from the city service delivery efforts, and

WHEREAS, the LAFCo Executive Officer recommends that the coterminous of the city's sphere be reaffirmed by LAFCo:

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO that this resolution be transmitted to LAFCo indicating its support for the conclusions and recommendation of the LAFCo Executive Officer, and

BE IT FURTHER RESOLVED that the Council urges LAFCo to approve the Executive Officers recommendation and reaffirm the City's sphere of influence as coterminous.

PASSED AND ADOPTED this 15th day of September 2009, by the following vote:

AYES:
ABSENT:
NOES:
ABSTAIN:

Ruben Abrica, Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

Vincent Ewing, City Attorney

4232 Pascal Place,
Palos Verdes Peninsula, CA 90274



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JOSEPH BRANN & ASSOCIATES, LLC

Improving Performance and Accountability in the Public Sector

June 25, 2007

Mayor David E. Woods
East Palo Alto City Council
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

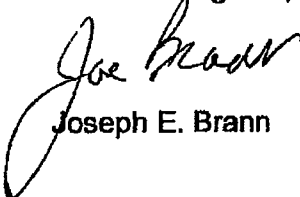
Dear Mayor Woods & Members of the City Council:

I have had an opportunity to review the June 27, 2007 report submitted by Chief Davis regarding his plan to enhance community policing. I found his proposal to be impressive and wanted you and the Council to know that I fully support and endorse his recommendations. I believe this plan will be highly effective and a cost efficient means of dealing with many of the issues and needs that were identified in the organizational assessment I previously conducted of the East Palo Alto Police Department.

In my opinion, the strategy and structure described by Chief Davis is a sound means of reducing the structural and service fragmentation issues that have existed in the past. It offers a promising opportunity to improve service delivery to the community and should correct many of the management deficiencies that were identified. In particular, the implementation of the Area Command structure will do much to foster greater employee and organizational accountability.

I encourage you to support the Chief's recommendations. I am confident you will find this plan improves police services and will be fiscally sound.

Sincerest regards,


Joseph E. Brann

Letta Seiuli

From: Minette Warren
Sent: Thursday, September 10, 2009 2:12 PM
To: Letta Seiuli
Subject: FW: Lafco Response and Transmittal Letter
Attachments: LAFCo Transmittal Report.docx; LAFCo Response.docx; Joe Brann Letter.pdf; Police Department Report - 26 Dec 08 - 1.pdf; UCR Crime Comparison for Chief 083109.doc; Beat 4 report.doc; Shotspotter Report - 15 Jun 09 - Final.pdf; EPA Community Shuttle.pdf

Importance: High

Letta

This is Alvin's LAFCo report. I gave you his Item Cover Sheets

*Minette Warren
Deputy City Clerk
Office of the City Clerk
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303*

From: Alvin James [mailto:alvinjames1@comcast.net]
Sent: Thursday, September 10, 2009 1:58 PM
To: Minette Warren; Vincent Ewing
Subject: Lafco Response and Transmittal Letter

Minnie:

Here is the LAFCo Response and related attachments. Sorry for the size of it. I will forward to you via separate email the downloaded copy of LAFCo's Municipal Review with Public Comments. It should be included as an additional attachment for this item. Thanks.

Alvin

RESPONSE REGARDING SAN MATEO COUNTY LOCAL AGENCY FORMATION COMMISSION (LAFCo)
MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE --- CITY OF EAST PALO ALTO

Government Code Section 56430 requires that LAFCo complete municipal service reviews. Municipal service reviews are conducted in order for the LAFCo to update spheres of influence in accordance with Section 56425. Consistent with that mandate, the San Mateo LAFCo is presently conducting a municipal service review and sphere of influence update evaluation for the City of East Palo Alto. This report serves to respond to the recommended service review determinations identified in the draft service review and sphere update (draft review) prepared by the LAFCo staff, dated July 7, 2009.

As indicated in the draft review, "(t)he ... review is not a proposal for reorganization of agencies, rather a state-mandated study of service provision in regard to the following six areas of determination as set forth in Section 56430" (of the California Government Code):

- Growth and population projections for the affected area
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies
- Financial ability of agencies to provide services
- Status of, and opportunities for, shared facilities
- Accountability for community services needs, including governmental structure and operational efficiencies
- Any other matter related to effective or efficient service delivery, as required by commission policy

The remainder of this response specifically addresses issues identified in the LAFCo draft review's discussion and recommended determinations and, to the extent pertinent, public comments raised regarding adequacy of city information provided for the LAFCo review. Regarding information submitted for consideration, the city would like to acknowledge the thoroughness and accuracy achieved in the review by LAFCo staff in describing East Palo municipal operations and, general fund – supported services.

The city shares the concern expressed in the draft review regarding the potentially debilitating impact on service levels of a sustained economic down turn. As acknowledged in the draft review, such an effect would not be unique to East Palo Alto. During recent deliberations that occurred prior to passage of the state budget, over 160 California local jurisdictions submitted resolutions of hardship anticipated to occur as a result of sustained poor economic conditions and, the states continued efforts to divert local revenues to balance its budget. It is true that some jurisdictions are more vulnerable than others, as indicated in the draft review, based upon diversity of revenue sources, accrued reserves, etc. However, it is also true that East Palo Alto has endured fiscal challenges and economic conditions that have had the effect of a "sustained economic downturn" virtually since city incorporation in 1983. For

example, the city's unemployment rate has been persistently high and, more often than not, is double the county's rate and sometimes even higher. Having to address problems with limited means on an ongoing basis has allowed the city to develop a capacity for resourcefulness, and, the discipline required to adapt itself to economic challenges only now being realized by other local jurisdictions that have typically and historically had greater access to fiscal resources.

1. **Governance, accountability for community service needs, including governmental structure and operational efficiencies**

The draft review has identified four draft determinations related to this area of determination:

- a) **Draft Determination** - It is recommended that the city website be updated to include links and contact information for the following entities:

Website Links

- (i) Menlo Park Fire Protection District
- (ii) East Palo Alto Sanitary District
- (iii) West Bay Sanitary District

Contact Information

- (iv) Palo Alto Park Mutual Water Company
- (v) O'Connor Tract Mutual Company

RESPONSE: The City agrees with this draft determination.

DISCUSSION: Management will make it a priority to update the city's website per the recommendation.

- b) **Draft Determination** - It is recommended that the city's website include staff reports including, but not limited to those items listed on council, committee, and board agendas to make information readily available to the public

RESPONSE: The city agrees with this draft determination.

DISCUSSION: The City Council has already identified, as a strategic priority, the need to improve the city's website as a vehicle to provide useful information to and to enhance communication with city residents. The Council has directed staff to take the steps necessary to achieve that objective. City staff is currently working with our information technology provider to implement the Council's direction. The LAFCo recommendation will be addressed as part of the project.

- c) Draft Determination – It is recommended that the City review policies and practices related to publication and circulation of council, board and committee agendas in compliance with the Brown Act and to assure public participation

RESPONSE: The city agrees with this draft determination.

DISCUSSION: *The City Attorney recently conducted a review of the City Council meeting agenda format to assure uniform compliance with the requirements of the Brown Act. A more comprehensive review will be undertaken for public meeting agendas for all city board, commissions and committees.*

- d) Draft Determination – Based on comments, it is recommended that the City facilitate a process to assess and respond to concerns expressed on behalf of the Woodland Park Apartments, including but not limited to concerns regarding deficient public safety and police.

RESPONSE: As this draft determination is based on comments received, which the City believes are unsubstantiated allegations and without substance, the city cannot agree with the recommendation as currently structured.¹

DISCUSSION: *The City does believe that it is important to clarify the record both in terms of its responsiveness to concerns that have been expressed on behalf of the Woodland Park Management in all areas, including alleged deficient law enforcement and crime prevention services. It should be noted that, from the record as submitted by the commenter regarding Woodland Park's consultant's effort to meet with the Police Department pertaining to city authorization for installation of security cameras on structures located in the public right of way, it appears that the consultant did not heed advice given by the Police Department representative that he research the matter elsewhere in the city. Work to be done in the public right of way and, in this instance on city-owned property (light poles), would require authorization and an encroachment permit from the city's Public Works Department.*

Public comments received by LAFCo staff suggest that the City has failed to show that it has sufficient present and planned capacity to provide adequate law enforcement and crime prevention services. The very information submitted to LAFCo in support of the assertion refutes this assertion. It is true that in 2000, the City Council, commissioned an organizational assessment of the Police Department. It did so with the specific intent of developing a plan for addressing many issues confronting the city in general and, the police department specifically regarding the need to improve service delivery and enhance law enforcement and crime prevention services. It is true that the consultant, Mr. Joe Brann, a nationally recognized public safety expert, identified 71 specific recommendations to improve performance of the police department. Those recommendations not only addressed issues related to departmental management and leadership, but many others including inadequacies regarding physical facilities needed to accommodate police operations, technology needs, equipment obsolescence, operational protocols and professional training standards, etc.

¹ Woodland Park, in a footnote has asserted that it is difficult to obtain city documents. The city has and will continue to respond to all public records requests consisted with the requirements of law.

The department did struggle initially in its efforts to implement the Brann report recommendations. The Grand Jury reports of 2003-04 and 2004-05 did note that the city had not implemented all of the Grand Jury recommendations (which essentially urged the city to complete the implementation of the Brann report recommendations), but acknowledged that the city had made significant progress toward completing implementation. Since then, all 71 of the Brann report recommendations have been implemented. As acknowledged by Mr. Brann in a June 25, 2007 letter (Attachment 1), the city has built upon the solid foundation defined by the recommendations of his organizational assessment and created a community policing model so successful that it serves as a resource for other law enforcement organizations throughout California and the nation. Attached is a **Police Department Summary Report** (Attachment 2) that details many of the department's accomplishments in enhancing its law enforcement and crime prevention capabilities. However, a few of the more salient ones are indicated below:

- The Police Department space for conducting operations improved from approximately 3,500 square feet to over 10,000 square feet.
- Twenty three (23) aging or inoperable vehicles were eliminated from the city's inventory and replaced with about 25 new vehicles, 12 of which were for the police department.
- At least 10 new mobile computers were installed in new police vehicles allowing officers to conduct investigative research and prepare reports in the field.
- Installation of a Shotspotter gunshot detection system on a citywide basis.
- Establishment of a Criminal Investigation Division to resume responsibility from the San Mateo County Sheriff's Department for conducting criminal investigations in East Palo Alto .
- Establishment of a Crime Analysis Unit to analyze crime data, as well as track crime patterns and trends.
- Completed recruitments for and filled all but 2 vacant police officer positions. The department is on track for filling remaining vacant positions by or before end of September.
- Obtained or, assisted the city in securing over \$6 million dollars in grants to enhance public safety and/or crime prevention collaborations and initiatives.

Beyond these tangible acquisitions intended to strengthen the department's capacity to provide law enforcement services the department has made it a priority to ensure that police officers are current with respect to their required Peace Officer Standards Training (POST) certifications. As further outlined in the Police Department Summary Report, the department has also proactively established strategic partnerships both in terms of community collaboration and problem-solving as well as interagency joint initiatives designed to implement regional crime reduction objectives.

Attachment 3 provides comparative statistical information regarding crime trends in East Palo Alto from 2005 to 2008. In response to public comments, information is also provided for Beat 4 for the period,

November 1, 2007 to July 31, 2009 (Attachment 4). Beat 4 serves the area west of Highway 101, including properties owned by Page Mill Properties and residents in that area, many of whom reside in those properties. Attachment 5 is a Shotspotter Gunshot Detection System Activity Report which delineates the number of shotspotter activations in the city, including the five highest activation locations, none of which are in Beat 4.

2. Growth and population projections

The draft review has identified one draft determination related to this area of determination:

Draft Determination – While trends indicate that the East Palo Alto population will continue to grow relative to creation of new housing and jobs, ABAG policy-based growth projections do not reflect economic conditions that support the rate of growth or the financial ability of the city to serve such growth.

RESPONSE: The City is unable to comment regarding this draft determination.

DISCUSSION: The draft determination makes an observation regarding factors that underpin ABAG's regional population projections. It does not provide a recommendation.

3. Present and Planned Capacity of Public Facilities and Adequacy of Public Services including Infrastructure Needs or Deficiencies.

- a) The 2009-10 Proposed Budgets and 2008-09 Adopted Budgets contain limited information concerning the City's Capital Improvement Plan which provides for the construction, maintenance, and repair of City streets, traffic and transportation systems, public buildings, parks, infrastructure systems, and other City facilities.

RESPONSE: The City's draft Capital Improvement Program (CIP) is currently under review.

DISCUSSION: The proposed CIP has been reviewed by both the City's Public Works and Transportation Commission and the Planning Commission and forwarded with recommendations for City Council consideration. Due to an extremely heavy agenda schedule in July and, its regularly scheduled August recess, the City Council has not had an opportunity to consider the draft CIP. It is anticipated that the Council will schedule the CIP for consideration in October.

Due to available funding opportunities, the City Council, in consultation with the Public Works and Transportation Commission, adopted resolution No. 2874 in March, 2009, authorizing the City Manager to file an application for the Federal American Recovery and Reinvestment Act of 2009 funding with the Metropolitan Transportation Commission for a previously authorized list of Pavement Maintenance and Rehabilitation Projects, already identified in the draft CIP. The City was successful in securing a \$421,000 grant in which to undertake rehabilitation and resurfacing work for the following streets:

ST.	Street Name	Beginning Location	Ending Location
1	Bay Road	University Avenue	Willow Road (City Limit)
2	Pulgas Avenue	E Bayshore Road	Bay Road
3	Woodland Avenue	University Avenue	City Limit

In July, the City Council authorized design work related to the aforementioned projects. It is anticipated that the Council will schedule consideration of authorization to award a contract for construction of the improvements before the end of September, 2009. In July, the Council also authorized design work for a number of Safe Routes to School projects to be constructed utilizing an \$806,000 Safe Routes to School, Cycle 7 grant that the city was successful in obtaining last year. The City was recently notified that it has been awarded an additional \$574,000 Safe Routes to School, Cycle 8 Grant, which will allow the City Council to consider funding additional CIP projects. In consultation and collaboration with the Ravenswood School District, the city completed construction of traffic circulation improvements in proximity to Brentwood Elementary School on Clarke Street during the month of August.

At its first meeting in September, the Council authorized the City Manager to enter into an agreement with the City/County Association of Governments (C/CAG) to participate in a joint traffic study with that agency and the City of Menlo Park regarding evaluation of intersection and signalization improvements related to University Avenue and Willow.

In July, 2009, the City Council authorized acceptance and appropriation of a \$72,000 grant from the Metropolitan Transportation Commission via the San Mateo County Transit District (SAMTrans) to construct up to four bus shelters on existing transit and shuttle routes serving East Palo Alto residents. Attached to this response is a map of the city's free community shuttle routes serving various areas of the city, including those serving Woodland Park managed residential properties (Attachment 6).

The city is scheduled to complete installation of new food concession facilities and irrigation and playing field improvements for Jack Farrell Park. Utilizing a \$250,000 grant from the Packard Foundation, the City hired a manager this past April, 2009 to complete plans for development of its 6.6 acre property at Cooley Landing into a low intensity recreational or open space amenity for city residents and visitors. The city is exploring collaborative opportunities with the Mid-Peninsula Open Space District and the Ravenswood School District for this important recreational resource. The city is also exploring the possible utilization of an approximate 12 acre linear parcel, owned by the City of Palo Alto adjacent to the Garden Neighborhood as a recreational amenity as identified in the city's adopted Bayfront Park Master Plan.

Regarding drainage improvements, the City Council/Redevelopment Agency, informed by an engineering analysis authorized in May, 2009 related to storm drainage improvements, recently authorized an award of a \$570,000 contract to construct improvements to a 72" in diameter drainage outfall located at the end of Runnymede Street. The project represents the first of a two phase project designed to improve the performance of existing drainage facilities and adjacent drainage channel serving the Ravenswood Business District and abutting residential neighborhoods.

The draft review acknowledged that the city assumed responsibility for the East Palo Alto Drainage Maintenance District from the County in 2005, however, it did not include information regarding the

city's successful effort to improve flood protection in the city. Since taking over drainage responsibility, the city successfully secured a \$670,000 grant from the State Office of Emergency Services and utilized it to complete rehabilitative work to strengthen over 2,500 feet of levee abutting San Francisquito Creek and the Garden Neighborhood in the southeast corner of the city. The Public Works Departments of both the City of Palo Alto and East Palo Alto recently collaborated to ensure that the residents of both communities were fully informed regarding the technical and operating parameters of Palo Alto's recently constructed pump station and, to insure that its operation would not contribute to flooding problems that occur from time to time on the creek. The City Council also has a designated member who serves on the board of the San Francisquito Creek Joint Powers Authority. The members of the JPA are the cities of Palo Alto, Menlo Park and East Palo Alto, as well as the Santa Clara Valley Water District, and the San Mateo County Flood Control District. Stanford University and the San Francisquito Watershed Council are associate members.

- b) Given the fragmented pattern of public and private water service delivery with both SFPUC water supplies and local supplies and metered and unmetered service, the city and private water utilities are encouraged to work together to maximize efficient use of water, storage opportunities and emergency supply. This includes, at a minimum, periodic meetings of agency representatives to discuss opportunities for shared resources, interties, and best practices to best serve the community.

RESPONSE: *The city agrees that institutional fragmentation does exist given the number of public and private water agencies currently serving East Palo Alto residents. However, collaborative and coordinative mechanisms also exist and have been utilized to make significant progress toward optimizing water service delivery.*

DISCUSSION: *The City of East Palo Alto sits on the board of and is a participating member of the Bay Area Water Supply and Conservation Agency (BAWSCA). BAWSCA represents the interests of 24 cities and water districts, and two private utilities, that purchase water wholesale from the San Francisco regional water system. These entities provide water to 1.7 million people, businesses and community organizations in Alameda, Santa Clara and San Mateo counties. BAWSCA recently completed successful negotiations, on behalf of its member agencies, new 25 year Water Supply and Individual Sales agreements with San Francisco Hetch-Hetchy. BAWSCA has recently issued an RFP for the development of a scope for a Long-Term Reliable Water Supply Strategy (RWSS) that will assist BAWSCA and its member agencies to identify and attain the water supplies necessary to support demands through 2035.*

Within the framework of BAWSCA, the city is working to secure cooperative agreements to address a variety of issues related to the provision of secure, safe potable water supplies. Independent of BAWSCA, the city is working to identify resources to implement systemic improvements to the city's water distribution system as well as to explore new ways to improve service coordination with the two private water mutual companies presently serving city residents. The draft review acknowledged that the city issued a request for proposal to update the citywide Water Master Plan. The city has since, utilizing a U.S Environmental Protection Agency \$106,000 grant, awarded a consultant contract to complete the water master plan update by October 2010. Earlier this year, the city received notice of award of a \$1.1 million federal grant to construct water supply system improvements.

- c) The City's Pavement Management Program cites that approximately 60% of city streets were in good/fair condition and 40% were in poor to very poor condition and included a recommendation that the City needs to spend \$15.7 million in pavement maintenance and

rehabilitation in the next five years, in order to essentially repair all streets and avoid costly reconstruction in the future.

RESPONSE: The city is making measurable progress in its pavement maintenance and rehabilitative program.

DISCUSSION: As previously discussed, the city is in the process of either programming street resurfacing/rehabilitative projects or awarding construction contracts for \$1.38 million in Safe Routes to School and ARRA grants respectively. About two years ago, the city completed an approximately \$2.1 million phase 1 reconstruction of a segment of Bay Road between University Avenue and Illinois Street. The City Council this year authorized a contract to commence engineering and design of phases 2 and 3 for Bay Road which will allow the construction of street improvements from Illinois to the entrance to Cooley Landing. The city expects to complete the improvements utilizing the balance of a previously awarded \$10.5 million dollar federal grant.

- d) The City has assumed ownership and service responsibility for the previously County governed lighting infrastructure consisting of 803 lights. The City was also successor to a fund balance and annual revenues to fund street lighting. Comments on the Service Review indicate the need to improve street lighting service in some areas.

RESPONSE: City management agrees with this draft determination and anticipates seeking future City Council authorization to undertake a citywide lighting plan.

DISCUSSION: As indicated in the draft review, the City assumed responsibility for the previously County-governed Ravenswood Lighting District in 2005 and has since successfully completed transfer of all assets and liabilities related to the district. Since then, the city maintained a maintenance contract with the county for approximately one year in order to establish its own inventory management and tracking capacity. The city re-tagged all 803 lights which enabled it to take responsibility for and respond to street light outage calls. Unable to secure a contract for continued maintenance and servicing from the County due to reduced staffing resulting from retirements and, unable to successfully negotiate transfer of servicing equipment as part of the district transfer, the city is in the process of purchasing its own bucket truck. The city has also joined a public lighting district association in order to keep current with best practices regarding asset management. It is pursuing energy efficiency and cost reduction objectives on an ongoing basis as opportunity affords with energy efficient lamp replacements that occur in connection with servicing outages.

- e) The City has assumed ownership and service responsibility for the previously County governed drainage infrastructure including the O'Connor Street Pump Station. Improvements and maintenance are subject to limited annual revenues and improvements related to new development where possible.

RESPONSE: The City agrees with this draft determination.

DISCUSSION: See drainage and flood protection projects previously completed or currently underway discussed elsewhere.

- f) The City lacks water storage facilities and has no identified funding source.

RESPONSE: The City partially agrees with this draft determination.

DISCUSSION: *As discussed in greater detail elsewhere in this response the City received notice of a federal grant award of \$1.1 million for water supply system improvements earlier this calendar year.*

- g) The City police staffing level is lower than communities with similar population and lower crime rate/demand for service. An opportunity exists with the Update the Public Safety Element of the City's General Plan or a specific study to evaluate the appropriate public safety staffing level to best provide for public safety.

RESPONSE: The City partially agrees with this draft determination.

DISCUSSION: Throughout its municipal existence, the City of East Palo Alto has been challenged fiscally, particularly in all areas of staffing levels. There is no question that on a per capita basis, its staffing levels in nearly every organizational service unit are lower than communities with similar population. At its recent Special meeting in June, convened to discuss its priorities, the City Council articulated a desire to enhance service levels in a number of areas, including public safety.

In December, 2008, the City Council authorized the Police Department to utilize up to \$350,000, or 50 percent of the first year parcel tax based Measure C funding identified in the draft review to respond to a spike in crime activity that had occurred at that time. In July, 2009, the Council, in consultation with its ballot measure authorized Measure C Oversight Committee, awarded an additional 32 grants of varying amounts from the portion of the parcel tax allocated for Crime Prevention, to various community based non-profit organizations who provide related services. As discussed elsewhere opportunities have occurred to achieve some staffing augmentation via grants such as occurred in connection with the City's three year \$3.5 million grant funded Parole Reentry program. The City will continue to explore opportunities to optimize its public safety staffing levels.

- h) The City reports that based on a recommended three acres per 1000 of population or ninety acres of park land and the existing 16 acres of parks and open space, the City needs an additional 21 acres of neighborhood (serving park land).

RESPONSE: The City agrees with the draft determination.

DISCUSSION: *See discussion elsewhere regarding the City's renovations being completed for the existing Jack Farrell Park and, planning for Cooley Landing and City of Palo Alto-owned acreage located within the city.*

- i) The City of East Palo Alto does not own library facilities.

RESPONSE: The City agrees with this draft determination but believes additional explanation is needed per the following discussion.

DISCUSSION: *The City of East Palo Alto does not own library facilities but is served by a library facility currently housed at the County-owned Government Center at 2415 University Avenue. The City is a participating member of and contributes property tax funding to a Library Joint Powers Authority that provides library services to the residents of 12 local jurisdictions, including East Palo Alto, within San Mateo County.*

4. Financial Ability of Agencies to Provide Services

- a) While the City has made progress to enhance revenue and reduce operating costs to close an ongoing structural budget deficit, it does not contain adequate reserves to offset sustained economic downturn.

RESPONSE: The City agrees with this draft determination.

DISCUSSION: *Governments large and small, all over California and indeed, the nation, are struggling with the fiscal challenges presented by the current downturn in the local, state and national economies. These entities vary in their capacities to survive a sustained economic downturn. As are others, the city will continue to be creative, resourceful and disciplined in its efforts to successfully negotiate the current economic crisis.*

- b) Information from the San Mateo County Assessors' Office indicates that the City's property tax revenue will decline in the short term and the City projects that sales tax revenue growth will slow and remain flat.
- c) Due to the Structural Budget deficit compounded by economic uncertainties, the City will need to frequently re-examine and adjust the Adopted Budget to meet the most essential of city service priorities, particularly public safety.

RESPONSE: The City agrees with both of these draft determinations.

DISCUSSION: *City Management has historically prepared a mid-fiscal year budget review and recommended budget modifications as new information and changed conditions have warranted. In addition, the City Council receives treasury reports on a quarterly basis. The City's annual audit affords an opportunity for management to "true up" its actual expenditures and review best practices relative to fiscal management. Since 2003, management conducts a quarterly review of revenue assumptions and expenditures at the departmental and division level to ensure not only that progress is being made toward program objectives but also that fiscal issues are identified on a timely basis and addressed before they evolve into a major concern. The City will continue these practices regardless of change in economic conditions.*

5. Status of, and opportunities for, shared facilities

- a) By necessity and best practice, the City of East Palo Alto practices resources sharing and shared facilities.

RESPONSE: The City agrees with this draft determination.

DISCUSSION: None required.

- b) The City is encouraged to continue to work with neighboring cities, Menlo Park Fire District, East Palo Alto Sanitary District and other agencies to meet community service needs.

RESPONSE: The City agrees with this draft determination.

DISCUSSION: None required.

Sphere of Influence Review and Update

Sphere of Influence Recommendation:

The Municipal Service Review recognizes the progress the City of East Palo Alto has made in recent years in economic development, assumption of water, lighting and drainage services, and working to establish fiscal policies and practices to meet city service needs. The Review also identifies constraints and obstacles that require continued efforts and focus on revenue enhancement, cost containment, maximizing efficiencies and sharing resources. Reducing the City's sphere of influence and suggesting fragmenting service delivery further for one area of the city would detract from these efforts and it is recommended that coterminous be reaffirmed.

RESPONSE: The City agrees with this draft determination.

DISCUSSION: None required.



POLICE DEPARTMENT SUMMARY REPORT

DECEMBER 26, 2008

CHIEF RONALD L. DAVIS

POLICE DEPARTMENT SUMMARY REPORT

Dear Community Member:

The purpose of this report is to summarize the activities of the Police Department over the past 3 years and provide you information to gauge our progress. During this period, the Police Department has worked closely with the community and allied agencies to achieve five (5) primary goals:

1. Reduce crime and violence
2. Improve police-community relations
3. Enhance the professionalism of the Department
4. Build the internal capacity of the Department
5. Implement community policing

Notable progress has been made in each of these areas; albeit much work remains. Below is a summary of activity for each of the areas.

1. Reduce Crime and Violence

Since 2006, homicides are down 42% and overall crime is down 20%. These dramatic reductions prove that our community policing efforts are working.

Below is a 3-Year Crime-Comparison Chart (as of December 18, 2008).

Crime Category	2006 - 2008	2003 - 2005	Percentage Change
HOMICIDE	18	31	-42%
RAPE	55	74	-26%
ROBBERY	290	310	-6%
ASSAULTS	1065	1314	-28%
*ASSAULTS/FIREARM	396	389	2%
BURGLARY	928	988	-6%
THEFTS	899	1591	-43%
AUTO THEFTS	896	866	3%
TOTALS	4151	5174	-20%

* Assaults with a Firearm is a sub-category of "Assaults" and includes negligent firearm discharges in public and shooting at uninhabited dwelling and vehicle.

Notwithstanding this success, the periodic spikes in violence experienced each year prove that the root causes of crime and violence remain. In other words, we are on the right track but we must enhance our efforts to address these root causes if we are to achieve and sustain even greater reductions in the future.

To this end, the Department has partnered with the community to implement progressive crime-reduction strategies that blend enforcement, prevention and intervention. These strategies include:

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Crime-Reduction Programs & Grants

The Department has secured approximately \$6 million in grants to implement key enforcement, prevention and intervention programs. These programs tackle issues such as parole reentry, jobs for parolees, at-risk youth, gang prevention, anti-gang enforcement, technology, nuisance abatement and blight removal, traffic enforcement and other key issues in reducing crime and violence.

Below is a chart that summarizes these grants.

Programs & Grants	Approx. Amount
➤ Project Safe Neighborhoods (PSN)	\$175,000
➤ Parole Reentry Program	\$3,500,000
➤ Parolee-Job Program	\$1,132,000
➤ Gang Resistance, Education And Training	\$300,000
➤ Traffic Enforcement	\$250,000
➤ Police Activities League (PAL)	\$109,000
➤ Graffiti Arts Project (GAP)	\$42,000
➤ Code Enforcement/Nuisance Abatement	\$50,000
➤ Civil Injunction program	\$66,000
➤ ShotSpotter technology	\$200,000
➤ Gang Suppression Activities	\$120,000
➤ Youth Interns	\$15,000
➤ Safety Equipment	\$75,000
Total	\$6,034,000

The majority of these programs involved police-community partnerships. Out of the \$6 million in grants, the Department currently contracts with numerous community and faith-based organizations at approximately \$3 million. These grants respond aggressively to crime and violence and they create jobs for parolees, youth interns, and community members while strengthening police-community relations. The Chart below outlines these contracts:

Grant/Program	Community Contract Amount
Project Safe Neighborhoods	\$75,000
Parole Reentry Program	\$2,100,000
Parolee-Job Program	\$996,000
GREAT	\$60,000
PAL	\$109,000
Graffiti Arts Project	\$42,000
Total	\$3,382,000

Crime Analysis Unit

In 2005, the Department formed the Crime Analysis Unit and hired a crime analyst to track crime, identify crime patterns and trends, provide comprehensive crime-analysis, and work with management to strategically deploy our resources. The Department had previously held this position vacant for over five years. Through this unit the Department has become proactive rather than reactive.

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This unit provides the Area Commanders weekly statistical reports and prepares monthly reports for the chief that track crime trends and patterns. The unit also conducts link-analysis of crime-cases which is used in targeting specific individuals and gangs.

CompStat

The Computer Statistical (CompStat) model is an accountability system that requires management to understand crime, identify crime patterns and trends, and identify why crime is occurring. This analysis is a key component of Problem-Oriented Policing and its SARA (Scanning, Analysis, Response, and Action) model.

As part of CompStat, the chief meets with the two Area Commanders, detectives, officers and the crime analyst monthly to review crime patterns and trends, and develop strategies that respond to these trends and prevent future ones.

The CompStat system was developed in New York City in the '90s and is credited with dramatic decreases in crime and violence. Through the use of CompStat, the Department is able to respond not only to crime incidents, but the root causes of crime as well, and do so in a strategic and effective manner.

Criminal Investigation Division

In 2006, the Department formed the Criminal Investigation Division (CID) and resumed responsibility to conduct criminal investigations in East Palo Alto. For ten years before that, the City had contracted with the Sheriff's Office to conduct these investigations. The Deputies assigned to this function did a great job, but it was, and remains, my belief that local detectives can better solve crime because they have an established relationship with the community.

It is also critical to the organization to maintain such a capacity to provide staff growth and development opportunities that benefit the employee and the organization when that experience and expertise is shared. Since its formation, case-clearance rates have improved.

Community Collaboration & Problem-Solving

The community and police department have partnered to implement a comprehensive strategy designed to reduce crime and violence. Our strategy thus far has proven to be effective and serves as a national model on how to use community policing to aggressively respond to violence.

The strategy is intelligence-based and multi-faceted, balancing enforcement, prevention and intervention efforts. Using intelligence gathered from the Criminal Investigations Division (CID) and information obtained by the community, the Department is able to identify the nature of most of the crime and violence and then develop a strategic response that blends enforcement, prevention and intervention.

Enforcement

Over the past 3 years, the Department has partnered with numerous law enforcement agencies to implement strategic enforcement programs. These allied-agencies include:

- San Mateo County Sheriff's Department
- San Mateo County Gang Task Force
- Menlo Park Police Department
- Palo Alto Police Department

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- California Department of Justice (DOJ)
- San Mateo County Probation
- California State Parole
- Federal Bureau of Investigation (FBI)
- United States Marshal Service
- California Highway Patrol (CHP)
- Bureau of Alcohol, Tobacco and Firearms (ATF)

The partnership between the Department and these agencies have contributed greatly to our crime and violence reductions. Below are examples of the operations and programs that have been implemented.

- In June 2005, the Department received assistance from the California Department of Justice (DOJ) to conduct a 5-year analysis of violence in the City. This analysis provided "real-time" data to better understand the nature of crime and rapidly deploy our resources strategically.
- In June 2005, the Department partnered with the United States Marshal and created the "East Palo Alto Ten Most Wanted" list.
- In June 2005, the Department partnered with the United States Attorney to federally prosecute criminal organizations, gang members, and those in possession of firearms that meet the federal charging criteria.
- In August 2005 the Department partnered with the California Highway Patrol (CHP) to implement "Operation Impact". This project increased traffic enforcement in designated "hot spots".
- In 2005, the Department partnered with the U.S. Drug Enforcement Agency and conducted narcotic investigations that resulted in 44 federal indictments of drug dealers and the recovery of a large cache of drugs and weapons.
- In 2006, the Department implemented "Operation Disrupt and Dismantle". This operation involved over 14 local, county, state and federal agencies and specifically targeted the Sacramento Street Gang. The Sacramento Street gang has been dismantled and their impact to the community dramatically reduced.
- In 2006, the Department partnered with the Sheriff's Department to implement "Operation Clean Sweep" designed to target gang activity.
- In 2007, the Department and CHP once again implemented "Operation Impact".
- In 2007, the Department partnered with numerous agencies and community and faith-based organizations to implement "Project Safe Neighborhoods". This program involved enforcement operations that resulted in arrests and weapon seizures, in addition to police and community activities such as the Unity March and Rally and the Youth Summit.
- In 2007, the Department partnered with the California Department of Justice (DOJ) to conduct special gang and narcotics investigations. DOJ made 11 arrests of mid-level drug dealers.

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- In 2007, the Sheriff's Department and the Menlo Park Police Department each assigned two officers (and deputies) to partner with two EPA Officers to conduct anti-gang efforts. This effort was critical in stemming a spike in violence that occurred at that time.
- In April 2008, the Department and the CHP implemented "Operation Impact".
- In April 2008, the Department implemented the second-year "Project Safe Neighborhoods".
- In October 2008, the Department implemented "Operation 4th Quarter" designed to prevent the historic increase of violence that occurs the last quarter of the year. The Department formed a team comprised of EPA officers, Sheriff's deputies, and probation and parole officers to conduct weekly warrant services and parole and probation checks. This team is still operating.
- In December 2008 (in response to the recent spike in violence) the CHP has once again assigned 1 sergeant and 4 officers to the Department for 90-days.

Intervention & Prevention

Enforcement alone will not reduce crime and violence. The Department must work with the community to implement intervention and prevention programs as well. Over the past three years, the Department's relationship with the community has strengthened and together, we have implemented intervention and prevention programs such as:

- Beat Meetings (problem-solving and community coordination). The City is divided into 4 Beats. The Police Department hosts a monthly meeting for each Beat to allow the Department and residents to work together to identify and solve problems.
- Gang Resistance, Education And Training (GREAT). Officers provided a 13-week curriculum in the schools. Over 250 kids have graduated.
- Parole Reentry Program. The Police Department works in partnership with the California Department of Corrections and local community and faith-based organizations to provide parolees programming services designed to reduce parolee recidivism. This is the only such program in California.
- Parolee-Job Program. The Department is working with CAL Trans and the CDCR to provide parolees jobs working on the highways.
- Police Activities League (PAL). The Department has reinstated PAL and received a grant to fund a boxing and track and field program.
- Risk Prevention Program with the Probation Department. Probation officers work in the schools with District officials to work with at-risk youth and intervene before they enter into the Criminal Justice System.
- Project Safe Neighborhoods (PSN). As part of this grant, the Police Department co-sponsors an annual Youth Summit hosted by One East Palo Alto. Over 300 youth attended this event.

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- Unity March and Rally. The police department co-sponsored this event. Over 1000 people attended.
- Live in Peace Movement. The Department is co-sponsoring this movement with numerous community and faith-based organizations.
- Police Chaplaincy. In 2005, the Department formed the Police Chaplaincy program. Chaplains have conducted a Faith-Summit and worked with faith-leaders and youth to identify long-term solutions to crime and violence.
- East Palo Alto Crime Reduction Task Force. This task force was formed by Supervisor Rose Jacobs-Gibson.
- Anti-Graffiti Campaign (in coordination with Public Works and Community Services). Graffiti has been removed from over 150 locations in the City.
- Code Enforcement. The Department embraces the Crime Prevention Through Environmental Design (CPTED) concept and works with the community to remove blight. Code enforcement officers have worked tirelessly to remove blight, graffiti and trash, and target home owners who fail to comply with standards.
- Graffiti Arts Project. The Department has partnered with the Mural, Music and Arts Project (MMAP) to implement an anti-graffiti campaign. The Department and MMAP work with at-risk youth to transfer their graffiti talents into creative art talents.
- "Stop the Violence" Video. The Department partnered with "No More Tears" – a group of San Quentin inmates to develop a video against violence. The video featured East Palo Alto inmates (many facing life in prison).
- "Make the Call" Television Show. The Department and the Media Center partnered to develop a murder cold-case show that profiles the victims of unsolved murders and involves their family members and community leaders.

In addition, key community and faith-based leaders often hit the streets to talk to our youth and encourage them to stop the violence. These leaders have been successful in negotiating several successful cease-fires.

Parole Reentry Program

The issue of parole recidivism must be addressed in order to achieve sustainable crime and violence reductions. In 2006, the Police Department worked closely with Assemblymember Ira Ruskin to craft Assembly Bill (AB) 2436. AB 2436 requires the California Department of Corrections to implement a parole-reentry program in East Palo Alto. The bill requires a program that blends enforcement with programming services.

The Police Department worked collaboratively with CDCR and the community to develop a program known as the East Palo Alto Community-Based Coalition. The program is funded by CDCR at \$3.5 million for 3.5 years. Below is a summary of services.

1. The creation of a Day Reporting Center that provides a single reporting location for parolees and provides a host of reentry services, such as:
 - a. Individualized treatment plans

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- b. Residential/transitional housing
 - c. Substance abuse education and treatment
 - d. Anger management
 - e. Domestic violence programs
 - f. Cognitive and life skills development
 - g. Parenting and family reintegration
 - h. Community service
 - i. Educational services (GED preparation)
 - j. Budgeting and money management
 - k. Job readiness and job search
 - l. Discharge planning and aftercare
2. Conduct a prerelease needs assessment of inmates scheduled to be paroled to East Palo Alto.
 3. Develop of a reentry plan identifying services needed by persons returning to the community.
 4. Establish a partnership between the police and CDCR parole agents to enhance the level of supervision and accountability of parolees residing in East Palo Alto.
 5. Partner with local community organizations and service providers to provide support services to parolees such as transitional housing, job training, or placement, or substance abuse treatment.

Recognizing the need for parole reentry to involve the community, the City outsourced the programming services to a coalition of community organizations including: Free-At-Last, Job-Train, the Ministerial Alliance, and For Youth By Youth (FYBY). The Police Department was charged with oversight of the program, including the implementation of the enforcement component.

Parolee Work Crew Program

CDCR and Cal Trans have partnered to develop a parolee work crew program designed to provide training and employment opportunities to parolees involved in reentry programs. Specifically, CDCR will provide funding to:

1. Employ 20 parolees for two work crews to provide labor on state highways.
2. Employ two work crew supervisors (non-parolees)
3. Provide support services, equipment and training to the parolee work crew program.

Technology

Another key component to crime-fighting is technology. The use of technology allows the Department to more effectively and efficiently respond to crime and violence. For example:

- The City has obtained grants to implement the ShotSpotter gunshot detection system. East Palo Alto is the only city in the United States to have citywide coverage. The system has already aided officers in recovering 10 firearms and making 7 arrests, including arrests of documented gang members.
- The City has also purchased graffiti technology that alerts officers in the field when graffiti is actually being applied at certain locations.
- The Department has just purchased a sophisticated crime-analysis software system that will be used as part of the Department's CompStat process.

- The Department also installed Mobile Digital Computers (MDTs) in each patrol vehicle. These computers are now linked to various local and state databases, as well as the Department's records management system. This allows officers to conduct more investigative actions in the field and complete their crime reports without returning to the Police Department.
- In 2008, as part of the parole reentry program, the Department purchased thumb-scanning technology. This technology allows the Department to track parolees attending the reentry program, and identify parolees in the field. In the near future, this system will be expanded to include gang members.

2. Improve Police-Community Relations

Much progress has been made in this area; however, there is much more to accomplish. Over the past 3 years the Department has engaged the community at historic levels. With the implementation of Area Command, the Department conducts 4 Beat meetings every month, which provides community members the forum to share their concerns with the police and work in partnership to solve problems.

Chats with the Chief

The Chats with the Chief's forum are designed to allow community members to meet with the chief of police, provide input, feedback and criticism, and learn about the programs and efforts of the Department. Chats were initially conducted on a monthly basis, but with the implementation of Beat Meetings, Chats are now conducted quarterly.

The Chief conducts special Chats to address emerging crime trends and other special issues facing our community. Because our senior citizens often face different challenges, the Chief conducts a quarterly Senior Chat with the Chief at the Senior Center to directly meet with the seniors and hear their concerns. The Chief has conducted televised Chats and made numerous appearances on the local cable channel to provide the community with information.

Letters to the Community

To ensure the Department is open to the community, the Department publishes letters that outline new programs, initiatives, reform efforts and other activities within the Department. To date, Letters to the Community have been published on topics such as:

- Community-policing efforts
- Crime and Violence (including crime statistical reports)
- Anti-Crime Initiatives such as:
 - Project Safe Neighborhoods
 - Operation Impact
 - Parole Reentry
- New Programs in the Department, such as the:
 - The formation of the Criminal Investigation Division (CID)
 - The formation of the Professional Standards Unit
 - New Community Complaint Process
 - The Implementation of Area Command
 - Enforcement of the curfew
- Cold Case (unsolved homicides) Program

These letters are widely distributed and are published on www.epa.net and www.epatoday.org.

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Police-Youth Relations

This is one of the most critical areas in community relations and community policing. Too often police and youth relations are strained with both sides harboring mistrust. The Department has made notable strides to improve this relationship, although this effort must be continually enhanced.

The Department has partnered with several youth organizations to better the relationship. Below is a list of youth programs the Department is involved with.

- Mural, Music and Arts Program (MMAAP)
- Graffiti Arts Program (GAP)
- Gang Resistance Education And Training (GREAT) program
- Sponsored Employment Program
- Police Activities League (newly formed)
- Youth Summit
- Unity March and Rally
- Police Explorers
- Youth Police Academy
- Youth Court

The Department has also worked with numerous youth committees, task forces and organizations to improve the relationship between the police and the community; especially our young adults.

Openness & Accessibility

The Department believes that openness and accountability are paramount to public trust and confidence. Over the past 3 years the Department has taken tremendous steps to make the Department open and accessible to the community. These efforts include:

- Revamping the Citizen Complaint process to ensure community members can file complaints without intimidation. The new process requires that all complaints be accepted – even anonymous complaints.
- Providing “complaint” flyers and brochures to educate the community on the complaint process and their rights to file complaints against officers.
- Establishing 4 kiosks in the City for community members to file complaints (anonymously if they chose) so they do not have to go to the Police Department.
- Establishing an online complaint process for community members to file complaints and/or provide feedback to the Department.
- Publish an annual complaint summary report for the community that outlines the number and type of complaints filed against police officers, and provides a summary of the findings of these investigations.
- The establishment of a racial profiling program that includes a comprehensive policy prohibiting racial profiling and the mandate to collect traffic-stop data. The first stop-data report will be released in early 2009.
- Publishing police policies online.

3. Enhance Professionalism of the Department

On the first day of my appointment as Chief of Police, I announced to the Department the newly established "Five Deadly Sins".

In other words, these violations would not be tolerated under any circumstance and violations would result in my immediate recommendation to terminate employment.

1. Brutality
2. Untruthfulness
3. Retaliation Against Witness
4. Discrimination
5. Acceptance of Gratuities

Mission-Vision-Values

A key component of professionalism is to identify the core mission of the Department; provide a clear vision for staff, and establish a set of core values that are consistent with our community. Below is the Mission-Vision-Statement of the Police Department.

Mission

It is the mission of the East Palo Alto Police Department to work in partnership with the community to reduce crime and violence and provide quality law enforcement services.

Vision

Our vision is to create a professional and progressive Police Department that is respectful, responsive and accountable to the community.

Values

- Service
- Teamwork
- Respect
- Integrity
- Vision
- Excellence

Our Motto

"STRIVE for perfection in order to achieve excellence"

Professional Standards Unit (PSU)

In 2007 the Police Department formed the Professional Standards Unit. This unit is comprised of a Sergeant who reports directly to the Chief of Police. Its duties focus exclusively on the oversight of the community complaint, internal audit and inspection processes. The PSU is a critical component of Area Command and enhances the culture of accountability within the Police Department and oversees a complaint system that instills public trust and confidence.

Complaint Process

In 2007 the Department adopted a new comprehensive complaint policy that ensures timely, objective and thorough investigations of complaints filed against the police. The policy requires the following:

1. Accept all complaints, including anonymous
2. Classify complaints

POLICE DEPARTMENT SUMMARY REPORT

- a. Class 1 – serious violations and crimes
- b. Class 2 – other violations
- c. Service – complaints about Departmental services or the lack thereof
3. Types of Investigations
 - a. Requires formal investigation for all Class 1 investigations
4. Conduct of Investigations
 - a. All investigations shall be completed no later than 90 days after complaint was initiated, unless otherwise allowed by Chief of Police.
 - b. Investigations shall be thorough, including taking statements from all witnesses, collection of evidence, and the identification of all violations.
 - c. Complainants shall be notified of status of investigation every 30-days.
 - d. Complainants shall be notified, in writing, of adjudication of finding.
 - e. Complainant shall be afforded opportunity to meet with the Chief if not satisfied with investigation.
5. Case Adjudication
 - a. Findings shall be limited to one of the following:
 - i. Sustained
 - ii. Exonerated
 - iii. Unfounded
 - iv. Not Sustained
 - b. If a case is determined to Exonerated, Unfounded or Not Sustained, the immediate supervisor shall review the investigation and determine if there are any policy and/or training issues.

Training & Employee Development

Training and employee development are the foundation of professionalism and competence. The Department has improved both the quality and quantity of training provided to its staff. This training includes:

- Quarterly training sessions in topics such as:
 - Narcotic Investigations & Handling Informants
 - Crime Scene Management
 - Administrative Processes
 - Area Command & Community Policing
 - Internal Investigations
- Continual Professional Training (CPT) – 24 hours as required by the State. Two-thirds of the Department has completed this course. This course provides:
 - Legal Updates (search & seizure)
 - Firearms Qualification
 - Driving Training
 - Defensive Tactics
 - Ethics/Leadership
- Training courses presented throughout the Bay Area and United States
- Sergeants have attended the 8-month Supervisory Leadership Institute (SLI)
- Federal Bureau of Investigation (FBI) National Academy
- West Point Leadership Academy in Los Angeles
- Basic and Advanced Investigator's Courses
- Tactical Commander Courses
- Community Policing & Problem-Solving
- Crime Analysis & Mapping
- Records Management
- Canine training

Recruiting & Hiring

The Department has adopted the philosophy that we would rather have vacancies than hire a candidate that is not qualified to serve our community. Consequently, approximately 70% of all applicants either fail our process or they are not hired.

Policies

The Department has implemented several new policies, to include:

- Tattoo Prohibition
- Racial Profiling and Stop-Data Collection
- Use of Canine
- Complaint Process

In addition, the Department has had all of its policies reviewed by a legal expert and is now in the process of updating these policies.

Racial Profiling/Stop-Data Collection

In March 2008, the Department implemented a policy prohibiting racial profiling and mandating stop-data collection. This is the only Department in San Mateo County (and there are only a handful in the Bay Area) that voluntarily collected this data. As part of this process, the Department will form a community-policing working group in early 2009 to review and interpret the data.

Early Intervention System

The Department began its implementation of an Early Intervention System.

This system is designed to track the at-risk behaviors of officers and provide increased supervision, counseling, training and intervention to prevent misconduct. Our theory: If it is predictable, it is preventable. In 2008, the Department conducted a thorough review of all personnel in the Department. Supervisors completed a matrix for every employee in the Department that outlined the following information:

- Use of force incidents
- Complaints
- Sick Leave
- Vehicle Accidents
- Discipline & Awards
- Report Writing
- Performance Evaluations

The Executive Team reviewed each matrix to identify any problematic trends both at the individual officer and organizational level. This process will be conducted every six months. The Department also reviewed all uses of force and complaints filed against the Department to identify any individual and organizational concerns requiring intervention, training, and/or policy changes.

4. Build Internal Capacity

In order to effectively and efficiently respond to crime and violence, the Department needed to improve its internal capacity. This was also paramount to organizational morale and the overall appearance and reputation of the Police Department.

New Police Facility

In 2007, the police department relocated from 2415 University Avenue to 141 Demeter Street.

POLICE DEPARTMENT SUMMARY REPORT

Thanks to the leadership of the City Manager and the City Council, the Department's usable space increased from 3,500 to 7,000 square feet. Using grants, the Department was able to purchase new furniture and equipment for the new facility.

Wellness Center

Thanks to an in-kind service donation from a private contributor, the Department constructed a "Wellness Center" that provides a fully equipped gym, recreation area, kitchen, and rest area (so officers can sleep between shifts when necessary).

Vehicles

The Department has purchased:

- 6 Dodge Chargers
- 4 Crown Victorias
- 1 Ford Expedition
- 1 Harley Davidson Motorcycle

The City Manager has also authorized the Department to purchase 2 new vehicles each year, as part of the annual budget process, to ensure the vehicle fleet is maintained as part of the City's fleet replacement plan. This is critical to officer morale and safety. Prior to this policy, officers were driving vehicles with over 100,000 miles and the city was spending excess money to maintain these old vehicles.

Equipment

Over the past 3 years the Department has purchased new equipment to include:

- Firearms & safety equipment for all officers
- Ballistic Vests for all officers
- Digital Cameras & Recorders
- Thumb-scanners
- ShotSpotter technology
- Mobile Digital Computers (vehicles)
- Laptop computers
- Desktop computers/Servers
- Videoconferencing system (conduct video meetings with San Quentin inmates)
- Graffiti detection devices
- Flat-screen televisions and monitors

The majority of the equipment was purchased using grant funding.

5. Implement Community Policing

The community has repeatedly made clear its desire for the Police Department to adopt community policing as its operating strategy. To assist the Police Department in this effort, the City Council commissioned an organizational study of the Police Department in 2000 – referred to as the "Brann" Report – to assess the strengths and weakness of the Department and identify the best strategies to implement community policing.

The Brann Report identified significant operational and managerial deficiencies within the Department and identified those deficiencies as roadblocks to implementing community policing. The Brann Report provided 71 recommendations designed to improve the overall operations of the Department and clear the way for community policing. Since 2000, the Department has struggled to implement both the Brann Report recommendations and community policing.

POLICE DEPARTMENT SUMMARY REPORT

Consequently, police and community relations have been strained and the Department has experienced periods in which public trust and confidence in the police was lost. This failure, in addition to several high-profile police misconduct incidents, also resulted in the San Mateo County Grand Jury conducting an investigation of the Department.

The Grand Jury published its report in 2003 and revealed the Department's failure to implement the 71 Brann Report recommendations. As part of its finding, the Grand Jury reinforced the importance of the 71 recommendations to the Police Department and community, and recommended the Department immediately enhance its efforts to implement the remaining recommendations.

Shortly following that report, the Chief of Police retired and the City Manager hired Interim Police Chief Steve Belcher to head the Police Department while the City conducted a search for a permanent police chief. During his tenure, Chief Belcher implemented many of the Brann Report recommendations and made tremendous progress.

Upon my appointment as Chief of Police on May 31, 2005, the City Manager and City Council provided a clear mandate to continue the efforts of Chief Belcher to adopt community policing and implement the Brann Report recommendations.

The outstanding men and women of the Police Department and I have worked in partnership with the community over the past three years to meet that mandate. In addition to the programs and initiatives outlined in this report, a critical step in this endeavor was the Department's restructure to "Area Command".

Area Command

In July 2007, with City Council authorization, the Department restructured to what is known as "Area Command". The Area Command structure is a progressive policing structure that has been adopted in cities across the nation, such as Washington, DC, Richmond, CA, and most recently, Oakland, CA.

What is Area Command?

1. A structure that provides both "**Managerial**" and "**Geographic**" accountability
2. It divides the City into two Areas (with 2 Beats in each Area). An Area represents a geographical half of the City for purposes of staffing, deployment, resource allocation, crime tracking and reduction, and problem-solving.
3. Embraces neighborhood policing by assigning a captain to each Area to serve as Area Commander.
4. Decentralizes the Department to eliminate bureaucracy and rapidly respond to community needs and crime trends.

Benefits of Area Command

- Flattens Organization
- Balance staff distribution for command staff
- Enhances community policing and crime reduction efforts
- Makes Department more responsive to community
- Provides both "Managerial and Geographic" accountability

POLICE DEPARTMENT SUMMARY REPORT

- Consistent with Brann Report & Grand Jury recommendations
- Strengthens internal capacity and operational systems
- Enhances managerial accountability
- Provides for succession planning
- Increases the administrative capacity of the Department
- Increases Department's ability to obtain and maintain grants
- Reduces Cost

As stated earlier in the report, the community and police department have partnered in an historic fashion to implement a comprehensive strategy designed to reduce crime and violence. The Department's restructure to Area Command, in addition to its implementation of Beat meetings and cooperative projects, such as parole reentry and other intervention and prevention initiatives have greatly advanced our community policing efforts. As the Department achieves full staffing these efforts will increase.

Conclusion

On behalf of the Police Department I'd like to thank you for your support of the Department and involvement in making our city safer. I believe this report demonstrates the quality of officers and employees working in the Department and represents a police department that is open, accessible, and responsive to the community.

However, the Department did not achieve these accomplishments in a vacuum. Our successes are due to the leadership of the City Council, the City Manager, other City Departments, and the collaboration between the police department and the community. We have accomplished much in a short time. Yet, these successes are not enough. We must continue to work together to better the police department; its relationship with the community and the quality of services we provide.

I look forward to our continued partnership in 2009 and especially look forward to working with the Measure C oversight committee to further advance our community policing efforts.

For more information about the programs and efforts described in this report, please attend the first 2009 Chat with the Chief session which will be held in January.

Respectfully,

Ronald L. Davis
Chief of Police



CITY OF EAST PALO ALTO
POLICE DEPARTMENT
141 Demeter Street
East Palo Alto, CA 94303

RONALD L. DAVIS
CHIEF OF POLICE
(650) 853-3125 Phone
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BEAT FOUR REPORT

November 1, 2007 – July 31, 2009

By Captain John Chalmers
August 2009

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 - Beat Four Crime Statistics
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 - Police Calls for Service between November 1, 2007 – July 31, 2009

Executive Summary

The purpose of this report is to give a thorough outline of all activities that took place in Beat Four from November 1, 2007 through July 31, 2009. Beat Four encompasses the area North to South between West Bayshore Road and Woodland Avenue and East to West between Woodland Avenue and Poplar Avenue.

During this time period the Police Department focused on three primary goals:

1. Reduce crime and violence
2. Improve police-community relations
3. Implement community policing

These goals were derived from the Police Department's Mission Statement to work in partnership with the community to reduce crime and violence and provide quality law enforcement services.

To reduce crime and violence the Police Department partook in an ongoing analysis of the crime reports that were generated from this area. Enforcement measures were implemented by Patrol Officers and their efforts were augmented by the Code Enforcement Division, and the Probation Department.

Community outreach stemmed from the Police Department's efforts to increase participation at the monthly Beat Meetings. The goal of the Beat Meeting is to improve police-community relations by opening up communication in order to work together with the community in solving problems and improving the quality of life in the Beat Four area.

Additionally, the Beat Meetings "Problem Oriented Police" (POP) projects were implemented. One of which was a coordinated effort with a Homeowner's Association to stop trespassers in the pool area of their condominium complex.

During this time period a survey was conducted to understand the community's perception of the police department's services in an attempt to increase community participation. A comprehensive list of the community's ongoing concerns was composed in order to prioritize our efforts and to establish a means of measuring our progress.

Crime and Enforcement Measures

To reduce crime and violence the Police Department partook in an ongoing analysis of the crime reports that were generated from this area. There were a total of 498 Part One Crimes; and 736 Part Two and miscellaneous reports from November 1, 2007 – July 31, 2009.

Patrol officers responded to and/or initiated a total of 8,954 service calls. Other than parking citations, there were a total of 34 citations issued.

Code Enforcement issued a total of 2,077 street sweeping citations; 213 abandoned vehicle; 55 abandoned vehicles towed; 14 stop work notices issued; 99 work orders were submitted and 70 notices of violation were issued by Code Enforcement.

Probation Department made 114 contacts. The results of these contacts were that 53 of the probationers were not at home and/or did not answer; 37 probationers were searched; 12 probationers were arrested; and 12 of the addresses given by the probationers were discovered to be invalid.

Beat Four Crime Statistics November 1, 2007 – July 31, 2009

According to the Uniform Crime Report (UCR) as of August 10, 2009, there were a total of four hundred ninety eight (498) Part One Crimes in Beat Four between November 1, 2007 and July 31, 2009. During that same time period there were a total of seven hundred thirty six (736) Part Two and miscellaneous reports written. This means there was an average of twenty four (24) Part One Crimes per month; and an average of thirty five (35) Part Two and miscellaneous reports were written each month. Please refer to the following chart for details regarding the Part One Crimes.

November 1, 2007 - July 31, 2009

Part I Crimes	Citywide	Beat Four
Homicide	12	0
Rape	29	4
Robbery	198	36
Assault	820	92
Burglary	649	156
Larceny	509	111
Motor Vehicle Theft	512	99
Grand Total	2,730	498

Part Two Crimes are defined as minor assaults, arson, forgery-counterfeiting, bad checks, embezzlement, stolen property, vandalism, weapons offenses, prostitution, sex offenses, controlled substance violations, gambling, family offenses, juvenile offenses, liquor law violations, disorderly conduct, suicide, and any other miscellaneous report not included in the Part One classification.

This report included traffic offenses and parking violations within the number of miscellaneous reports and the total count was based on the number of reports written verses the number of victims as it is done in the UCR.

Patrol Officer Enforcement

Patrol Officers issued a total of 34 citations. Refer to the chart below for further details.

Type of Citation	Number Issued
DRIVING WITH SUSPENDED LICENSE	5
MISDEMEANOR WARRANT	4
VANDALISM	4
CURFEW VIOLATION	3
TRESPASSING	3
HIT AND RUN	2
POSSESSION OF MARIJUANA	2
RECKLESS DRIVING	2
BATTERY	1
DRUG PARAPHENALIA	1
EMBEZZLEMENT	1
FIREWORKS	1
MINOR IN POSSESSION OF TOBACCO	1
OFFENSIVE WORDS IN PUBLIC	1
PETTY THEFT	1
USING A CONTROLLED SUBSTANCE	1
UNLICENSED DRIVER	1
TOTAL NUMBER OF CITATIONS ISSUED	34

Code Enforcement Activities

November 1, 2007 – July 31, 2009	
Activity	Number of Incidents
Street Sweeping Citations Issued	2,077
Abandoned Vehicles Tagged	213
Abandoned Vehicles Towed	55
Stop Work Notices Issued	14
Notice of Violation	70
Work Orders Submitted	99

Probation Activities

The Probation Department made contact and/or attempted to make contact with a total of 114 probationers.

November 1, 2007 – July 31, 2009	
Activity	Number of Incidents
Searches	37
Arrest	12
Discovered "Bad Address"	12
No Answer / Not Home	53
Total Number of Incidents	114

Community Outreach

There were a total of 20 Beat Four Meetings; 2 Area Command Meetings and 1 Homeowner's Association Meeting from November 1, 2007 – July 31, 2009.

A survey was conducted in May of 2008 in order to better understand the community concerns. Those concerns were:

- ✓ Street pavement (potholes on Woodland Avenue)
- ✓ Residents wanted a Beat Four Officer (more police presence)
- ✓ Contractors were soliciting homeowners to sell their homes on Woodland
- ✓ Crime trends, safety tips, incident reports for the neighborhood
- ✓ Street lighting
- ✓ Non-vehicle pathways (sidewalks and bike paths)
- ✓ Youth programs
- ✓ Neighborhood clean up

To address the above listed concerns, the police department spoke to the City Engineering and Public Works Department regarding the pavement and lighting issues, however they were not able to implement as of this date. A Beat Four Officer was assigned and there was a conscious effort to increase patrol which satisfied two of the concerns from 2008.

Additionally, the police department assisted in a citywide clean up detail which included the Beat Four area. There were crime statistics and safety tips distributed in the monthly newsletters that were sent to numerous households and the community services department solicited the area for perspective locations for youth activities.

In 2009 the list of concerns included;

- ✓ Speeding
- ✓ Reckless driving
- ✓ Loitering
- ✓ Possible drug and gang activity,
- ✓ Graffiti
- ✓ Emergency preparedness
- ✓ Street paving and lighting.

Continued efforts are being made to work with the community members on these areas of concern through continued Beat meetings, patrol operations, and special enforcement such as Gang Task Force, Probation/Parole details as well as an overtime traffic detail.

Beat Four Meetings November 2007 – July 2009

November and December 2007 Meetings

Beat Four Meeting

- ✓ November 15th, 2007 at the Missionary Baptist Church
- ✓ December 20th, 2007 in the Community Room at City Hall

2008 Meetings

Beat Four Meeting

- ✓ January 17th, 2008 at 55 Newell Road (pool-house)
- ✓ February 20th, 2008 in the Community Room at City Hall
- ✓ March 13th, 2008 in the Community Room at City Hall
- ✓ April 17th, 2008 in the Community Room at City Hall
- ✓ May 14th, 2008 in the Community Room at City Hall
- ✓ June 16th, 2008 in the Community Room at City Hall
- ✓ July 22nd, 2008 in the Community Room at City Hall
- ✓ August 21, 2008 in the Community Room at City Hall
- ✓ October, 2008 in the Community Room at City Hall
- ✓ November 18, 2008 at the Three Brothers Taco
- ✓ December 8, 2008 in the Community Room at City Hall

Conclusion

In addition to promoting community engagement, addressing community concerns, and responding to calls for service; the East Palo Alto Police Department has kept a constant vigilance over safeguarding the life and property of those who reside, work and visit the Beat Four area.

From November 1, 2007 through July 31, 2009 the community's concerns were not only addressed, they were sought out with the intention of assisting the community in finding a solution. To augment routine services, the Police Department has always prided itself in its ability to collaborate with other law enforcement agencies such as the San Mateo County Probation Department, California Highway Patrol, California State Parole, and others in order to provide additional and/or specialized services to the community.

With its continued dedication to service and community outreach, the police department has solidified its place in the Beat Four Community. Its members have truly embraced the concepts and direction of the East Palo Alto Police Department. As the number, types of crimes and challenges vary; members of the East Palo Alto Police Department shall continue to strive to achieve its goal of reducing crime and violence; improving police-community relations and implementing the community policing philosophy in the Beat Four area.

Appendix

Summary of Police Service Calls November 1, 2007 through July 31, 2009

TYPE OF SERVICE	NUMBER OF INCIDENTS
911 HANG UP / OPEN LINE	1023
DISTURBANCE	839
MEDICAL CONCERN	435
NUISANCE COMPLAINT	363
TRAFFIC STOP	304
INFORMATION ADVISEMENT	299
FOLLOW UP	285
PARKING PROBLEM	284
PRIVATE PROPERTY TOW	266
DISPERSAL	260
BURGLARY	253
VANDALISM	211
WELFARE CHECK	209
FIREWORKS	175
DOMESTIC VIOLENCE	169
ALARM	167
ASSAULT	152
REQUEST TO MEET A RESIDENT	146
SUSPICIOUS VEHICLE	140
SUSPICIOUS CIRCUMSTANCES	120
PASSING CHECKS	118
CIVIL PROBLEM	116
DRUG ACTIVITY	111
SUBPOENA SERVICE	111
STOLEN VEHICLE REPORT	107
SHOTS FIRED	105
MISSING PERSON	104
SUSPICIOUS PERSON	102
THEFT	102
ATTEMPT TO CONTACT / LOCATE	95
VEHICLE ACCIDENT	94
HIT & RUN	70
VEHICLE THEFT RECOVERY REPORT	70
OUTSIDE AGENCY ASSIST	65
SUBJECT STOP	64
VEHICLE TOW	64
FOOT PATROL	62

TYPE OF SERVICE	NUMBER OF INCIDENTS
REPOSSESSION	54
STOLEN VEHICLE RECOVERY	44
TRESPASSING	44
RECKLESS DRIVING	43
LOST PROPERTY	42
ROBBERY	41
FIRE ALARM	40
WARRANT	39
TRAFFIC HAZARD	37
COUNTY / CITY ORDINANCE VIOLATION	34
DRUNK IN PUBLIC	32
CRIMINAL THREAT	31
E-REPORTING REFERRAL	31
SIGNALS OUT OF ORDER	30
HARRASSING PHONE CALLS	29
VEHICLE REPOSSESSION	29
PAROLE VIOLATION	28
PUBLIC ASSIST	28
MENTAL CASE	27
PROBATON SEARCH/CONTACT	25
STRANDED MOTORIST	23
TOW REQUEST	23
ANIMAL COMPLAINT	20
INFORMATION BROADCAST	20
THREATS OF TERRORISM	20
FLAG DOWN	19
PAROLE SEARCH/CONTACT	19
DISOBEY COURT ORDER	18
FORGERY	18
CITIZEN FLAG DOWN	17
DRUNK DRIVER	17
FOUND PROPERTY	15
DETAIL	14
ABANDONED VEHICLE	13
FOUND MISSING PERSON	13
IDENTITY THEFT REPORT	13
PETTY THEFT	13
MAN WITH GUN	12
ODOR INVESTIGATION	11
PROBATION VIOLATION	11

TYPE OF SERVICE	NUMBER OF INCIDENTS
STAKEOUT	11
DRUG REGISTRANT	10
SEARCH WARRANT	10
SEX REGISTRANT	10
LOCKED OUT OF VEHICLE / RESIDENCE	8
SPECIAL DETAIL	8
GRAND THEFT REPORT	7
SHOOTING INTO A VEHICLE / DWELLING	7
STRUCTURE FIRE	7
BRANDISHING A WEAPON	6
INDECENT EXPOSURE	6
LEWD ACTS	6
MEET WITH ANOTHER OFFICER	6
TELEPHONE WIRES DOWN	6
TRAFFIC CONTROL	6
VEHICLE ALARM	6
WIRES DOWN	6
DUMPING / GARBAGE COMPLAINT	5
EMERGENCY - USE RED LIGHTS/SIRENS	5
PERSON CALLING FOR HELP	5
PUBLIC ASSIST WATER	5
RAPE	5
VEHICLE FIRE	5
VEHICLE THEFT	5
DEAD BODY	4
FALSE IMPERSONATION	4
FIRE	4
HAZMAT INVESTIGATION	4
LITTERING FROM VEHICLE	4
PROWLER	4
VEHICLE TAMPERING	4
WARRANT ATTEMPT	4
CITATION	3
DOMESTIC RELEASE NOTIFICATION	3
GRASS FIRE	3
PRIORITY CALL - NO RED LIGHTS/SIRENS	3
SMOKE INVESTIGATION	3
SPEEDING VEHICLE	3
TRANSLATOR CALL	3
BARKING DOG	2

TYPE OF SERVICE	NUMBER OF INCIDENTS
FIRE CONCERN	2
ILLEGAL SOLICITATION	2
KIDNAPPING	2
OPEN DOOR / OPEN WINDOW	2
PERVERSION CONTACT/REPORT	2
SEWER DOWN	2
SHOOTING	2
SOLICITOR	2
STABBING	2
SUICIDE ATTEMPT	2
SUSPICIOUS PERSON	2
TREE DOWN	2
AUTO STRIPPING	1
AUTO STRIPPING REPORT	1
CARJACKING REPORT	1
CRUELTY TO ANIMALS	1
DEFACING RELIGIOUS SYMBOL	1
FV POSSIBLY DANGEROUS	1
GAMBLING	1
GAS INVESTIGATION	1
HAZARD	1
MARIJUANA POSSESSION	1
OBSERVATION POST PROCEDURES	1
PICK UP	1
SHOPLIFTING	1
THROWING OBJECT FROM VEHICLE	1
TRANSPORTATION DETAIL	1
VEHICLE RELEASE	1
TOTAL CALLS	8,954

FAIR RENT COALITION

1643 WOODLAND AVENUE, #2
EAST PALO ALTO, CALIFORNIA 94303

(415) 845-7447

September 12, 2009

Ms. Martha Poyatos
Executive Officer
San Mateo Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, CA 94063-1663

RECEIVED

SEP 15 2009

LAFCO

Re: Page Mill Properties II, LP

Dear Ms. Poyatos:

The Fair Rent Coalition would like to take this opportunity to respond to the June 30, 2009 letter submitted to LAFCo by William Ross on behalf of Woodland Park Management, LLC.

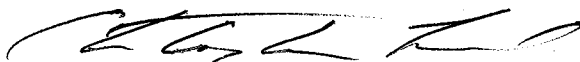
In its June 30 letter, Woodland Park Management refers to the "Page Mill Properties Plan" as the governing document upon which "they manage and own properties" in East Palo Alto. They further argue, in their objection to East Palo Alto's current governance and SOI, that the "Page Mill Properties Plan" aligns more closely with the UCI RIP than do the City's own programs. In addition to Page Mill's apparent failure to submit this plan for review, we would like to point out that there is essentially no overlap between the University Circle RDA and Page Mill's East Palo Alto holdings, the "affected area" (see Appendix A).

At the center of Page Mill's request for a change in the SOI is their contention that law enforcement and crime prevention services are inadequate in this area. Interestingly, a delegation of Page Mill employees and affiliates took a contrary position in a presentation in front of the CalPERS Board on April 22, 2009 (see Appendix B). For the record, it should be noted that over the past two years the per capita crime rate in Beat 4 (i.e. the "affected area") has been lower than the average per capita crime rate for the City.

Furthermore, given Page Mill Properties II, LP recent financial difficulties, Page Mill's contention that it is somehow in a better position than the City of East Palo Alto to provide municipal services to the "affected area" seems questionable at best (see Appendix C).

We hope these comments prove useful in your review of East Palo Alto's SOI.

Regards,



Christopher Lund, Ph.D.
Director of Communications

SAN MATEO COUNTY
PLANNING DIVISION

2009 SEP 15 P 3:04

RECEIVED

Appendix A

Page Mill Holdings
Shown In Yellow

East
Palo
Alto

San Francisco
Creek

Highway 101

University Avenue

Palo Alto

East Palo Alto

5 Newhall Road Palo Alto, CA 94303

Google

2008 Tele Atlas

Red Dashed Line Denotes University Circle RDA

Appendix B

1 Seeing none, all in favor say aye.

2 (Ayes)

3 CHAIRPERSON FECKNER: Opposed, no.

4 Motion carries.

5 Item 22, Draft Agenda for the May 13th, 2009,
6 meeting.

7 Any additions or corrections?

8 Seeing none, new business agenda setting.

9 Seeing no comments, Item 24, is public comment.

10 I have eight requests to speak from the public. Appears
11 to be all on the same topic, so hopefully you all bring
12 something new to the conversation.

13 Before we get to that though, I'd like to ask Mr.
14 Diehr to please get up and make some comments regarding
15 the same issue.

16 CHIEF INVESTMENT OFFICER DEAR: Thank you, Mr.
17 President.

18 Joe Dear, Chief Investment Officer.

19 You're going to be presented with views of
20 tenants of Page Mill Properties in East Palo Alto,
21 California.

22 This is an item that I am following personally
23 closely. We briefed you the other day on the status of
24 this investment. I'm very eager to hear what the tenants
25 have to say and would be happy to respond to any questions

1 after their presentation, if you have any.

2 CHAIRPERSON FECKNER: All right. Thank you.

3 We have Caeden Koenig, Clayton Saukitoga, Rolando
4 Sanlor, please come forward.

5 MR. SANLOR: Good afternoon. My name is Rolando
6 Sanlor. I lived in east Palo Alto for 18 years. I
7 came -- arrived in East Palo Alto the year that it was
8 crowned the murder capital of the nation per capita.

9 My mother six months arriving to East Palo Alto
10 was hit by a van and killed almost instantaneously. The
11 van was traveling at 60 miles per hour and in a school
12 zone.

13 Those times are sort of a time of absolute social
14 upheaval. The most fundamental basic social services,
15 which was roads, were not functioning, were not servicing
16 the community.

17 And so I grew up with a lot of fear from bullets,
18 from drug dealers, from speeding cars, and a great fear in
19 breaking away from my community, leaving my community.

20 I went on to Cal. I backpacked Europe. I
21 enjoyed a great deal of things. And I could not have done
22 that without a great deal of nonprofit work, great
23 nonprofits that created amazing after-school programs,
24 amazing resources for my family and my siblings. We've
25 all gone on, raised by a single father and had college.

1 We have college.

2 I'm now the Associate Director of Project
3 Happiness, a nonprofit organization. And I volunteered as
4 a community liaison to help Page Mill reach out to a
5 community that is still living under the same
6 circumstances that I experienced growing up 20 years ago.

7 The Woodland apartments have been -- or as I was
8 growing up were an area that was feared. Apartments that
9 were collapsed. And so many of my friends lived in those
10 apartments. Picking them up for basketball practice, it
11 was just assumed -- there was, you know, a lot of jokes.

12 What we have been encountering and creating
13 reaching out to the community has been a great deal of
14 fear. This fear has been paralyzing my community and
15 getting involved in the redevelopment of their own
16 infrastructure.

17 And what I've experienced and encountered is that
18 even in reaching out to other nonprofit organizations now,
19 there is a great fear of the backlash in working with Page
20 Mill. What we've tried to do is to change that, to
21 alleviate that by creating a forum of cooperation. We
22 can't function in a system of confrontation. We need
23 absolute collaboration, because the social issues are
24 urgent and pressing.

25 Over the holidays, we organized a few traditional

1 Mexican events. And there was hesitation to come out from
2 the kids. And they asked who's the party for? It's for
3 you guys. And seeing the kids play -- we brought a horse
4 in. And seeing the toughest dudes come over the horse and
5 pet, it was a truly transformational experience. And if
6 it takes having a horse in those cities to slow them down
7 so that kids can enjoy the streets, so that people can
8 feel safe, it's well worth it.

9 In the spirit of change, we are reaching out to
10 build a -- literally build a community from the ground up.
11 And this is -- we've experienced a great deal of
12 frustrations, embarrassments sometimes in organizing
13 people, getting so excited and no one shows up because of
14 fear, mistrust. And we would like to -- we're here to
15 present a change. So thank you so much for your time.

16 CHAIRPERSON FECKNER: Thank you.

17 MR. SAUKITOGA: My name is Clayton Saukitoga.
18 I'll be real short with this.

19 I've lived in East Palo Alto. I worked for the
20 city of East Palo Alto when it first became a city in '83,
21 '84. And I was there for about two years and moved on,
22 moved to Southern California. I even lived in Sacramento.

23 But I've moved back to East Palo Alto, and I've
24 been there for I would say eight years. And I've worked
25 for Page Mill Properties. And I'm here to tell you guys

1 that they've done a tremendous job in clearing up the
2 city. I mean, the city, the crime that we have and the
3 properties they own.

4 We've worked closely. We have security that's
5 been doing a tremendous job in trying to slow down the
6 crimes and whatever we have on the different properties.
7 So that's about it.

8 CHAIRPERSON FECKNER: Thank you.

9 MR. KOENIG: Hello. My name is Caeden Koenig.
10 And thank you for your time. I'll also try to be brief.

11 I moved to East Palo Alto in 2003. My first
12 apartment out of college and before Page Mill came in and
13 then actually now I work for the company also. And the
14 first few years were pretty tough. The buildings were in
15 disrepair. And the neighborhood never went out at night.
16 It was very, very fearful. A lot of our neighbors were
17 fearful. We tried to look out for each other, but the
18 police are already really overstretched as it is. And
19 there was no security at that time.

20 So I've gotten a lot of feedback from tenants. I
21 work in the management office. So I deal with tenants
22 daily on the phone, and they come in with their questions
23 or concerns, anything from a maintenance issue to
24 struggling to pay their rent because of the economy. And
25 working closely with them, I've heard a lot of feedback.

1 We feel better going out. You know, you've put up fences
2 that had fallen down, cleaned up dirt lots, and there's
3 grass and kids can play. We've planted trees and just
4 made the community look a lot nicer.

5 I hadn't been there for very long, but people
6 have returned to East Palo Alto that lived there a long
7 time ago, and they've had positive feedback. And people
8 have moved back into the neighborhood and brought their
9 families with them. And that's good for us to hear.

10 I can say I've really developed relationship with
11 the tenants, know them by name, know where they live,
12 what's going on with them. And you know, are happy to
13 meet with them to talk about whatever can be done and hear
14 them out.

15 So that's what I got to say. Thank you.

16 CHAIRPERSON FECKNER: Thank you.

17 Now Sonya Clark-Herrera, Dana Cappiello, and
18 Norma Jaimez.

19 MS. CLARK-HERRERA: I'm scripted, so I'll be
20 quick.

21 Hello. Hi. My name is Sonya Clark-Hererra. I'm
22 the founder and executive director of the Mural Music and
23 Arts Project, which is an arts-based development
24 organization I founded in 2001 to serve the communities of
25 East Palo Alto.

1 MMAP has forged a broad symbiotic relationship
2 with Page Mill, and we are proud anchor tenants in their
3 newly renovated beautiful community team center. I will
4 speak briefly to this beneficial collaboration and speak
5 fast, because I work with teenagers. And as you know,
6 they have no attention span. So we'll go quick here.

7 The prosperity that benefited the Silicon Valley
8 during the dot-com boom of the late 90s largely bypassed
9 East Palo Alto, a city burdened by high crime rate and
10 low-performing schools.

11 To address this, we founded the Mural Music and
12 Arts Project to provide art programs and enrichment
13 opportunities in both the visual and performing arts. We
14 keep youth safe, healthy, focused on education, and part
15 of the community.

16 Through our five programs, which include history
17 through hip hop, health education through art, teen mural
18 programs, and our new flagship partnership with local law
19 enforcement, the graffiti art project which combats
20 vandalism in the community, and also teaches the history
21 and art of graffiti as an art form. It's funded by the
22 Department of Justice and the Police Department, wonderful
23 collaboration.

24 These five programs bring 120 youth, distinct
25 youth, into our facility, the teen center, every week.

1 And this number will double during the summer programs.

2 Downstairs are our music production laboratory
3 and art studio. Page Mill is providing space, again rent
4 free, to our city's newly revived Police Activities
5 League, of which I serve on the Board. The Police
6 Activities League has a broad reach and many, many
7 community partners. Bringing PAL to the teen center will
8 attract hundreds of youth and bring them in and revitalize
9 the Woodland Park sections of East Palo Alto.

10 In closing, Page Mill Properties exemplifies
11 corporate community responsibility through the
12 relationship with the Mural Music and Arts Project and
13 through the revitalized teen center.

14 Further discussions continue regarding deeper
15 collaboration to address the serious needs of the city.
16 As a former resident from 1998, I can echo what has been
17 said before that there was tremendous tumult. And our
18 crime rates -- I just spoke with the chief of police
19 before I came -- was 42 down reduction in homicide, 20
20 down crime overall. This is only in the past two years.
21 We're assuming there's some sort of effect that's having
22 with the revitalization and gentrification, I'm not
23 certain about that, but that's what the assumptions is.

24 Thank you, sir and ma'am, for your time.

25 CHAIRPERSON FECKNER: Thank you.

1 MS. CAPIELLO: Hi. My name is Dana Capiello, and
2 I am the co-founder of the Until There's a Cure
3 Foundation. I started the AIDS bracelet and raised
4 millions of dollars and awareness throughout the world.
5 Bill Gates gives the majority of his AIDS funding to the
6 two organizations that I started.

7 I wanted to do something at home, and I saw what
8 was happening in East Palo Alto. So I approached Page
9 Mill. And I wanted to do community outreach. And I knew
10 that what the struggles were of the people in the city.
11 So I've gone to the people in the city like Sonya and said
12 what do we need. We need to provide that for you. And
13 Page Mill has never said no once to me or to any nonprofit
14 that has approached us.

15 So far, we've put in the teen center. We are in
16 the process of building a center for urban agriculture,
17 which will provide a kitchen for women so they can make
18 goods to be sold at the local farmers market. We are
19 doing a bakery, a community garden, and an art forum for
20 the kids.

21 We have 18 pools in Woodland Park, and I've never
22 seen one child in the pool. Talked to a lot of the
23 parents, and the parents are afraid for their kids to go
24 in the pools. And the kids don't know how to swim. So
25 we've made a partnership with the local YMCA. There will

1 be lifeguards at the pools, and we'll have free swimming
2 lessons for all the kids the entire summer.

3 We're opening up a day care center. It's a huge
4 need in the community.

5 All of these things, too, we're not going outside
6 of East Palo Alto. We working with people inside of East
7 Palo Alto. This is their community, and they're giving us
8 the direction.

9 We're offering ESL classes. We are offering --
10 we just got a call right before we came in. The youth
11 court would like to use one of our facilities to hold
12 youth court in.

13 We are having -- working with one EPA to have
14 them make our furniture. We don't have any furniture in
15 the community. Outdoor furniture like benches and the
16 kids in the community will be making picnic tables,
17 Adirondack chairs and painting them. We're going to be
18 employing a lot of the youth this summer and giving them
19 jobs.

20 We are working with Shelter Network, who right
21 now because of all the foreclosures has hundreds of
22 families on their list. We are housing them. I think 20
23 families this week will be housed in Woodland Park.

24 Just want to remind you when AIDS first came out,
25 there was a lot of fear. And there was a lot of people

1 that said stuff. And I think we could be a lot closer to
2 an AIDS vaccine and an AIDS cure had people not really
3 listened and just gone with their heart and gone with the
4 big vision. And I asked CalPERS to stay with your heart
5 and the vision.

6 I honestly would never be associated with a
7 company that was doing the things that Page Mill has been
8 accused of. And I really believe in Page Mill and David
9 Taran, and I think they're brave. And it's not an easy
10 job. It's not an easy city. But they're doing really
11 good things.

12 And please, please stay and be a part of that
13 vision. Thank you.

14 CHAIRPERSON FECKNER: Thank you.

15 MS. JAIMEZ: Good afternoon. My name is Norma
16 Jaimez. I'm a property manager for Woodland Park. But
17 I'm also a resident of East Palo Alto. I have lived there
18 since 2000. I have two young children, who one of them is
19 in college, the other one is senior in high school.

20 Throughout the time that I lived there, I can
21 tell you that there's been a great change since Woodland
22 Park came in. I think a lot of it has been said already
23 with the security, the renovation of the units, the
24 painting of the apartments, landscaping.

25 But one of the things that I would really like to

1 talk about is the resident. I have communication with all
2 the residents. And when they come in and we talk to them
3 and we've seen the change that's going on, I have so many
4 people that are so happy and would be grateful to be here
5 and tell you guys everything that we have done, but they
6 can't. They have jobs. They have their kids to take care
7 of and things like that.

8 But I can really tell you that when we had our
9 first inspections of the units, most of the apartments
10 were let go. They were never done any maintenance.
11 Nothing had been taken care of. Carpet was really bad,
12 the painting. I mean, if you would have looked at these
13 apartments -- when we went in there and we talked to the
14 residents, we asked, "We can do a change to your
15 apartment. We can have your apartment painted. We can
16 have the carpet replaced." We can -- they were like,
17 "Really? Well, the old management company never did
18 anything."

19 That's what I wanted to tell everybody there.
20 That we were there to communicate. That our purpose was
21 to help them live in a better place, and not the fact that
22 everybody was talking about all of the rent increases and
23 all about the negative things about Page Mill. We were
24 there to have a better community.

25 And I can tell you there's been a great change,

1 because I live there. And a lot of my friends I mentioned
2 once and I said, "Oh, I went to 7-Eleven. I walked over."

3 They're like, "You walked to 7-Eleven?"

4 I mean, "Yes. What's so wrong about walking to
5 7-Eleven?"

6 Well, before you couldn't walk to 7-Eleven. You
7 would be afraid to walk, you know, even during the
8 daytime.

9 And now it's a safer area. My kids feel safe.
10 And if I know that my kids are safe, I can live there.
11 And that's basically all I have to say. Thank you.

12 CHAIRPERSON FECKNER: Thank you.

13 Now we'd like to hear from Teresita Alaniz and
14 Jim Shore.

15 MS. ALANIZ: Hi. I'm Teresita, and I work in
16 East Palo Alto for 1995 through now. And this is going to
17 be my third year with Page Mill. And I never see the
18 changes that fast like we have now. Other people already
19 mention, I don't want to repeat the same thing.

20 I only want to tell you I want to continue work
21 for Page Mill, because I believe in -- I have a lot of
22 friends live in East Palo Alto, family, and they feel
23 safe. They feel that we really would do something. But
24 you know what? We have communication with that residents,
25 and that's my goal. Continue to have communication with

1 the residents and tell them we are here. Come and talk to
2 us and give us ideas what else we can do for you guys.
3 And because I know we have all the support for Page Mill
4 to do better community for East Palo Alto. Thank you.

5 CHAIRPERSON FECKNER: Thank you.

6 MR. SHORE: Good afternoon, Mr. President,
7 members of the Board. My name is Jim Shore.

8 In a prior iteration, I spent 20 years in the
9 district attorney's office. I see some familiar faces up
10 there.

11 Good afternoon, Mr. Coony.

12 And I'm a member of CalPERS personally. And I
13 appreciate all the fine work you're doing in these
14 difficult economic times.

15 Last June, I took a new position as general
16 counsel for Page Mill properties.

17 And I know that you have heard in closed
18 session -- I understand you've heard some things about the
19 investment. But I have a little bit of an update, and I
20 wanted to give you that because it is fresh. And I don't
21 know how long it will be until you hear about this
22 investment again.

23 And that is that just yesterday I'm happy to
24 report that we had a very productive meeting with both
25 elected and non-elected officials of the city of East Palo

1 Alto. The purpose of that meeting and the outcome of that
2 meeting were to create an environment where the issues
3 that have arisen between and among the city and the
4 investment can be dealt with in a productive fashion.

5 And I'm happy to report that we are moving
6 forward with the city and with other groups to find common
7 ground. And we will keep your staff of course and you
8 advised of those efforts.

9 Thank you very much.

10 CHAIRPERSON FECKNER: Thank you.

11 Mr. Diehr.

12 BOARD MEMBER DIEHR: Can you address the vacancy
13 factor? What accounts for that? And what is being done
14 to reduce that?

15 MR. SHORE: I have the director of operations
16 here. Perhaps he'd be a better person to address that, if
17 I can call him up.

18 CHAIRPERSON FECKNER: I don't think it's proper
19 to get into that discussion now. Thank you.

20 BOARD MEMBER DIEHR: Okay.

21 MR. SHORE: I would be happy to talk to Member
22 Diehr off line, if that's appropriate.

23 CHAIRPERSON FECKNER: Okay. Thank you. Anyone
24 else wish to address the Board at this time?

25 Seeing none, before we go to our closed session,

Appendix C

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Real Time Real Estate

Court Receiver Takes Control

Submitted September 9, 2009

By Sharon Simonson

A San Mateo County Superior Court has appointed a Pacific Palisades real estate company to act as receiver in the management of 1,800 apartments in East Palo Alto owned by Page Mill Properties of Palo Alto and CalPERS.

Wald Realty Advisors, which lists multiple receivership assignments and other capabilities on its Web site, was appointed following a court filing Sept. 8 by Wachovia Bank asking the court to remove Page Mill. The complaint states that Page Mill failed to make a \$50 million principal payment on an outstanding loan of \$243 million by Aug. 4, when it became due. The complaint further states that Page Mill failed to make a monthly interest payment due Aug. 9 related to the same loan.

The complaint also alleges that Page Mill failed to forward August rents to Wachovia, as stipulated in the loan documents. The bank, now owned by Wells Fargo & Co., asks the court to issue a temporary restraining order to prevent the rents from being spent on anything else and to direct Page Mill to preserve all financial records related to the rental units and not to interfere with the receiver.

It was not clear from the court record whether the restraining order had been issued, and attorneys for the bank did not return calls. A spokesman for Page Mill said he had no comment.

Dave Wald, founder and principal of Wald Advisors, declined comment. Tony Theophilos, a San Francisco real estate attorney who has acted as a receiver, said it is common for receivers to appoint a new property management company upon their appointment. The East Palo Alto rental units have been managed by a company affiliated with Page Mill.


Receivers are agents of the court. They are appointed to manage buildings and sometimes even entire businesses in cases where there are legal disputes or loan defaults to ensure the properties are properly maintained. Receivership is not tantamount to foreclosure, though property owners often lose their holdings permanently after a receiver is put in place.

Wachovia has not filed a notice of loan default in San Mateo County, the first step in what is called non-judicial foreclosure, and nothing in the court filing by Wachovia suggests that Page Mill has lost ownership of the properties.

The California Public Employees' Retirement System invested \$100 million in the East Palo Alto venture but has written down the value to \$60 million, according to public records.

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East Palo Alto's largest landlord losing control of properties

By Will Oremus
Daily News Staff Writer

Posted: 09/05/2009 09:17:25 AM PDT

Updated: 09/05/2009 09:17:37 AM PDT

East Palo Alto's largest landlord has closed its offices in the city and pulled property management staff from its apartment complexes, leaving facilities in disrepair and tenants in some 1,700 units wondering whether to pay their rent.

Police, firefighters, code enforcement officers and county health inspectors dropped in on the complexes owned by Palo Alto-based Page Mill Properties throughout the afternoon Friday, asking questions of the residents and documenting code violations.

Unreachable for most of the day, Page Mill officials released a statement shortly after 5 p.m. implying the company has run out of money.

"We have reached an interim solution with Wells Fargo Bank that allows Page Mill to maintain control of the properties in the short term," the statement said. "Page Mill will continue to manage the property and collect rents, and the bank will release the money necessary for normal operations of the property. Rents are payable in the normal fashion and the services will continue as usual."

Page Mill has been a lightning rod for controversy in East Palo Alto since it began buying up apartments in the city's Woodland Park

neighborhood in 2006. Tenants have complained of harassment, spotty maintenance and big rent hikes, and the city has battled the company in court — mostly unsuccessfully — over alleged violations of its rent control ordinance. Page Mill, which also owns major commercial properties in San Francisco and San Jose, has responded that it is just trying to improve long-neglected properties.

Lately, however, the company has run into serious financial problems with its East Palo Alto holdings. A spokesman told The Daily News last month that Page Mill was in danger of losing its properties after missing a \$50 million payment to Wells Fargo.

In its statement Friday, the company put a positive spin on its latest agreement with the bank.

"We are proud that our efforts will preserve the jobs of more than 45 staff members, many of whom are from East Palo Alto," the company said. "We expect no disruption to tenants during this period."

But there has been disruption, said dozens of anxious residents who wondered Friday whether the complexes had been abandoned entirely.

After weeks of declining maintenance at the complexes, including pools that turned dark green with algae, residents said a moving van showed up Thursday to haul furniture, computers and other valuables from the company's leasing and property management offices. Workers also removed signs telling residents whom to contact in case of emergencies and declined to answer questions, several residents said.

The scene at a Page Mill complex at 5 Newell Court on Friday was chaotic. Debris littered the courtyard and children scaled the fence of the pool, which San Mateo County health inspectors closed last month after Page Mill stopped cleaning it. Tenants paced

Advertisement

and conferred outside the vacant property management office, trading rumors and debating whether to pay their September rent.

A sign on the office window read: "Please put all rent in drop box, or if you have any questions please call (650) 324-6180." The number rang busy throughout the day.

Page Mill's corporate headquarters in Palo Alto was also unreachable, with a recording saying the office was closed.

Marisela Alvarez, who lives at 5 Newell Court, said her family filled out a money order for the rent but was agonizing over whether to place it in the drop box. On one hand, they feared the evictions that have made Page Mill infamous among some of its tenants. On the other hand, they weren't eager to donate hard-earned cash to a landlord that appeared to be going under.

A tenant who asked not to be named said he wasn't going to pay his rent because he worried resident gang members would break into the drop box and steal it.

Dean Peterson, San Mateo County's director of environmental health, said his office has fielded several complaints about the condition of Page Mill's complexes. He said obvious code violations, including the pools, have him working with the San Mateo County District Attorney's Office to consider enforcement options.

"Regardless of your cash flow, there's always a responsibility to maintain your property in a safe manner," Peterson said. He added, "The health system will respond to any and all complaints, document any violations and work with the residents and the city of East Palo Alto to address any immediate dangers to life and health."

East Palo Alto Police Chief Ron Davis visited one of the complexes Friday afternoon and said he was troubled to find the lights out in one of the hallways and no maintenance staff available to fix them.

"What I'm seeing right now is an abandoned property from the owner's point of view," he said.

Davis added that he's been told the Menlo Park Fire Protection District has some of the buildings on a 24-hour fire watch due to problems with the fire alarms. Fire Chief Harold Schapelhouman could not be reached for comment.

Page Mill didn't say how much longer it will hold onto the property, but resident Celia Vilchis said staff members showed up briefly at 5 Newell Court on Friday afternoon and told residents they would maintain the property for three more weeks. They didn't say what would happen after that.

Another tenant, Wayne Curtis, said he doesn't care what plans the company has in store — he wants out.

"This place is run like a ghetto," he complained. "Everything's broken here." The way Page Mill has managed the property, he added, "A bank would be better."

E-mail Will Oremus at woremus@dailynewsgroup.com.

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File No: 460/3

September 16, 2009

VIA ELECTRONIC MAIL

Mpoyatos@co.sanmateo.ca.us

Ms. Martha Poyatos, Executive Officer
San Mateo Local Agency Formation Commission
455 County Center
Redwood City, CA 94063

Re: Continued Agenda Item No. 5; Consideration of Adoption of Municipal Service Review and Sphere of Influence for City of East Palo Alto Supplemental Comments on Circulation Draft-Municipal Services Review and Sphere of Influence Update, City of East Palo Alto; San Mateo County Local Agency Formation Commission; Meeting Date: September 16, 2009

Dear Ms. Poyatos:

I. INTRODUCTION

This communication supplements the June 30, 2009 and July 14, 2009 comments (the "Comment Letters") submitted on behalf of Woodland Park Management, LLC ("Woodland Park") on the proposed Municipal Services Review ("MSR") and the related Sphere of Influence ("SOI") update of the City of East Palo Alto ("City") (the "Draft Review") prepared under the provisions of the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 *et seq.*, the "Act"),¹ before the

¹ All section references will be to the Government Code unless otherwise noted.
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Ms. Martha Poyatos, Executive Officer
San Mateo Local Agency Formation Commission
September 16, 2009
Page 2

Local Agency Formation Commission of San Mateo County ("Commission").² These supplementary comments were made after review of the LAFCO Final Draft MSR ("Final Review") dated July 7, 2009, received on Friday, July 10, 2009 and without the benefit of review of any City comments on the Final Review other than support of the MSR as it stands in its flawed state.³

On July 15, 2009, LAFCO held an agendaized public hearing on the MSR. At the July hearing, Woodland Park, among other things, stressed the importance of the issues brought forth in the Comment Letters and requested a continuance so that the issues may be adequately addressed. Woodland Park requested additional time for the City to respond to the Comment Letters so that Woodland Park could have the opportunity to present further evidence and to specifically respond to the position of the City—something that has not occurred as of the date of this communication, as it was agendaized for last night's City Council meeting.

At the July hearing, the City also requested a continuance to give the City Council sufficient time to address the MSR.

The LAFCO Executive Officer, in response to Woodland Park's Comment Letters arguments that the MSR is not legally sufficient to make the required MSR determinations, stated that while Government Code Section 56430 provides direction regarding written determinations, it does not define the information sufficient to make such determinations.

² The Commission will sometimes be referenced as a "Local Agency Formation Commission" or "LAFCO" in this communication.

³ On the afternoon of Monday, September 14, 2009 the City posted its Agenda for its September 15, 2009 City Council meeting. In Agenda Item VIII.A.4. City Staff recommended that the City Council in Response to San Mateo County Local Agency Formation Commission Service Review and Sphere of Influence Update Regarding City of East Palo Alto adopt a resolution supporting the LAFCO Executive Officer's conclusions and recommendation that LAFCO reaffirm the City's sphere of influence and that it remain coterminous as presently delineated. A copy of the City's position was requested by Woodland Park as soon as it became available after *the July 15, 2009 LAFCO meeting*. A copy of the City Resolution only became *completely available this morning* and had not been furnished to the Commission Staff, something which this office accomplished. The document is attached as Exhibit "B."
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Woodland Park disagrees with the Executive Officers' characterization of the MSR as is developed in this Supplemental Communication consistent with the legislative intent of the Act.

Further, the LAFCO Executive Officer explained that LAFCOs must generally rely on their own local policies and practices and that the MSR is not a management or performance audit, and in fact a MSR determination could include a recommendation that an agency conduct such audits.

Woodland Park disagrees with the position of the Executive Officer also as is developed in this Supplemental Communication consistent with legislative intent of the Act.

Finally, with regard to service priorities and resources, the LAFCO Executive Officer stated that LAFCO weighs the total community service needs against the total financial resources available for securing community services, and argued that LAFCO, under the Act, discourages single purpose agencies in favor of multi-service agencies that can provide the same or similar services. LAFCO granted the continuance to September 16, 2009.

Again, Woodland Park maintains that information currently available⁴ from the City and other government sources indicate that the MSR proposed determinations *cannot* be made under the Act for the adequacy of City governmental services and that *alternative* SOI options should be presented allowing for other means of providing governmental services to Woodland Park's property and the other properties in the area managed by Woodland Park (the "affected area") because of the City's current, and anticipated, financial future service inadequacies.

II. SUMMARY OF SUPPLEMENTAL COMMENTS

The MSR continues to be legally insufficient, again due to the City's failure to provide the Executive Officer with sufficient information to make the determinations supported by substantial evidence required by the Act for an MSR. Woodland Park observes that **the City's failure to timely respond** to Woodland Park's previous comments and LAFCO's request for further information leaves Woodland Park insufficient time to respond to the

⁴Woodland Park maintains this position even after a cursory review of the recently made available City documents.

City's position and impedes Woodland Park's right to public participation in the LAFCO process.

A review of the Commission on Local Governance of the 21st Century (the "21st Century Commission") report, "*Growth Within Bounds*" ("*Growth Within Bounds*"), setting forth the legislative intent of the Act,⁵ demonstrates that an MSR must be a comprehensive study of each identifiable public service provided by counties, special districts, and cities in the region, and must also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers. As such the MSR, to be legally sufficient, must thoroughly assess the City services, and must thoroughly consider alternatives to the current City service providers; *i.e.*, here the City.

The Act legislative intent also directs that LAFCO must consider alternatives, where a single multi-purpose entity like the City is not the best service provider. Thus, although Woodland Park respects the views of the LAFCO Executive Officer in this matter, Woodland Park respectfully disagrees that the MSR need not be a comprehensive document; the Act requires that an MSR must be complete and comprehensively analyze potential alternatives to the currently planned provision of services.

A recently issued Writ of Mandate in the San Mateo County Superior Court commanding the City to set aside, rescind, annul and/or repeal its August 4, 2009 legislative actions, adopting a revised Rent Stabilization and Just Cause for Eviction Ordinance of the City of East Palo Alto ("Revised RSO") and place that Revised RSO on the ballot for the November 2009 election demonstrates that despite the City's assurances that it will address the patent shortcomings of its service provisions and governance, it has not demonstrated the ability to do so. These shortcomings are also illustrated by the Writ of Mandate filed by the East Palo Alto Merchants Association concerning the City's Brown Act violations in approving the Mi Pueblo Supermarket in the City.

⁵ As one Court has pointed out:

... the legislative intent of the Act, [is] expressed in a Report of the Commission on Local Governance for the 21st Century... (*Growth Within Bounds*), which was published in January 2000 as a Report of the Commission on Local Governance for the 21st Century.

Further, substantial evidence continues to mount to illustrate the City inability to adequately provide Police services.

III. DOCUMENTS REVIEWED

These comments are based on the documents included in the Woodland Park June 30, 2009 Appendix, documents referenced in the Woodland Park July 14, 2009 supplementary Final Review/MSR communication, the Draft and Final Review, and additional documents referenced in this Supplement, which are enclosed.

IV. MSR SUFFICIENCY AND ANALYSIS OF SERVICE PROVISION OPTIONS AND GOVERNMENTAL ALTERNATIVES

A. The MSR Must Be Comprehensive

The LAFCO Executive Officer stated at the July 15, 2009 hearing, in response to the Woodland Park position that the MSR as currently comprised does not contain sufficient substantial evidence to support the mandatory MSR determinations, that the MSR is not a management or performance audit, and in fact a MSR determination could include a recommendation that an agency conduct such audits, and that the Act does not define the information level sufficient to make MSR determinations.

While Woodland Park makes no comment as to which agency should conduct audits, and understands the difficulty of retrieving sufficient substantial evidence from the City, (as evidenced by the September 15, 2009 Response of the City) Woodland Park contends that regardless of which entity gathers the information, the MSR must be comprehensive and must thoroughly set forth substantial evidence supporting the MSR determinations. This view is definitively supported by *Growth Within Bounds*, which sets forth the Act legislative intent:⁶

⁶It is a fundamental rule of statutory construction that when the Legislature has expressly declared its intent the courts must accept that declaration. *Rideout Hospital Foundation, Inc. v. County of Yuba*, (1992) 8 Cal.App.4th 214, 221. Accordingly, the Commission is also bound by that expressed intent.

Among the most fundamental purposes of LAFCO iterated in GC §56001, §56300, and §56301 are to 'encourage orderly growth', provide '... planned, well-ordered, efficient urban development patterns ...', and '... advantageously provide for the present and future needs of each county and its communities.' These directives imply that each LAFCO has comprehensive knowledge of the services available within its county, the current efficiency of providing service within various areas of the county, future needs for each service, and expansion capacity of each service provider. (Emphasis added)

* * *

A service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and cities in the region. The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it would require LAFCO to look broadly at all agencies within a geographic region that provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers.

Growth Within Bounds, p. 98-99. (Emphasis added).

This 21st Century Commission statement strongly and clearly emphasizes the comprehensive nature of an MSR, and that LAFCO must have comprehensive knowledge of local service provisions within its jurisdiction, including the City. The 21st Century Commission solidified this by making the MSR a state mandate:

It is the intent of the Commission that this function be considered a state mandate because of the benefits for achieving a logical extension of local services to meet California's future growth and development.

Growth Within Bounds, Recommendation 6-7, p. 167. (Emphasis added)

Further, the MSR is a precursor to a SOI update⁷ and as the supporting document for the SOI, it must supply the full analysis and detailed studies that a SOI update will rely upon:

The Commission agrees that local agencies and communities should be able to rely upon spheres of influence as a dependable guide to future growth. Spheres should not be routinely updated as a component of a previously unforeseen annexation request from a local agency, as is often the case today. Meaningful spheres will not be possible unless they are regularly updated *based upon comprehensive studies and they incorporate actual and projected information on trends in growth and development, service capacities, and public preferences.*

Growth Within Bounds, p. 97. (Emphasis added) Indeed:

Sphere updates should follow adequate notification to the public and to affected agencies, and should consider all views expressed at a public hearing, *as well as information obtained through detailed analytical studies.*

Growth Within Bounds, p. 97. (Emphasis added) Accordingly, the 21st Century Commission makes it clear that the SOI update process, for which the MSR is the prerequisite, must be based on substantive, complete studies. It thus follows, as the 21st Century Commission stresses, that the MSR, as the primary document the SOI relies upon, must contain detailed analytical studies and comprehensive service analysis.

Accordingly, Woodland Park respectfully submits that regardless of who collects the information or conducts audits on behalf of LAFCO, the final approved MSR must be based on such an analytical study. Even with the City September 15, 2009 submission there is no such analytical study or evidence in the Record.

A simple example amplifies this deficiency for compliance in the MSR analysis of the City. Last Friday night the Legislature refused to enact SB 67 which would have provided for a "hardship exception" to the now required transfer of 8% of the property taxes of all local agencies within the County of San Mateo (and other Counties) to the State. Previously,

⁷The MSR is a *prerequisite* to the change or confirm an SOI. Gov. Code § 56430.
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in response to inquiries from the Commission Executive Officer the City could not justify the revenue figures in its currently adopted budget accounting for the acknowledged decline in property tax values and therefore in property tax revenues by the County Assessor of the County of San Mateo. The City still has not addressed in the Budget the 8% reduction of the property tax revenue represented. So how can Woodland Park Management or any other property owner within the City expect essential government services like law enforcement to be adequately funded? Adequate funding is a condition precedent to a finding of efficient *governmental services*.

B. The MSR Must Consider Alternatives, Including Single Purpose Agencies

It is clear that LAFCOs, must when preparing MSRs, look broadly at all agencies within a geographic region that provide a service and must also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers. *Growth Within Bounds*, p. 98-99.

Woodland Park previously contended that the MSR should contain LAFCO analysis of the option of reducing the City SOI to remove the affected area, allowing the formation of a community services district (Government Code §61100 *et seq.*) and/or a police protection district (Health & Saf. Code § 20000 *et seq.*) to directly address *at a minimum* inadequate law enforcement and street maintenance and lighting deficiencies or some other option that would allow Woodland Park and other local citizens and property owners, to fund and *receive contract services*, such as law enforcement assistance from the City of Menlo Park and/or the County Sheriff's Office.

The Final Review partially addressed the alternative option, but rejected it, citing an unwillingness to adopt an option that would reduce City revenues. Final Review, pp. 30-31. At the July 15, 2009 hearing the LAFCO Executive Officer stated that LAFCO must weigh the total community service needs against the total financial resources available for securing community services, and explained that the Act discourages single purpose agencies in favor of multi-service agencies that can provide the same or similar services.

This alternative analysis is *not even* commented upon in the City response with the exception of the somewhat incredible statement in an unnumbered page in the Response: "The City will continue to explore opportunities to optimize its public staffing levels."

With respect to the community service needs versus the total financial resources, although Woodland Park respects the LAFCO Executive Officer position, Woodland Park submits that the options it has presented would not reduce City revenue, rather it has suggested methods be examined for supplementary services which could be funded from assessments or other funding outside of the City budget. Woodland Park continues to stress that the historical and continuous mismanagement and unavailability of essential City services establishes *that the City requires assistance*. Additionally, although the Act, at Government Code section 56001 states that: "a single multipurpose governmental agency is accountable for community service needs and financial resources and, therefore, *may* be the best mechanism for establishing community service priorities," the 21st Century Commission affirmed that single multipurpose agencies such as the City are not automatically to be favored:

The Commission believes that one role for LAFCO should be to determine the most appropriate form of government to provide a particular service to citizens in an efficient and responsive manner and that will enjoy the support of those governed. Inevitably, this will mean balancing cost with the ability to meet the needs and desires of the taxpaying customers and with overall coordination of government services. In some instances, the most logical entity to provide a particular function will be a general purpose local government that can judge the cost and service trade-offs that are most acceptable to citizens. In other cases, it may be a special district, especially if service area boundaries do not logically coincide with city limit lines. The Commission finds that there should be no *a priori* presumption that one particular level of local government is better able to provide services than another, and that this finding should be stated in statute.

Growth Within Bounds, p. 72. This admonition was confirmed by changes to Government Code section 56001, which was amended in part to state:

. . .The Legislature also finds that, whether governmental services are proposed to be provided by a single-purpose agency, several agencies, or a multipurpose agency,

responsibility should be given to the agency or agencies that can best provide government services.

Accordingly, the 21st Century Commission, and the resulting legislation confirm that the Act does not automatically dictate that City, as a multi-purpose agency should blindly be confirmed as the appropriate service provider. Indeed, that the Act requires that an MSR must be complete and adequately analyze potential alternatives to the currently planned provision of services borne out by the 21st Century Commission:

The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it *would require LAFCO to look broadly at all agencies within a geographic region that provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers.* LAFCOs should be provided flexibility in designating the geographic area to be analyzed, the timing of conducting particular reviews, and the scope of the reviews.

Growth Within Bounds, p. 99. (Emphasis added) The 21st Century Commission thus has clarified that it is entirely appropriate and indeed required that LAFCO give serious consideration to alternative service providers, especially given the substantial evidence demonstrating that the City has not and will not be able to adequately provide those services.

Accordingly, the Act legislative intent is clear. The MSR must be comprehensive, and LAFCO must meaningfully consider alternatives, including those presented by Woodland Park. Again, Woodland Park respectfully recognizes the difficulty of fully analyzing alternatives without an adequate response from the City, nevertheless, Woodland Park respectfully asserts that LAFCO, based on its authority and 21st Century Commission charge to consider governance alternatives must evaluate other alternatives for essential efficient governmental services.

V. FURTHER EVIDENCE THAT THE CITY HAS NOT PROVIDED SUBSTANTIAL EVIDENCE, NOR DOES SUCH EVIDENCE EXIST, TO SUPPORT THE REQUIRED MSR DETERMINATIONS

To date the City has not provided substantial evidence to support, or address the required Act MSR determinations. LAFCO decisions are characterized as quasi-legislative for which judicial review is appropriate under ordinary mandamus, Code of Civil Procedure section 1085.⁸ LAFCO actions must be supported by “substantial evidence.” Government Code § 56107.

Accordingly, *any action* of a LAFCO must be supported by substantial evidence including that presented by interested parties in a particular action including the determination of the factors associated with a MSR.⁹

But, to the contrary, additional evidence exists that the City is unable to provide efficient governmental service.¹⁰

A. Writs of Mandate Against The City Confirm Its Failure Of General Governance Including The Day-to-Day Administration Of City Government

On September 4, 2009, the San Mateo County Superior Court issued a Writ of Mandate commanding the City to set aside, rescind, annul and/or repeal its August 4, 2009 legislative actions, adopting the Revised RSO and placing that Revised RSO on the ballot for the November 2009 election. A copy of the Writ of Mandate and associated Order are attached hereto as Exhibit “A.” The Writ is based on the City’s approval of the Revised RSO in violation of the California Environmental Quality Act (“Pub. Res. Code § 21000 *et seq.*, “CEQA”) and the City’s violation of the Ralph M. Brown Open Meeting Act (§ 54950 *et seq.*, the “Brown Act”).

⁸ *Sierra Club v. San Joaquin Local Agency Formation Commission* (1999) 21 Cal.4th 489, 499.

⁹ *Placer County, supra*, 135 Cal.App.4th at 803.

¹⁰ The City response is completely lacking of *any* fiscal analysis of the Proposition 1A 8% property tax loan to State further decreasing City revenues.

The Writ illustrates, as Woodland Park has emphasized before, that the City has failed in delivering general governance including the day-to-day administration of City government including the administration by the City of its Rent Control Ordinance. Specifically, the Court issued a Writ pursuant to CEQA for the City's illegal exemption of the adoption of the Revised RSO from CEQA. *See*, Order, page 2, Exhibit "A." Additionally, the Writ was granted for City Brown Act violations in that the City illegally used the Brown Act closed session exemption to avoid discussion of the Revised RSO in its open meeting. *See*, Order, page 2, Exhibit "A."

As Woodland Park has stated in its earlier communication, *the most essential element of governmental transparency is the Brown Act* whose purpose is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies.¹¹

The City, through its Rent Control Board and Subcommittees have engaged in a pattern and practice of violating the Brown Act, including the previously referenced failure to post agendas for subcommittee meetings in October 27, 2007 and frequently in 2008 (including April 9, 2008 and August 27, 2008); the City appointment of new Rent Control Board members on December 16, 2008 with an insufficient agenda, that stated only "Selection of Advisory Bodies Members" failing to give an adequate description of what bodies were to receive appointments. *See*, Woodland Park June 30, 2009 communication to LAFCO. Now the Writ issued by the Court illustrates that the practice continues.

The East Palo Alto Merchants Association, ("Merchants Association") a group of City Grocers, raised in a June 2009 communication the impropriety of moving a City Planning Commission hearing on the City's first full-scale supermarket to June 11, 2009 without compliance with the Brown Act.¹² This is a violation of the Brown Act. Now the Merchants Association has filed a Writ of Mandate in the San Mateo County Superior Court seeking the Court to strike down the City Planning Commission's subsequent approval of the supermarket and the City Council's approval of associated permits, also in violation of the

¹¹ *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555.

¹² Images of the Complaint and September 9, 2009 Amended Complaint are available online at <http://openaccess1.sanmateocourt.org/openaccess/civil/images.asp?casenumber=485355&courtcode=A&casetype=CIV&dsn=>.

Brown Act. The Writ has survived City Demurrer and the litigation against the City continues.¹³

These clear repeated violations of the Brown Act violate the State Constitution's mandate to ensure public participation, in this case proceedings of the City Rent Control Board, the Planning Commission and the City Council. This prevention of public participation means that accountability for community service needs are hampered.

Stated differently, if meetings of City Council, Commissions, Boards and Committees are not open to the public, which includes businesses and property owners, how can the City be held accountable for the service they purport to provide to residents, property owners and businesses? If the public does not know which Board members are to be appointed, how can it hold the City accountable for government structure and operational efficiencies?

These failures confirm that a MSR determination cannot be made supporting "Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies" under Government Code section 56430(a)(5).

B. Continued Police Department Failings Confirm The City Has Not Provided Substantial Evidence, Nor Does Such Evidence Exist, To Support The Required MSR Determinations With Respect To Present And Planned Capacity And Adequacy Of Public Services Pursuant To Government Code Section 56430(a)(2).

Woodland Park has extensively briefed LAFCO on the overwhelming existing evidence of deficient City law enforcement and crime prevention services. *See*, Woodland Park June 30, 2009 and July 14, 2009 communications. Further evidence has arisen that supplements the evidence Woodland Park has already submitted. For example, on August 10, 2009 a twelve year old boy, standing outside his home in the City was caught in the cross-fire between the occupants of two cars firing at each other and was wounded.¹⁴ Further, a

¹³See, <http://openaccess1.sanmateocourt.org/openaccess/civil/civildetails.asp?casenumber=485355&courtcode=A&casetype=CIV&dsn=>.

¹⁴See, Jessica Bernstein-Wax, East Palo Alto boy caught in crossfire, shot in ankle," *San Jose Mercury News*, August 11, 2009, available at, http://www.mercurynews.com/news/ci_13042092?ncllick_check=1.
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video available on the internet reports City Police letting a gang member go who had brandished a weapon.¹⁵

This evidence thus supplements the considerable evidence mounting that there is no substantial evidence to support a finding of adequate efficient crime enforcement and law enforcement services in the City in the proposed MSR.

C. The City Cannot Provide Substantial Evidence To Make A Finding That It Has The Financial Ability To Provide Services Under Government Code Section 56430(a)(3).

Woodland Park, in its June 30, 2009 communication presented substantial evidence that the City could not support a MSR finding that it had the financial ability to provide its residents adequate services. Now, the redevelopment funds grab by the State that Woodland Park warned about that the City failed to account for in its budget has come to pass- the State is seizing \$3,260,360.00 from the Woodland Park Redevelopment monies when the Governor on July 28, 2009 signed the California Budget Amendment.¹⁶

Accordingly, the City has continually failed to account for how it will be able to finance the services it so poorly provides.

VI. CONCLUSION

The City has failed to provide the Executive Officer sufficient information necessary for the Commission to make the determinations required by the Act for an MSR. Now the City appears to have simply ignored the significant substantial evidence provided by Woodland Park in failing to provide a substantive response to Woodland Park's comments.

Woodland Park, as property owner and manager in the City, respectfully maintains that **the City MSR must be comprehensive and contain detailed analyses and studies to support the Act-required determinations.** LAFCO must also re-consider and re-evaluate its conclusions regarding providing governmental alternative service providers to address

¹⁵Video available at: <http://www.youtube.com/watch?v=Im8L6gVIViY>.

¹⁶See, Andrea Koskey, "Daly City clings to state funding," San Francisco Examiner, August 6, 2009, available at, <http://www.sfexaminer.com/local/52557992.html>.
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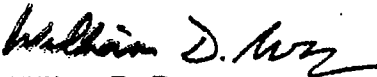
Ms. Martha Poyatos, Executive Officer
San Mateo Local Agency Formation Commission
September 16, 2009
Page 15

inadequate City services; the Act legislative intent clearly requires an alternatives discussion in an MSR to be comprehensive and thorough, and does not favor a multi-service provider like the City when the City is not the most efficient or capable service provider.

Record evidence shows a continued ineffective and inefficient City management and sometimes blatant disregard for the law and public input. Evidence continues to mount that the City will not be able to provide adequate public services, *especially law enforcement and crime prevention*—all areas where a Commission decision through the MSR process to determine how the most efficient means of governmental service is required.

Thank you for your consideration of these comments.

Very truly yours,



William D. Ross

WDR:sf

Enclosure: Exhibit "A" - Writ of Mandate
Exhibit "B" - September 15, 2009 City Response to San Mateo City Local
Agency Formation Commission Services Review and
Sphere of Influence

cc: Mr. David A. Taran

Jim Shore, Esq.

A.K. Abraham, Esq.

EXHIBIT A

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10 Attorneys for Petitioners and Plaintiffs
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LLC and 15 Newell, LLC
11
12

13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF SAN MATEO
15

16 Woodland Park Management, LLC, 5
Newell, LLC, and 15 Newell, LLC
17
18 Petitioners and Plaintiffs,
19 v.
20 City of East Palo Alto, City Council of the
City of East Palo Alto, and Warren Slocum,
21 Chief Elections Officer, San Mateo County
22 Respondents and Defendants,
23 City of East Palo Alto and City Council of the
City of East Palo Alto,
24 Real Parties in Interest.

Case No. CIV 486819

WRIT OF MANDATE

Hearing Date: September 3, 2009
Time: 9:00 am
Department: 3
Honorable Beth Labson Freeman

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26 The People of the State of California
27 TO THE CITY OF EAST PALO ALTO AND THE CITY COUNCIL OF THE CITY OF
28 EAST PALO ALTO, RESPONDENTS AND DEFENDANTS:

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Good cause appearing from the verified Petition for Writ of Mandate filed in this Court on August 12, 2009, supporting documents on file in this proceeding, and hearing before this Court on September 3, 2009,

YOU ARE HEREBY COMMANDED, by Order of this Court made on September 4, 2009, to immediately set aside, rescind, annul and/or repeal, the City's August 4, 2009 legislative actions, including Resolution No. 2947 and Resolution No. 2948, to adopt a revised Rent Stabilization and Just Cause for Eviction Ordinance of the City of East Palo Alto ("Revised RSO") and place that Revised RSO on the ballot for the November 2009 election, upon receipt of this writ.

TO RESPONDENT WARREN SLOCUM, CHIEF ELECTIONS OFFICER, SAN MATEO COUNTY:

Good cause appearing from the verified Petition for Writ of Mandate filed in this Court on August 12, 2009, supporting documents on file in this proceeding, and hearing before this Court on September 3, 2009,

YOU ARE HEREBY COMMANDED, by order of this Court made on September 4, 2009, to refrain from placing the Rent Stabilization and Just Cause for Eviction Ordinance of the City of East Palo Alto on, or to remove the Rent Stabilization and Just Cause for Eviction Ordinance of the City of East Palo Alto from, the San Mateo County General Election ballot for the November 3, 2009 election, and to refrain from consolidating the East Palo Alto Municipal General Election with the Countywide General Election on November 3, 2009 as requested by East Palo Alto Resolution 2947, upon receipt of this writ.

DATE: September 6, 2009

JOHN C. FITTON

MARYLOU DRAGONFYDER
By Deputy Clerk of the Superior Court

1 CHRISTINE W. GRIFFITH (Bar No. 193602)
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13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF SAN MATEO
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16 Woodland Park Management, LLC, 5
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18 Petitioners and Plaintiffs,

19 v.
20 City of East Palo Alto, City Council of the
City of East Palo Alto, and Warren Slocum,
21 Chief Elections Officer, San Mateo County

22 Respondents and Defendants,

23 City of East Palo Alto and City Council of the
City of East Palo Alto,

24 Real Parties in Interest.
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ENDORSED FILED
SAN MATEO COUNTY

SEP 04 2009

Clerk of the Superior Court
By Sean Kane
DEPUTY CLERK

Case No. CIV 486819

ORDER

Hearing Date: September 3, 2009
Time: 9:00 am
Department: 3
Honorable Beth Labson Freeman

ORDER

1 This matter came on for hearing on September 3, 2008 in Department 3 of the San Mateo
2 County Superior Court, the Honorable Beth Labson Freeman presiding. Christine W. Griffith
3 and Corinne I. Calfee appeared on behalf of Petitioners and Plaintiffs. Vince Ewing appeared on
4 behalf of Respondents, Defendants and Real Parties in Interest City of East Palo Alto and City
5 Council of the City of East Palo Alto. Respondent and Defendant Warren Slocum, Chief
6 Elections Officer, San Mateo County filed a non-opposition to the petition and did not appear.
7 The Court, having considered the briefing of the Parties, the pleadings, the record, and oral
8 argument, and good cause appearing therefor, finds that a Writ of Mandate should issue.
9 Respondents' and Defendants' actions complained of herein violated the California
10 Environmental Quality Act (Public Resources Code section 21000 et seq.) and the Ralph M.
11 Brown Act (Government Code section 54950 et seq.) It further appears that Petitioners and
12 Plaintiffs, the parties beneficially interested, have no plain, speedy and adequate remedy in the
13 ordinary course of law.

14 IT IS ORDERED that a writ of mandate issue under the seal of this Court:

15 (i) Commanding Respondents and Real Parties in Interest City of East Palo Alto and City
16 Council of the City of East Palo Alto to set aside, rescind, annul and/or repeal its August 4, 2009
17 legislative actions, including Resolution No. 2947 and Resolution No. 2948, to adopt a revised
18 Rent Stabilization and Just Cause for Eviction Ordinance of the City of East Palo Alto ("Revised
19 RSO") and place that Revised RSO on the ballot for the November 2009 election; and

20 (ii) Commanding Respondent Warren Slocum, Chief Elections Officer, San Mateo
21 County, to refrain from placing the Rent Stabilization and Just Cause for Eviction Ordinance of
22 the City of East Palo Alto on, or to remove the Rent Stabilization and Just Cause for Eviction
23 Ordinance of the City of East Palo Alto from, the San Mateo County General Election ballot for
24 the November 3, 2009 election, and to refrain from consolidating the East Palo Alto Municipal
25 General Election with the Countywide General Election on November 3, 2009 as requested by
26 East Palo Alto Resolution 2947.

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IT IS FURTHER ORDERED:

The City of East Palo Alto's August 4, 2009 actions, including adoption of Resolution No. 2947 and Resolution No. 2948, to adopt a revised Rent Stabilization and Just Cause for Eviction Ordinance of the City of East Palo Alto ("Revised RSO") and place that Revised RSO on the ballot for the November 3, 2009 election, are null and void.

DATE: September 5, 2009

BETH LABSON FREEMAN

Judge of the Superior Court

ORDER

EXHIBIT B

AGENDA ITEM
REGULAR JOINT CITY COUNCIL/REDEVELOPMENT
AGENCY MEETING

TUESDAY, SEPTEMBER 15, 2009 ITEM No. VIIIA4

POLICY AND ACTION

Response to San Mateo County Local Agency Formation
Commission Service Review and Sphere of Influence Update
Regarding City of East Palo Alto – (Alvin D. James, City Manager)

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File No: 460/3

October 21, 2009

VIA ELECTRONIC MAIL

Mpoyatos@co.sanmateo.ca.us

Ms. Martha Poyatos, Executive Officer
San Mateo Local Agency Formation
Commission
455 County Center
Redwood City, CA 94063

Re: Continued Agenda Item No. 4; Consideration of Adoption of Municipal Service Review and Sphere of Influence for City of East Palo Alto Supplemental Comments on Final Draft-Municipal Services Review and Sphere of Influence Update, and Recommended Draft Municipal Service Review Determinations and Sphere of Influence Determinations, City of East Palo Alto; San Mateo County Local Agency Formation Commission; Meeting Date: October 21, 2009

Dear Ms. Poyatos:

I. INTRODUCTION

This communication supplements and incorporates the June 30, 2009, July 14, 2009, and September 16, 2009 comments (the "Comment Letters") submitted on behalf of Woodland Park Management, LLC ("Woodland Park") on the proposed Municipal Services Review ("MSR") and the related Sphere of Influence ("SOI") update of the City of East Palo Alto ("City") (the "Draft Review") prepared under the provisions of the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 et seq., the "Act"),¹ before the Local Agency Formation Commission of San Mateo County ("Commission" or "LAFCO").² These supplementary comments were made after review of

¹ All section references will be to the Government Code unless otherwise noted.

² The Commission will sometimes be referenced as a "Local Agency Formation Commission" or "LAFCO" in this communication.

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the LAFCO Final Draft MSR ("Final Review") dated July 7, 2009, and the October 15, 2009 LAFCO Executive Officer "Recommended Draft Municipal Service Review Determinations and Sphere of Influence Determinations and recommendation to Reaffirm Sphere of Influence and City of East Palo Alto" (the, "Recommendation").

At the July 15, 2009 and September 16, 2009 LAFCO hearings considering the MSR, the Commission continued the hearings following oral and written comments from Woodland Park, the City and other interested parties.

Additionally, *after lengthy delay*, the City considered the Final Review and adopted Resolution 2972 on September 15, 2009 supporting the Executive Officer proposed determinations (the "Determinations"), without significant analysis and without providing sufficient additional substantial evidence required to support those Determinations.

The fundamental fact remains that despite the LAFCO Executive Officer's best efforts, the City has still failed to provide sufficient substantial evidence to support the Determinations, rendering the Final Review legally insufficient.

Additionally, the Final Review, *consistent with the intent and purpose of the Act*, should be supplemented to include alternative SOI options allowing for other means of providing governmental services to Woodland Park's property and the other properties in the area managed by Woodland Park (the "affected area") because of the City's currently demonstrated, and anticipated, financial future service inadequacies. .

II. SUMMARY OF SUPPLEMENTAL COMMENTS

The MSR continues to be legally insufficient, again due to the City's failure to provide the Executive Officer with sufficient information to make the determinations supported by substantial evidence required by the Act for an MSR. Woodland Park responds to the comments of several interested parties on the Final Review as summarized in the Recommendation, refuting some of the comments, while clarifying others. Additionally, the Recommendation and its attached MSR and SOI determinations continue to lack analysis of alternatives to the City's current service provision, basing its Determinations on the City's optimism that it will solve its deeply ingrained problems with hopefulness for the future, rather than grounding the Determinations in substantial evidence that the City will be

able to meet its service provision duties—something the City has demonstrated it is unable to do.

III. DOCUMENTS REVIEWED

These comments are based on the documents included in the Woodland Park June 30, 2009 Appendix, documents referenced in the Woodland Park July 14, 2009 supplementary Final Review/MSR communication, the Woodland Park September 16, 2009 supplementary Final Review/MSR communication, the Draft and Final Reviews, the Recommendation, and its accompanying Determinations.

IV. RESPONSE TO THE RECOMMENDATION

The Recommendation, which suggests the Commission adopt the recommended MSR and SOI determinations and reaffirm the City's SOI as coterminous with City boundaries, justifies the final Recommendation by commenting briefly on the various communications transmitted by interested parties. The communications and Recommendation conclusions are discussed below.

A. City of East Palo Alto Response

After months of delay, the City finally transmitted (on September 16, 2009) its response to Woodland Park's substantial evidence evidencing the numerous deficiencies in City service provisions. Predictably, the City provides little evidence to support the Determination, other than token hopeful gestures to be considered in the future, lacking substance. The Recommendation, however, incorporates some of the City future measures as part of the Recommendation, which although a good idea, fail to support findings of adequacy of service provision.

First Woodland Park respectfully disagrees with the Recommendation (pg 2) notation referencing the alleged:

City efforts to address concerns of Woodland Park LLP regarding responsiveness to municipal service needs, in particular police service.

The City, in fact has made little or no effort to cooperate with Woodland Park in protecting the affected area. The City references its efforts to improve its law enforcement and prevention services in the City, and attached in its Comments to the Final Review a description of efforts in Beat 4 to reach out to the community, but in fact lists no efforts to cooperate with Woodland Park, other than declaring (again without explanation or evidentiary support) that Woodland Park should look elsewhere within the City departments for City cooperation regarding crime prevention and law enforcement. Exhibit to Recommendation, p. 9. Indeed, although Woodland Park commends the City in its efforts to improve law enforcement, it has been Woodland Park's contention all along that the City does not have the capacity to meet its policing duties. *See, Comment Letters, passim.* The fact that the Affected Area has not been found to have the most gunshots in the City, as the City alleges [Exhibit to Recommendation, pg. 11], does not contradict Woodland Park's substantial evidence showing that the City has one of the worst crime rates in the area and continues to suffer from rampant violence. *See* Woodland Park June 30, 2009 Comment Letter, pp. 13-13. Stated differently, improvements on a system that is still failing does not mean the system works. As has been amply demonstrated in the Woodland Park Comment Letters, the City has been on notice for *at least nine years* that its law enforcement and crime prevention services are severely lacking, and continue to be lacking. Indeed, in the current recommended SOI determinations, is a determination confirming Woodland Park's ongoing contentions (Exhibit To Recommendation, pg. .4) that:

The Municipal Service Review identifies inadequate funding to provide municipal services and in particular deficiencies in police protection based on demand for service. (Emphasis added)

This determination makes Woodland Park's point. Woodland Park recognizes that turning over law enforcement to other agencies Citywide may not be feasible, but continues to maintain that the MSR should contain LAFCO analysis of the option of reducing the City SOI to remove the affected area, allowing the formation of a community services district (Government Code § 61100 *et seq.*) and/or a police protection district (Health & Saf. Code § 20000 *et seq.*) to directly address at a minimum inadequate law enforcement or some other option that would allow Woodland Park and other local citizens and property owners, to fund and receive contract services, such as *consistently funded* law enforcement assistance from the City of Menlo Park and/or the County Sheriff's Office.

As referenced in the Woodland Park September 16, 2009 communication (pg. 9), such an option would not would not reduce City revenue, rather it has suggested methods be examined for supplementary services which could be funded from assessments or other funding outside of the City budget. The Final Review remains deficient as it fails to even explore any alternatives, as it must.

Indeed, that the Act requires that an MSR must be complete and adequately analyze potential alternatives to the currently planned provision of services is borne out by the Commission on Local Governance of the 21st Century (the "21st Century Commission") report, "Growth Within Bounds" (*"Growth Within Bounds"*), setting forth the legislative intent of the Act:³

The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it would require LAFCO to look broadly at all agencies within a geographic region that provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers. LAFCOs should be provided flexibility in designating the geographic area to be analyzed, the timing of conducting particular reviews, and the scope of the reviews.

Growth Within Bounds, p. 99. (*Emphasis added*) Thus, the 21st Century Commission clarified that it is entirely appropriate and indeed required that LAFCO give serious consideration to alternative service providers, especially given the substantial evidence demonstrating that the City has not and will not be able to adequately provide those services.

³ As one Court has pointed out:

.. the legislative intent of the Act, [is] expressed in a Report of the Commission on Local Governance for the 21st Century... (*Growth Within Bounds*), which was published in January 2000 as a Report of the Commission on Local Governance for the 21st Century.

With respect to the remaining City comments, the Recommendation notes it has made minor changes to its proposed MSR Determinations “to reflect additional information regarding on-going initiatives to address service needs or funding deficiencies.” These ongoing City initiatives are paltry and include: 1) the City noting that Capital Improvement Plan is currently under review and is not adopted.⁴ ; and, 2) an award of \$1.1 million grant to address the fact that it has *no* water storage facilities and no other identified funding source.⁵

Overall, as the Recommendation admits that there has been only minor changes made to the proposed MSR and SOI determinations, the City still has failed to provide sufficient substantial evidence supporting those determinations. Additionally, the Final Review still does not discuss service provision alternatives. Without this substantial evidence, or service provision alternatives, as set forth in detail in the Comment Letters, the MSR is legally insufficient. Gov. Code § 56107.

B. Fair Rent Coalition Communication

On September 15, 2009, an organization known as the Fair Rent Coalition (“Coalition”) submitted a comment letter responding to Woodland Park’s June 30, 2009 MSR comment letter, in which the Coalition made two unsubstantiated comments. First, the Recommendation cites the Coalition communication as “noting that the properties managed by Woodland Park do not overlap with the University Circle Redevelopment Agency.” This statement is misleading, as in its June 30, 2009 communication, Woodland Park *never asserted* the affected area was entirely within the University Circle Redevelopment Project Area (“UCI”), but noted that “a significant portion of the affected area is within” the UCI. Similarly, the Coalition’s assertion cited in the Recommendation, that representatives and affiliates of Woodland Park provided contradictory information about adequacy of public safety to an investment board.”

4 As of this communication, the City has not adopted its Capital Improvement Plan. The City, in its response to the Final Review admits that it is late in considering the Capital Improvement Plan. Exhibit to Recommendation, p. 11. This failure to adopt its Capital Improvement Plan only confirms Woodland Park’s contention that the City ability to improve its services and facilities is spurious and illusory at best.

5 There is, however, no indication of when the grant will be implemented and how much it will aid the City’s lack of water storage. Accordingly, it too is unsubstantial.

A review of the transcript attached to the Coalition communication [Exhibit to Recommendation, pp. 50-64] demonstrates that interested persons spoke on behalf of the efforts *Woodland Park* has made to improve crime in the affected area, not any efforts the City has made. Further, although the commentators in the transcript argued that crime in the area managed by Woodland Park, was improved, it certainly made no arguments that crime prevention and law enforcement was adequate despite the described improvements.

Thus, the unsubstantiated claims in the Coalition communication, as they lack a specific factual and historical foundation, do not arise to the level of substantial evidence, as they are devoid of any evidence whatsoever. *See. Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1417.

C. Response To The Determination's Comments On Woodland Park September 16, 2009 Comment Communication

While the Recommendation details some of the evidence set forth in the Woodland Park September 16, 2009 communication, it concludes that no changes have been made to the Determinations based on this letter. Although Woodland Park respectfully disagrees that the Determinations need not be changed, as set forth extensively in the Comment Letters, Woodland Park requests correction of the inaccuracies and misconception set forth in the Recommendation regarding its September 16, 2009 communication.

First, although the Recommendation, p. 3 correctly points out that not all the recommendations in *Growth Within Bounds* were implemented in Act provisions, as noted, it remains the Act legislative intent. *Placer, supra*, 135 Cal.App.4th at 817. Stated differently, *Growth Within Bounds* remains the determinative guide to interpreting the Act.⁶ Accordingly, the extensive citations to *Growth Within Bounds* set forth in the Woodland Park September 16, 2009 communication [pp. 5-10] remain authoritative directions that an MSR must be comprehensive, and LAFCO must meaningfully consider alternatives, including those presented by Woodland Park. Again, Woodland Park respectfully recognizes the difficulty of fully analyzing alternatives without an adequate input from the

⁶ It is a fundamental rule of statutory construction that when the Legislature has expressly declared its intent the courts must accept that declaration. *Rideout Hospital Foundation, Inc. v. County of Yuba*, (1992) 8 Cal.App.4th 214, 221. Accordingly, LAFCO is also bound by that expressed intent.
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City, nevertheless, Woodland Park respectfully asserts that LAFCO, based on its authority and the 21st Century Commission charge to consider governance alternatives, must evaluate other alternatives for essential efficient governmental services.

Second, Woodland Park respectfully agrees with the LAFCO Executive Officer's comment at Recommendation p. 3 that Government Code section 56430 (Act provision governing MSR's) was amended in 2006 to reduce the number of MSR determinations from nine to six, but has all along not declared that MSR's require nine determination categories, but namely that the Final Review requires legally sufficient evidence to support six determinations.

Third and most importantly, the Recommendation at page 3 acknowledges Woodland Park's voluminous evidence demonstrating City service deficiencies, especially public safety, but provides an insufficient determination to remedy this deficiency. According to the Recommendation, referring to the Final Review Recommended Determination C under the Determinations discussion of the "Financial Ability of the City to Provide Services," the City should re-evaluate its budget frequently, apparently due to the admitted City budgetary deficiencies:

Due to the structural budget deficit compounded by economic uncertainties, the City will need to frequently re-examine and adjust the Adopted Budget and alternatives including contracting for service to meet the most essential of city service priorities, particularly public safety.

Woodland Park respectfully submits that although it agrees that the City should regularly re-evaluate its budget, based on substantial evidence of extreme budgetary difficulties as described in the Woodland Park June 30, 2009 communication at pages 18-19 and the Woodland Park September 16, 2006 communication at page 14, this determination does not go far enough and is inconsistent with the intent and purpose of the Act. **In fact it only confirms that there is no current chance that the City has the financial ability to meet its service provision duties.** Woodland Park submits that this is precisely why alternatives to the City as a single multi-purpose service provider should be thoroughly analyzed in the Final Review. As stated previously, the Act requires that an MSR must be complete and comprehensively analyze potential alternatives

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to the currently planned provision of services, and thus until that is accomplished, the Final Review is not legally adequate.

D. The Final Review Remains Legally Inadequate

Woodland Park acknowledges the difficult work performed by the LAFCO Executive Officer in preparing the Final Review, the Determinations and the Recommendation, and acknowledges the references by the LAFCO Executive Officer in the record to the Woodland Park Comment Letters. Respectfully, however, the Final Review continues to be legally insufficient as the Recommendation conclusion recommends LAFCO approve the Final Review, the associated Determinations and reaffirm the SOI which is currently coterminous with City boundaries without further revision.

First, as has been pointed out all along in the Comment Letters, the Final Review, although now supplemented by comments from the City, remains insufficient as the City has failed to provide the Executive Officer sufficient information necessary for the Commission to make the determinations required by the Act for an MSR. To wit, the majority of the City evidence presented, although sometimes acknowledging some of their service provision difficulties, points out alleged improvements in the future, many of which represent hopeful projections that improvements will occur. The Determinations reflect this unfounded optimism, by encouraging spurious future improvements that the City claims it will accomplish, for example:

- 1) proposed future City website improvements, future efforts to improve Brown Act compliance, and continuing to facilitate a process to access and respond to concerns regarding adequacy of City services in order to improve governance, and accountability for community service needs, including governmental structure and operational efficiencies;
- 2) review and adoption of a Capital Improvement Plan (already delayed), recommended future cooperation between the City and private water utilities to discuss opportunities for shared resources, interties, and best practices to best serve the community;
- 3) City's need to frequently re-examine and adjust the

Adopted Budget and alternatives including contracting for services to meet the most essential of city service priorities, particularly public safety to address the demonstrated City financial inability to provide services; and,
4) for the City to examine additional opportunities to work with neighboring jurisdictions.

Determinations, pp. 1-4. While Woodland Park of course supports encouraging the City to continually strive to improve its services, as Woodland Park has extensively set forth in the Comment Letters, however, *the City has a long track record of failure in these service provisions*. There is no evidence whatsoever, that the City will now magically be able to solve its inherent problems, especially in light of the nationwide financial crisis. In particular, as a practical matter, given the City's budget, it is unclear how re-examining the budget will solve the problem, especially with respect to vital law enforcement services. Stated differently, where is the evidence that the City will be able to accomplish its hopeful plans? Certainly the City has not provided the evidence to substantiate the Determinations. Again Woodland Park must ask the rhetorical question—how long must the City residents and property owners wait to receive adequate public services, especially law enforcement and crime prevention?

More importantly, Woodland Park maintains, that even the Determinations themselves, which admit numerous City service provisions deficiencies, illustrate the need to examine alternatives to the City as an all-encompassing single service provider. Under the Act, LAFCO must also re-consider and re-evaluate its conclusions regarding providing governmental alternative service providers to address inadequate City services; the Act legislative intent clearly requires an alternatives discussion in an MSR to be comprehensive and thorough, and does *not*, as has been stated before, favor a multi-service provider like the City when the City is not the most efficient or capable service provider.⁷ Again, Woodland Park has contended that the Final Review should contain LAFCO analysis of the option of reducing the City SOI to remove the affected area, allowing the formation of a community services district (Government Code §61100 et seq.) and/or a police protection district (Health & Saf. Code § 20000 et seq.) to directly address at a minimum inadequate law enforcement and street maintenance and lighting deficiencies or some other option that would allow Woodland Park and other local

⁷ See, Woodland Park September 16, 2009 MSR communication, pp. 8-10.
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citizens and property owners, to fund and receive contract services, such as law enforcement assistance from the City of Menlo Park and/or the County Sheriff's Office. As Woodland park has set forth, options could be examined that would be funded from the community, rather than costing the City more money. Considering alternatives that would allow for the service provision of alternative agencies would be consistent with LAFCO's mandate to ensure that:

“whether governmental services are proposed to be provided by a single-purpose agency, several agencies, or a multipurpose agency, responsibility should be given to the agency or agencies *that can best* provide government services.” Gov. Code § 56001.

Woodland Park has presented voluminous evidence that the City cannot best provide government services in all categories.

V. CONCLUSION

Woodland Park recognizes the time and effort advanced by the LAFCO Executive Officer in this matter. However, maintaining the status quo by reaffirming the SOI is not the way to remedy a City that is failing its citizens. Woodland Park understands that LAFCO does not have the jurisdiction to affect the change needed for the City to provide adequate services. The Commission's jurisdiction *is*, to determine *which* local entity can provide those services. Woodland Park respectfully maintains that in addition to demanding further substantial evidence from the City to support the Determinations, the weight of the law and evidence mandates the inclusion of alternatives discussion, prior to LAFCO voting to approve the Final Review and simply re-affirming the SOI as it is currently established.

Thank you for your consideration of these comments.

Very truly yours,



William D. Ross

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WDR:sf

cc: David Taran
Jim Shore, Esq.