

**LOCAL AGENCY FORMATION COMMISSION**

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September 10, 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 meeting to allow additional time for consideration and comment by the City at a regular council meeting. It was anticipated that the Council would consider the MSR/SOI at the September 1 council meeting, however consideration has been delayed to the September 15, 2009 meeting of the Council, the night before your LAFCo meeting. Staff has prepared the attached summary of determinations contained in the report.

It is recommended that, unless after the September 15 council meeting the City provides new information that merits amendment of the report and determinations, the Commission accept the municipal service review and sphere of influence update for the City of East Palo Alto, adopt the municipal service review determinations contained below and sphere determinations contained on Pages 29 and 30 in the attached report and reaffirm the City's sphere of influence as coterminous with City Boundaries.

**Governance, 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 and to assure public participation.
- d. Based on comments, it is recommended that the City 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 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 and has no identified funding source.
- 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 park land and the existing 16 acres of parks and open space, the City needs an additional 21 acres of neighborhood.
- 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.



**Municipal Service Review
And Sphere of Influence Update
City of East Palo Alto
July 7, 2009**

Government Code Section 56430 requires that LAFCo complete municipal service reviews and sphere of influence reviews on all cities and special districts. This report is a municipal service review and sphere of influence update for the City of East Palo Alto. The municipal service 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:

- 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 service needs, including governmental structure and operational efficiencies
- Any other matter related to effective or efficient service delivery, as required by commission policy

Once adopted the service review determinations are considered in reviewing and updating of spheres of influence pursuant to Government Section 56425. The sphere of influence, which serves as the plan for boundaries of a city, is discussed in the second part of this report. Simply put, for cities, the sphere of influence indicates which city can best provide municipal services to an unincorporated area. This State-mandated study is intended to identify challenges and opportunities and provides an opportunity for the public and affected agencies to comment on city service, finance and opportunities to share resources.

While the circulation draft did not, this version of the service review and sphere update includes recommended determinations at the end of each section. It is important to emphasize that

information contained in the report is based on budgetary and other data provided by agencies or on their websites. While determinations may indicate deficiencies in revenues, inadequate public information or municipal service levels, the statements are specific to State mandated areas of determination and are not directed at the quality or dedication of personnel in the organization.

San Mateo Local Agency Formation Commission (LAFCo): 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. Among the purposes of the commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.

The Commission includes two members of the Board of Supervisors, two members of city councils, two board members of independent special districts, a public member, and four alternate members (county, city, special district and public). LAFCo adopts a budget and contracts with the County of San Mateo for services. The Executive Officer serves as LAFCo staff reviewing boundary change applications and preparing municipal service reviews and sphere of influence studies. LAFCo's net operating budget is apportioned in thirds to the County of San Mateo, the 20 cities in the County and the 23 special districts.

Fiscal Condition of Cities

As noted in The Fiscal Condition of Cities 2003¹, a city's fiscal health is at the core of its ability to deliver local services. Challenges cited in the 2003 report include: city reliance on revenues that in many cases it can't control, including property tax diversion by the State of California; declining sales tax revenues; lack of public support for tax increases; and increasing public safety salaries and retirement benefit costs. Since the 2003 report was issued, the economy and local government revenue picture have significantly worsened. It is therefore important to note that in the midst of the current recession, the housing market collapse and State budget crisis²,

¹ A report prepared by Institute for Local Self Government, a nonprofit affiliate of the League of California Cities, in which California Cities are surveyed on trends and challenges.

² While California voters approved the passage of Proposition 1A in November 2004 to prevent future shifts of local government revenues, the measure provided the exception that the State could do so if the Governor proclaimed a

all California cities and counties are in fiscal crisis, with some cities and counties more vulnerable than others based on diversity of revenue sources, accrued reserves and extent to which cost containment measures can be implemented.

In this context, while the City of East Palo Alto has made great strides in the areas of economic and community development, improved fiscal policy and cost containment, a sustained economic downturn will undermine the City's ability to maintain service levels, eliminate a long standing structural budget deficit and build reserves. This report therefore focuses on the General Fund and the major challenges in providing essential services.

This July 6 updated report addresses questions and comments at the June 17 preliminary hearing on the circulation draft. Also since the LAFCo preliminary hearing, LAFCo received extensive comments (including 148 pages of exhibits) from Attorney William D. Ross, representing the Woodland Park Management LLC³ which manages approximately 1700 units of multi-family residential apartments within EPA boundaries but west of U.S. 101, south of Menlo Park and north of Palo Alto/Santa Clara County. The following summarizes Mr. Ross' comment letter.

Mr. Ross indicates that the LAFCo circulation draft recommends that the Commission adopt a determination that the City has adequate capacity to supply present and future service.⁴ He states that the city failed to provide LAFCo with adequate information to make the findings⁵ required in section 56430 and cites evidence of deficient city law enforcement, crime prevention, road maintenance and street lighting. Mr. Ross also comments on lack of information provided by the City identifying opportunities for shared facilities or support for a determination of adequate accountability to the public and operational efficiencies and that there are lost opportunities. He cites failure by the City to comply with the Brown Act in posting agendas of the City's Rent Control Board and in failing to clearly state a brief general description of each agenda item

severe state financial hardship. If as part of a State Fiscal Emergency, the State suspends this provision of Proposition 1A, the State could borrow up to 8% of each city and county's prior year's total property tax allocation.

³ Woodland Park is an affiliated limited liability corporation of Page Mill Properties LLC.

⁴ Staff notes that the circulation draft makes no recommendations on determinations but contains information on city services, finance and governance in the six areas of Determination under 56430, noting that determinations would be prepared based on comment on the circulation draft. The report is based on information available on the City's website and initial submittal by the City.

⁵ LAFCo 56430 requires LAFCo to prepare a written statement of determinations with regard to 6 areas of municipal service. Determinations as adopted by the Commission serve as defining policy, quasi legislative statements versus findings or quasi-judicial deductions of fact by this LAFCo

of business to be transacted. Mr. Ross states that the Draft MSR should indicate that the City is not implementing the goals and/or policies of the General and Redevelopment Plans.

Mr. Ross also states that the Draft MSR contains no sphere of influence alternatives, including reduction of the City's SOI to remove the affected area west of 101 and provide for formation of a community services district to address deficient services to the affected area. Mr. Ross submits that the information in the municipal service review should be augmented to address these issues. The following revised service review responds to these comments where appropriate.⁶

Overview: City of East Palo Alto

The City of East Palo Alto, incorporated in 1983, is a general law city with five council members elected at-large. The Council selects the Mayor and appoints the City Manager and City Attorney. The State Department of Finance January 2009 estimated population for the City was 33,174 persons (Census 2000 was 29,506). East Palo Alto encompasses approximately 2.5 square miles and is bounded by the City of Menlo Park, the San Francisco Bay and the San Mateo-Santa Clara County (City of Palo Alto) boundary. The City sphere of influence is coterminous with city boundaries and therefore, absent an amendment of the neighboring city sphere, annexation is not an alternative.

Since incorporation, the City has assumed service previously provided by the County of San Mateo including East Palo Alto County Water District, Ravenswood Highway Lighting District, and East Palo Alto Drainage Maintenance District. Municipal services provided by other agencies include fire protection and emergency response by Menlo Park Fire Protection District, residential water service to two neighborhoods by two mutual water companies and sanitary sewer service provided primarily by East Palo Alto Sanitary District and the balance by West Bay Sanitary District.

⁶ Comments also included reference to required LAFCo findings and Office of Planning and Research (OPR) Municipal Service Review Guidelines. The December 2008 Cortese Knox Hertzberg Local Government Reorganization Act of 2000 revised service review determinations from the original nine to six and removed reference to the OPR Guidelines. Section 56430 requires LAFCo to prepare a written statement of determinations with regard to the 6 areas of municipal service. Determinations are quasi legislative statements and serve as defining policy and supporting information, versus quasi-judicial deductions of fact.

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

In regard to the degree to which the City keeps residents, property owners and business owners informed about City services, budget and programs, the City Council meets the first and third Tuesday evenings of each month. The City Council is comprised of 5 members, elected at large to serve four-year terms. The Mayor is nominated and elected by the members of the Council and serves a one-year term. Council Agendas are posted in conspicuous locations throughout the City in addition to City Hall and the library at least 72 hours prior to regular meetings, and also are posted on the City's Website. The Agendas are also distributed to a list of subscribers which includes the members of the press, City recognized union leadership, residents and interested parties. City boards and commissions include: Planning Commission, Rent Stabilization Board, Transportation Advisory Committee, Senior Advisory Committee and Youth Advisory Committee.

The City of East Palo Alto Website (www.cityofepa.org) contains contact information, including materials such as adopted budgets, annual audits, press releases, job position recruitments and other information. Copies of the budget, audit and other reports are also provided upon request, for a nominal fee. Additional information that would be useful to add to the website includes links to 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.

Also, in the course of preparing this report, LAFCo staff found that reports to be considered by the Council were not available on line. In order to promote public access to information and public participation, the City is encouraged to implement a best practice of most public agencies to include links on the website agenda to the staff report concerning each agenda item. Absent this information on-line, reports and recommendations considered by the City Council are not readily available to the public. Absence of this information on-line also requires staff time and copying expense for individual requests of staff reports.

As noted above, additional comments received cite the lack of adequate description for each agenda item of business to be transacted or discussed and failure to post the agenda for

meetings of the Rent Control Board and Subcommittees. The City Manager and Council may wish to conduct a review of agenda format for City Council and Committee meetings to assure uniform compliance with the Brown Act.

The City of East Palo Alto has 118.38 full-time equivalent positions in the 2009-10 fiscal year, including 43 sworn officers equating to 1 fulltime city position per 280⁷ of population or 1 sworn officer per 771 of population. Annual statistics published by San Mateo County Public Safety Dispatch report 34,541 police incidents in 2007 and 35,659 police incidents in 2008.⁸

In regard to police staffing levels, in 2000 the City Council received a consultant prepared report to address correcting operational and managerial deficiencies and improving community policing. In 2003, a Civil Grand Jury Report identified the Police Department's failure to implement the recommendations, including conversion to 'Area Command' model of policing. In 2007 the Police Department converted to the 'Area Command' model, in which the City is divided into two areas with two beats each and one captain responsible for two beats.

The 2008-09 Budget included 4 vacant sworn positions that were frozen in 2007 in order to increase police officer salaries and benefits to better attract and retain police personnel. The 2009-10 budget removes these four vacant, frozen positions from the budgeted staffing level to more accurately reflect funded positions. Of the 43 sworn, funded positions, five are vacant but are being filled. In this regard there is not a reduction in funded staffing level from 2008-09 to 2009-10.

Also, a recently provided City of East Palo Alto Police Department budget presentation includes the following comparison with other departments.

Agency	Population (Census 2000)	General Fund	# of Officers	Calls for Service (For March 08)
Menlo Park	30,785	\$14.6 million	50 sworn	1,646
Pacifica	38,390	\$9.3 million	40 sworn	557
Foster City	28,803	\$10 million	39 sworn	2,914
East Palo Alto	32,000	\$8.9 million	43 sworn	3,263

⁷ Compared to city of Menlo Park (population of 31,865) with 207.87 General Fund Full Time Equivalent.

⁸ Compared to City of Millbrae (population of 20,876) with 20 sworn officers, 19,867 incidents in 2007 and 20,674 in 2008 and City of Menlo Park (population of 31,865) with 50 sworn officers, 18,667 incidents in 2007 and 20,739 in 2008.

The budget presentation also included comparative Part 1 Crime Statistics for the City of East Palo Alto for the period of 2003-2005 and 2006-2008 demonstrating an over all drop of 18% in violent crimes, robbery, burglary, larceny and motor vehicle theft.

The budget presentation also provided information on several 2008-09 Police Department programs and initiatives including the hiring of six officers, promotion of two sergeants, outreach including conducting four chats with the chief and 48 beat meetings, Police Athletic League activities serving approximately 100 youth, Project Safe Neighborhood Year 2, a comprehensive, multi-jurisdictional program designed to reduce violence, served 170 parolees in reentry, started the Caltrans Job Program, employing 20 parolees and 2 supervisors, implemented citywide gunshot detection system and provided enhanced training for officers. The Police Department cites partnerships with several local, state and national law enforcement agencies. One such high profile collaboration was Operation Crackdown, a collaboration between the FBI, East Palo Alto Police Department and Menlo Park Police Department leading to the successful capture of 54 gang members.

In regard to deficiencies in adequacy of policing in the City and in the affected area west of 101 that includes the Woodland Park⁹ cited by Mr. Ross, the City of East Palo Police Department Budget, Police Department Summary Report, Grand Jury and other reports acknowledge that crime, in particular violent crime, continues to be significant problem in East Palo Alto.

The City Council has an adopted budget priority to fund law enforcement recognizing a demonstrated need to adequately fund the police department. The Police Department budget and reports indicate the need and practice to share resources, work collaboratively and participate in joint efforts with other agencies. The adopted Area Command Model provides the opportunity to engage the community to best meet the needs of neighborhoods, including the area separated by U.S. 101 and the opportunity exists for the City to respond directly to the concerns expressed in Mr. Ross' comments on behalf of Woodland Apartments.

⁹ Woodland Park is included in Beat Area Four.

Other City Service Delivery Patterns:

Upon incorporation, several independent and County-governed districts remained intact and have since been transferred to the City. These include County-governed East Palo Alto County Water District, East Palo Alto Drainage Maintenance District and Ravenswood Highway Lighting District. The table below summarizes service delivery patterns. Fire protection and paramedic service are provided by Menlo Park Fire Protection District¹⁰. City services include: public safety (police), public works (roads, traffic signals, street lights, drainage, facility maintenance water planning and building, parks and recreation, landscaping and median maintenance, street lights, general city administration. The City is included in the Ravenswood Elementary School District and Sequoia High School District. Appendix A includes a profile and map of the City.

Service	Provider
Police	City of East Palo Alto
Fire	Menlo Park Fire Protection District ¹¹
Streets	City of East Palo Alto
Street Lights	City of East Palo Alto ¹²
Sewer	East Palo Alto Sanitary District (majority) West Bay Sanitary District (portion) ¹³ (see map)
Water	City of East Palo Alto O'Connor Tract Co-Operative and Palo Alto Mutual Water Companies ¹⁴ (See map)
Drainage	City of East Palo Alto
Flood Control	San Francisquito Creek Flood Control Zone (Partial)
Park & Rec.	City of East Palo Alto
Libraries	San Mateo County Library Joint Powers Authority
Animal Control	Peninsula Humane Society under contract administered by County of San Mateo on behalf of the twenty cities and

¹⁰ The District operates one of its seven Fire Stations in the City of East Palo Alto but services the area from two other strategically located stations in adjoining Menlo Park. The Fire District responds to an average of 2500 incidents per year in the City and the Engine Company is the busiest in the District. The minimum staffing for each fire station is three personnel consisting of a Captain, Engineer and Advanced Life Support Paramedic. San Mateo County fire agencies participate in the San Mateo County Pre-hospital Emergency Services Joint Powers Authority (ALS-JPA), the San Mateo Operational Area Emergency Services JPA and the Fire Net Six providing centralized dispatch and a move-up-and-cover plan to ensure that systematic fire station coverage is provided during periods of increased service demand. American Medical Response (AMR) and four local fire agencies provide emergency advanced life support transport.

¹¹ See separate Service Review for Menlo Park Fire Protection District.

¹² County Governed Ravenswood Highway Lighting District and East Palo Alto Drainage District were transferred to the City including all district assets, revenues and fund balance.

¹³ The majority of East Palo Alto is served by East Palo Alto Sanitary District and a smaller area is served by West Bay Sanitary District . Please see separate service reviews for these agencies.

¹⁴ A mutual water company is not subject to LAFCo jurisdiction but is included in this report to the extent information is available.

	the County
Garbage	Allied Waste under a franchise agreement granted by City of East Palo Alto

Draft Determinations: Governance, 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 and to assure public participation.
- d. 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.

2. Growth and population projections

As noted above, the State Department of Finance January 2009 estimated population for the City was 33,174 persons and Census 2000 population was 29,506. The following table summarizes Department of Finance Data for Census Years 1970 through 2000.¹⁵

1970	18,727
1980	18,191
1990	23,451
2000	29,506

The Association of Bay Area Governments (ABAG) "Projections 2007" projects population growth of 17,794 over Census 2000 population, or 60% by 2035 for the City of East Palo Alto. It is important to note that ABAG projections are based on ABAG "smart

¹⁵ Data from 1970 and 1980 based on unincorporated territory prior to incorporation.

growth" policies and are not based on City General Plans currently in place nor are they based on current economic conditions.

The following table summarizes these projections:

Census 2000 & ABAG 2035	2000	2035
City of East Palo Alto	29,506	47,300

In addition to the existing residential population, demands for city services and traffic are impacted by the Ravenswood 101 Retail Center and University Avenue, which serves as a main thoroughfare between the Dumbarton Bridge and U.S. 101.

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

The City of East Palo Alto's owned and leased facilities are listed below.

Leased Facilities/Properties

<u>Facility/Property</u>	<u>Location</u>	<u>Condition</u>
City Hall	2415 University Ave.	Good
Maintenance Corp. Yard	150 Tara Street	Good
*Land Lease	140 Demeter Street	Good
1,500 Sq.Ft. in the YMCA	550 Bell Street	Excellent

- City leases the land for the Police Facilities

Owned Facilities/Properties

<u>Facility/Property</u>	<u>Location</u>	<u>Condition</u>
Community/Housing Services	2277 University Avenue	Good
*Police Department	141 Demeter Street	Good
Community Development Dept.	1960 Tate Street	Good
Senior Center	560 Bell Street	Good
MLK Jr. Park Concession Stand	MLK Park	Excellent

and restrooms		
Jack Farrell Restrooms	Fordham Street	Excellent
Cooley Landing	Bay Road	
Bell Street/Ravenswood Park	University and Bell Streets	Good
Bell Street Community Pool	Bell Street	Need Modification
Joel Davis Memorial Park	Tate Street	Excellent
Wangari Maathai Grove	Newbridge and Bay Road	Good
Bay/East Bayshore Mini Park	Bay Road and East Bayshore	Good
O'Connor Street Pump Station	1180 O'Connor Street	Good

*Buildings owned by City, Land Leased

The City response details needed improvements to both leased and owned facilities and cites limited funding available to complete improvements and upgrades.

Streets

The City of East Palo Alto Public Works Department maintains City streets, traffic signals/signs, and rights of way including sidewalks and paths as well as city owned and leased facilities. Public Works maintains approximately 38 centerline miles of pavement. The majority of the street network is comprised of residential/local streets.

In June 2007, the City received a Pavement Management Program that assessed the condition of the City's streets, determined replacement value at approximately \$43.7 million and found that using the pavement condition index (PCI)¹⁶, approximately 60% of city streets were in good/fair condition and 40% were in poor to very poor condition. According to the report, the average PCI for the entire City street network is 54, which indicates the network overall is in fair condition. The report also cited that the network PCI will drop below 45 by 2011 if a substantial amount of preventative maintenance and rehabilitation is not completed.

The study 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. The study also included pavement maintenance and re-inspection strategies and provided examples of funding sources to generate additional revenue to fund needed rehabilitation and maintenance of City streets.

¹⁶ The pavement condition index, or PCI, is a measurement of pavement grade or condition and ranges from 0 to 100. A newly constructed road would have a PCI of 100, while a failed road would have a PCI of 10 or less.

Street Lighting

In 2005, the County-governed Ravenswood Lighting District was transferred to the City along with assets consisting of a fund balance of approximately \$1,004,000; the annual property tax, interest and other revenue of approximately \$140,000 per year; principal and interest proceeds (as of November 30, 2005) in the amount of \$62,600 from an outstanding \$50,000 loan made to Drainage District; and approximately 803 lights. Upon transfer, the County provided an inventory including the location of existing lights as well as all documents associated with the Lighting District.

Drainage & Flood Control

In 2005, the County also transferred the East Palo Alto Drainage Maintenance District to the City. Assets of the Drainage District included a vacant 10,000 square foot parcel that was transferred to the EPA Redevelopment Agency for \$250,000¹⁷ and improvements to the property, including the O'Connor Street Pump Station, a fund balance of approximately \$5,600; and the annual property tax, interest and other revenue of approximately \$25,000 per year. The City was also successor to the \$62,600 debt to the Lighting District noted above.

Storm water drains to the San Francisco Bay via pipelines 72" in diameter and to the San Francisquito Creek to the Bay via 54" pipelines. Funding for drainage maintenance has been limited to property tax revenue and interest on fund balance. More recently, where possible the City has required drainage improvements related to new development.

Water Service

In 2001, the County-governed East Palo Alto Water District that served the majority of East Palo Alto and a portion of Menlo Park was dissolved and the water system was transferred to the respective cities. The City of East Palo Alto's portion is managed by the Department of Public Works under contract with American Water Company¹⁸. The agreement includes a provision for capital investment by American Water Company of \$8 million or an

¹⁷ The proceeds of the transfer were deposited to the County's Housing and Community Development Account.

¹⁸ The City leases the water system to American Water and American Water operates the water system, manages billing and performs routine and emergency repairs.

amount as required for the first ten years of the lease agreement.

In 2005, the City adopted its first Urban Water Management Plan (UWMP)¹⁹ and has recently issued a request for proposals for the updated plan. The UWMP (available on the City's website) provides information on the City's program and plan to provide a safe, secure water supply in the short and long term. The Plan includes predictions concerning future water demand, contingency planning in case of short- or long-term droughts and catastrophes, and potential strategies to enhance and diversify East Palo Alto's water supply with recycled water, desalination and water marketing options.

The service area of the City of East Palo Alto's municipal water system covers approximately 2.3 square miles. Two private water companies serve small sections of the city outside the municipal water system: the Palo Alto Park Mutual Water Company and the O'Connor Tract Co-Operative Water Company. The City of East Palo Alto water system receives all of its water from the San Francisco Public Utilities Commission (SFPUC)²⁰. Other potential water sources include local groundwater and desalinated San Francisco Bay water.

As noted in the UWMP, the City has no water storage facilities. Upon dissolution of the County Water District and transfer of the system, the Cities of East Palo Alto and Menlo Park funded a study of joint water supply alternatives and determined that a joint project was not feasible. The City's 2005 UWMP includes information on water supply and demand and alternative emergency sources. In case of emergency, the City may rely on six 6-inch interties connecting its water distribution system with those of the Cities of Menlo Park and Palo Alto, the Palo Alto Park Mutual Water Company and the O'Connor Tract Co-operative Water Company. The interties may be used to supplement any of the four agencies' water supply in the event of a disaster. While the City owns a groundwater well at Gloria Way and Bay Road, it is out of service due to poor water quality.

¹⁹ As required by the California Urban Water Management Planning Act, cities and districts that have more than 3,000 customers must adopt and update an urban water management plan every five years. The City has issued a request for proposals for a Citywide Water Master Plan Update with the goal of completing the updated plan by October 2010.

²⁰ The City of East Palo Alto is one of 27 local agencies that are wholesale water customers of the SFPUC

The 2005 UWMP cites the City's proposal to construct two 500-gallon-per-minute (gpm) groundwater wells and a treatment facility with two one-million-gallon blending reservoirs for disinfection and stabilization with the Hetch Hetchy surface water supply. The treatment works are estimated to cost approximately \$1.925 million and the reservoirs \$2 million each. Proposed funding cited in the UWMP was a grant application for Proposition 50 funding with the California Department of Health Services.

Private Water Companies

Mutual water companies and co-operatives are not regulated by LAFCo or California Public Utilities Commission or subject to public meeting and records laws. This report includes basic information available on Palo Alto Park Mutual Water Company and O'Connor Tract Co-Operative Water Company in order to address to the extent possible all municipal type services provided to all city residents. As private entities, mutual water companies are governed by a five-member board of directors elected by the shareholders who consist of the owners of property connected to the system. The boards typically meet monthly or quarterly and hold an annual meeting for shareholders.

Systems that serve more than 200 persons are regulated by California Department of Health Services (DHS) to enforce the California Safe Drinking Water Act, which regulates water quality, operator qualifications, maintenance, and systems design. Information contained herein is provided by the companies and contained in documents provided by DHS.

Palo Alto Park Mutual Water Company

Palo Alto Park Mutual Water Company was formed by farmers in 1924 and continued to serve residential users as agricultural uses were discontinued and the land was subdivided.²¹ According to the Company's 2007 Annual Report filed with DHS, it currently serves 677 un-metered (flat rate) residential connections, 2 metered residential connections and 20 commercial un-metered (flat rate) connections. The system also includes 77 fire hydrants and 8 inactive connections. The Company's water source is ground water. The Company's Consumer Confidence Report 2007 states that the system includes five source water well pumps

²¹ The 1963 San Mateo County Planning Commission General Plan cites this unincorporated area's 1961 chrysanthemum and cut flower crop at \$1,128,000 or 12.5% of the County's total floral production.

located at 2190 Addison in East Palo Alto, that pump the water into the Company's storage tank where it is blended and pumped by two booster pumps that maintain pressure at 68 p.s.i. (pounds per square inch) throughout the distribution system.

Recent correspondence provided by the California Department of Health Services includes a Notice of Violation regarding levels of Iron and Manganese and provides the Company with specific instructions for weekly testing and monitoring.

O'Connor Tract Co-Operative Water Company

O'Connor Tract Co-Operative Water Company was formed in 1921 to provide water to member landowners for domestic, stock water and irrigation use.²² Serving portions of East Palo Alto and Menlo Park, the Company shares a common boundary with Palo Alto Park Mutual Water Company. Service area in East Palo Alto includes territory generally bounded by O'Keefe, Menalto, Green and Euclid. The Company reports 35 metered and 340 non-metered residential connections, 2 irrigation connections and 18 fire hydrants. Water supply is ground water with two wells on Oak Court and a 100,000-gallon tank, a surge tank, and a generator. Correspondence provided from DHS to the Water Company includes recommendations on system maintenance and states that in general DHS finds the water system facilities to be in satisfactory condition. The above noted non-metered connections do not allow for monitoring conservation practices or establishing water rates that encourage conservation.

Police

The City of East Palo Alto Police Department is located at 141 Demeter Street. The City owns the buildings and leases the land and reports that facilities are in good condition. The East Palo Alto Police Department stated mission that it is committed to providing effective police service for the community through professional, courteous and responsible service. The City's adopted budget for 2008-09 included staffing level of 54 police personnel, of which 43 are sworn officers, and an Operating Budget of approximately \$9,393,458 or 47% of Adopted General Fund Operating Expenditures. The Department includes Administration, Investigation and Operations Divisions and provides community police protection and code enforcement. As noted above, based on the 2009 Department of Finance population

²² City of East Palo Alto, Draft Utility Consolidation Study, November 1996.

estimate of 33,174 the staffing ratio is 1 sworn per 771 of population.

Initiatives to maximize resources include pursuit of grant funding, collaboration with city, county, state and federal resources, use of Measure C funds for the provision of crime/violence prevention services with an emphasis on youth and families (see budget discussion below), and community engagement including "Crime Prevention Updates". (See additional discussion of staffing level on pages 6 and 7 above.)

Parks & Recreation

Park and Recreation is provided via the Community Services Department. 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, including 19 acres of sports fields (3 softball, 8 soccer, 8 baseball fields and 4.7 miles of multi-purpose paved trails), the City needs an additional 21 acres of neighborhood parks based on. Limited improvements on existing facilities are proposed to be funded with potential Park-in lieu funds and the City indicates the balance of unfunded improvements will be included in the 5-Year Capital Improvement Plan.²³

Library

The City of East Palo Alto is a member of San Mateo County Library Joint Powers Agreement (JPA). In 1998, the City joined the County and ten other cities in the JPA to coordinate and expand library services throughout the member agency boundaries. Because the Library fund was levying a tax before Proposition 13, the Fund receives a share of the 1% property tax in unincorporated areas and eleven cities. The JPA is funded primarily from this revenue and provides library services in library facilities owned by member agencies. Maintenance of library facilities is funded by the agencies that own each of the library buildings.

²³ *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 indicating the City Council has reviewed the Street and Roadway portion of the Plan; and, the Plan has been reviewed and approved by the Public Works and Transportation Committee. The plan is currently in the Planning Commission for review, discussion, and recommendations.*

Animal Control

The City of East Palo Alto along with the other 19 cities in the county and the County San Mateo is part of an agreement administered by the County providing for a countywide animal control program under contract with the Peninsula Humane Society & SPCA (PHS), a private, non-profit organization. Under the contract, the PHS enforces all animal control and anti-cruelty laws and provides sheltering for homeless animals and other services.

Garbage/Solid Waste & Recycling

The City of East Palo Alto, along with Atherton, Belmont, Burlingame, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, West Bay Sanitary District, and San Mateo County, is part of the South Bayside Waste Management Authority (SBWMA) which is a joint powers authority (JPA). The goal of the SBWMA is to provide cost effective waste reduction, recycling, and solid waste programs to member agencies through franchised services and other recyclers to meet and sustain a minimum of 50% diversion of waste from landfill as mandated by California State Law, AB 939. Currently, Allied Waste Services,²⁴ a private company, provides collection, disposal and recycling services for the 91,000 SBWMA residences and nearly 10,000 businesses.

Rates for customers of SBWMA member agencies vary in each jurisdiction based on level of service (number and size of containers, curbside versus non-curbside pick up) and franchise fee²⁵ charged by the jurisdiction.

Annual garbage collection fees are billed on the property tax bill for residential customers at a rate of \$348.96, which also includes fees for street sweeping and litter control services. The City of East Palo Alto also receives franchise fees from Allied.

For comparison purposes, the following table reflects residential rates as reported in the December 29, 2008 Hilton, Frankopf & Hobson, LLC (HF&H) Review of Allied Waste Collection Rate Application Final Report, for Cities of East Palo Alto and Menlo Park.

²⁴ The contract between Allied Waste and 12 local government jurisdictions is set to expire at the end of 2010.

²⁵ The purpose of franchise fees are typically to cover the costs associated with managing the franchise agreement with the trash collection company and for use of right of way.

	Menlo Park	East Palo Alto
1 Can/monthly	\$15.74	\$25.13
2 Can/monthly	\$48.71	\$50.26
Rates vary based on curbside or yard service. Cities of Menlo Park and EPA bill standard residential service on property tax bill. City of EPA bills for 1-95 gallon container as standard for residential service.		

Recommended Determination(s) 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.
- 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 and has no identified funding source.
- 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 park land and the existing 16 acres of parks and open space, the City needs an additional 21 acres of neighborhood.
- i) The City of East Palo Alto does not own library facilities.

4. Financial Ability of Agencies to Provide Services

Key revenue streams available to California cities for general fund operations include property, sales and use tax, business license tax, transient occupancy tax (or hotel tax) and utility user tax.²⁶ Cities may also, with voter approval, assess parcel taxes. In the last decade, city revenues have been drastically reduced because these revenues are directly tied to the economy and housing market and in the case of property tax, subject to State "borrowing". Since Proposition 13 was passed in 1978, control of local revenues has shifted to the State allowing the state to divert local revenues to mitigate State budget shortfalls. On the expenditure side, the cost of the non-enterprise city service operations funded with these revenues has increased, in many years at a higher rate than City general fund revenues.

Alternatives available to cities and counties to balance budgets include: reducing service levels; deferring projects; sharing service and joint power agreements with other agencies; passing new taxes; increasing existing taxes and fees; maximizing grant funding; promoting land use and economic development to increase additional revenue or expand revenue diversity; and drawing down on reserves. In San Mateo County, the County, cities and special districts participate in many joint power agreements for services such as animal control, fire protection, library service, sewage treatment, emergency dispatch, ambulance and

²⁶ Other revenues such as service fees and charges for city utilities including water, sewer and garbage collection are often the largest source of city revenues, but are restricted to funding provision of these enterprise services.

transportation planning. As cost savings measures, cities have entered into agreements to share specific positions such as battalion chief, police chief or other positions.

City of East Palo Alto Budget

The City of East Palo Alto Budget includes the General Fund, Special Revenue Funds, Debt Service and Capital Projects. The General Fund, the focus of the service review, includes basic city services including Administration, Community Development, Community Services (including Parks & Recreation), Library, Police, and Public Works. A summary of the General Fund for Fiscal Years 2007-08 (Actual), 2008-09 (Projected) and 2009-10 (Proposed) are shown on the following pages extracted from the City of East Palo Proposed 2009-10 Budget. As shown, in 2007-08 General Fund Revenue exceeded expenditures by \$2.3 million, Projected 2008-09 General Fund revenues fall short of expenditures by a deficit of -\$1,066,513 and in the 2009-10,²⁷ the Proposed General Fund revenues are projected to fall short of expenditures by a deficit of -2,250,377. Deficits are offset by drawing down on the City's Reserve.²⁸

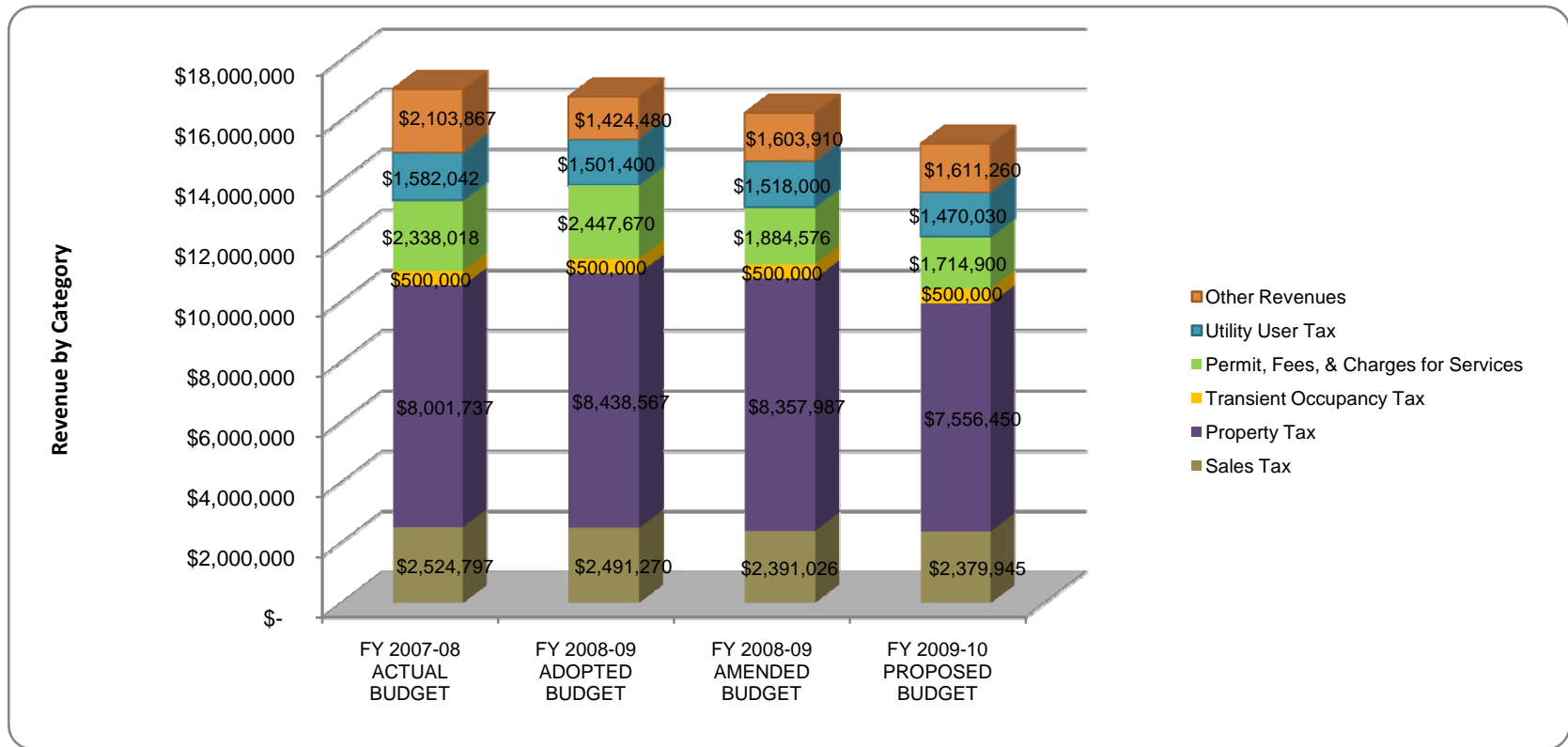
While the 2008-09 adopted budget included conservative revenue estimates based on potential impacts from the worsening economy and real estate market, the City's Mid-year 2008-09 budget update included projections of a funding gap of (\$300,000) resulting from revenues falling short by \$1.3 million and expenditures being reduced by \$1 million. Since that time, the Projected 2008-09 deficit as noted above is -\$1,066,513.

²⁷ The City Council adopted the 2009-10 budget On June 30, 2009. The revised document is not available as of this writing.

²⁸ The City Council adopted the 2009-10 budget but it is not yet available on the City's website.

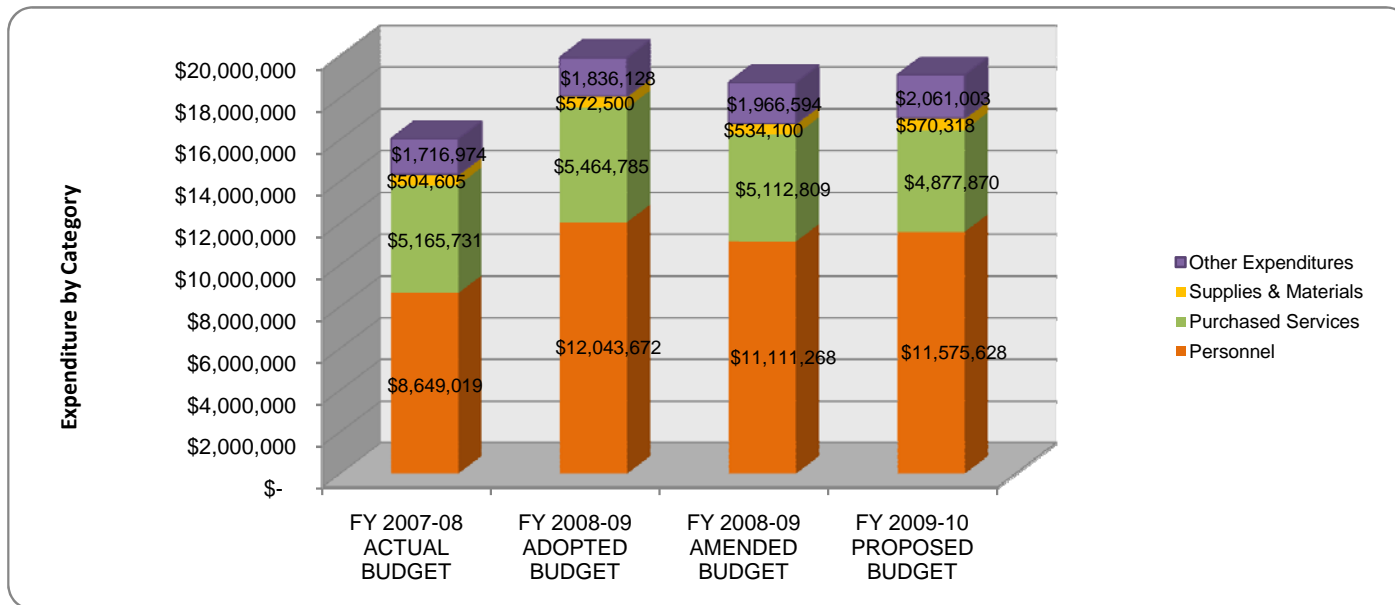
GENERAL FUND REVENUES BY MAJOR CATEGORY

	FY 2007-08 ACTUAL	FY 2008-09 ADOPTED BUDGET	FY 2008-09 PROJECTED BUDGET	FY 2009-10 PROPOSED BUDGET
Sales Tax	\$ 2,524,797	\$ 2,491,270	\$ 2,391,026	\$ 2,379,945
Property Tax	\$ 8,001,737	\$ 8,438,567	\$ 8,357,987	\$ 7,556,450
Transient Occupancy Tax	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000
Permit, Fees, & Charges for Services	\$ 2,338,018	\$ 2,447,670	\$ 1,884,576	\$ 1,714,900
Utility User Tax	\$ 1,582,042	\$ 1,501,400	\$ 1,518,000	\$ 1,470,030
Other Revenues	\$ 2,103,867	\$ 1,424,480	\$ 1,603,910	\$ 1,611,260
Total General Fund Revenues	<u>17,050,462</u>	<u>16,803,387</u>	<u>16,255,499</u>	<u>15,232,585</u>



GENERAL FUND EXPENDITURES BY MAJOR CATEGORY

	FY 2007-08 ACTUAL	FY 2008-09 ADOPTED BUDGET	FY 2008-09 PROJECTED BUDGET	FY 2009-10 PROPOSED BUDGET
Personnel	\$ 8,649,019	\$ 12,043,672	\$ 11,111,268	\$ 11,575,628
Purchased Services	\$ 5,165,731	\$ 5,464,785	\$ 5,112,809	\$ 4,877,870
Supplies & Materials	\$ 504,605	\$ 572,500	\$ 534,100	\$ 570,318
Other Expenditures	\$ 1,716,974	\$ 1,836,128	\$ 1,966,594	\$ 2,061,003
Total General Fund Expenditures Before Allocations	\$ 16,036,329	\$ 19,917,085	\$ 18,724,771	\$ 19,084,819
Allocations to Other Funds	\$ (1,318,531)	\$ (1,502,068)	\$ (1,402,759)	\$ (1,601,857)
Total Net General Fund Expenditures	\$ 14,717,798	\$ 18,415,017	\$ 17,322,012	\$ 17,482,962



Fiscal Year 2008-2009 to 2012-2013 Financial Goals:

Since incorporation in 1983, the City has operated with a General Fund structural budget deficit that was generally covered by an unstructured loan repayment from the Redevelopment Agency. In recent years, the City instituted measures to mitigate the deficit, including a mandatory 12-day furlough for non-sworn employees, reduction of 15 positions and a 20% target for reduction of overtime (2006-07 Fiscal Year).

The Financial Plan contained in the 2009-10 Proposed Budget includes the following financial goals:

- Maintain an unrestricted cash reserve of 15% of operating expenditures²⁹
- Personnel costs to be fully supported by sales and property tax revenues
- Overtime costs will not exceed 5% of total personnel costs
- Medical insurance benefit costs will not exceed 7% of total personnel costs

Key Revenues Sources:

Measure C: The City's 'Measure C' parcel tax was passed in the 2006-07 Fiscal Year. Measure C is a 10-year special tax that the City can use only for the purposes specified in the tax measure. As approved by the voters, 50% of the revenue generated from this tax is allocated and expended for community and neighborhood policing, training, crime suppression and investigations and 50% of the revenue funds violence prevention services with an emphasis on youth and families, ex-felons, domestic violence and senior citizens, including services that may be provided by City agencies or community-based organizations. This measure also requires an annual independent audit and establishes a 'Crime Fighting Act Committee' to review the annual audits, evaluate the effectiveness of the programs, and make recommendations to the Mayor and City Council regarding programs and administrative regulations.

The special tax is \$100.00 for a single-family residential parcel and \$75.00 for each unit in a multi-family residential parcel. For commercial and industrial parcels, the special tax varies depending on the frontage and square footage of the property. Owners of undeveloped parcels are exempt for each year

²⁹ Page FP-3, Financial Plan, 2009-10 Proposed Budget.

that they can prove to the City that their parcel was undeveloped for at least six months of the year. Senior citizens over 65 years of age and disabled persons are exempt, upon application for exemption.

Property Tax: As previously noted, the County Assessor's Office has completed a review of decline in value of approximately 50,000 parcels countywide that resulted in about 25,000 parcels being reduced by a total of \$2.4 billion. Property tax revenues therefore are projected to, depending on jurisdiction affected, either grow at a lower rate than previous years or in fact decline. The Assessor's office estimates, as of July 1, 2009 that growth in assessed valuation in City of East Palo Alto for 2008-09 will decline by 13% compared to growth of 9.16% in 2007-08 and 13.38% in 2006-07. Property selling at reduced price is also expected to negatively impact assessed valuation.

Other Revenue Assumptions Contained in the City's Financial Plan:

Sales Tax - is the second largest revenue source to the City; and it is projected to experience a slight growth decline of 0.5% during FY 2009-2010, and will remain flat during the life of the plan.

Permits, Fees & Charges for Services - are collected for staff services, licenses and permits issued. As a result of the downturn in development activity in both the housing and construction markets, this revenue source is projected to decrease 9.0%. Due to the decline of the economy, the out years projects no growth.

Utility User's Tax - In November 2005, the voters overwhelmingly passed the ballot initiative to continue the Utility Tax. This revenue source is expected to decline by 3.2%. The Financial Plan assumes that the increase in this commodity could be impacted by the inability of consumers to make payments and/or consumer conservation. The plan assumes a 1% growth for the out-years.

Transient Occupancy Tax - This source of revenue comes from the taxes levied on over-night hotel visitors. A settlement resulted in the city receiving a portion of the tax, beginning in January 2007. Each year thereafter, the receipt in this category shall remain at \$500K until FY 2010-2011. Upon receipt of these revenues, a portion is committed for programs focused on children, youth, seniors and families. The plan reflects flat

receipts until January 2010 when the negotiated agreement terminates and the full range of collected Transient Occupancy Tax (TOT) will be paid to the City; anticipated to be approximately \$1.375 million. The final year of the plan anticipates a 30% increase in the source.

Other Revenues - These sources of funds include reimbursements from other governmental agencies, earned interest on investments, and contributions. This source of revenue is projected to increase 53.9% in FY 2009-2010 due to one-time revenue receipts and is expected to reduce in FY2010-2011 and to grow at a rate of 2 % over the life of the plan.

City Identified Vulnerabilities

Vulnerabilities cited in the Fiscal Year 2009-10 budget document include: unplanned expenditures including current or new initiatives; results of labor negotiations; excessive increases in medical costs; unfunded state and federal mandates; unanticipated delays in developing the Ravenswood Business District; unanticipated legal costs or settlements; natural disasters or events; reduction of revenues including sales tax and property tax; unfunded liabilities and risk management costs Ability of Redevelopment Agency to repay debt to City General Fund; unanticipated business closures; new funding obligations resulting from negotiated service levels from other agencies for services such as flood protection, water, refuse and uncontrolled growth in the costs of providing municipal services from internal service providers.³⁰ The Financial Plan assumes that expenditures will continue to grow while revenues will either flatten out or decline and that all essential/non-essential services and mandated service levels need to be reviewed on an ongoing basis.

In addition, all local government remains vulnerable to State actions to redirect or borrow³¹ from local revenues including property tax and gas tax, as part of the State's fiscal crisis ongoing budget impasse. For example should the State borrow against property tax, it could result in a \$770,000 revenue reduction to the City of East Palo Alto.

³⁰ FY 2009-10 Proposed Budget Financial Plan (FP-6)

³¹ Under 2004 Proposition 1A, the State can borrow up to 8% of local property tax with a requirement that it be repaid with interest in three years.

Recommended Determinations: 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 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.

5. Status of, and opportunities for, shared facilities

The City cited the following as existing practices of shared facilities with other agencies:

- The City shares the East Palo Alto Government Center, a County owned facility with the County departments that include Probation, Human Services, Mental Health, and Library, including the Adult Reading Program
- The City provides office and operations at the Government Center and Municipal Corporation Yard for American Water, the contract water operator of the City owned system
- The City has leased city-owned land to the YMCA, a new addition to the service level in the community and the City has 1,500 square feet of programmable space in the new YMCA facility
- The City has an agreement with Senior Center Inc., a community based non-profit organization, to use and program senior service activities at the City-owned Senior Center
- The City, in conjunction with Ravenswood School District, is scheduled to run a Federally Funded After-School program in two Ravenswood School locations with City paid staff.
- The City of East Palo Alto Police Department houses a Captain from the Department of Justice on loan to the City for an indefinite period of time.

- The City and Menlo Park Fire Protection District are exploring the feasibility of establishing a shared Emergency Operation Center as part of the District's plans for expansion of the East Palo Alto Station
- The Ravenswood School District allows the City to share the District's vehicle fueling facility.
- The City currently leases property to the Ravenswood Health Clinic for provision of family health services to East Palo Alto residents.
- The City Manager and a council member also participate in a tri-city collaboration between East Palo Alto, Menlo Park and Palo Alto.

Opportunities for shared resources include potential reorganization of the East Palo Alto Sanitary District, establishing the District as a subsidiary district of the City of East Palo Alto. Discussed more thoroughly in the Municipal Service Review of East Palo Alto Sanitary District, this would place jurisdiction for sewer service under the authority of the City Council, transfer all assets and liabilities including EPASD facilities. This alternative offers the opportunity to consolidate public works functions in the offices currently used only for sewer functions and could, based on actual operational savings and rate adjustments, provide for transfer of property tax³² currently offsetting sewer operations to fund non-enterprise municipal services such as public safety and community services. The East Palo Alto Sanitary District Service Review is available at www.sanmateolafco.org. The City and District may wish to study in further detail the potential for consolidation of sewer functions as a City function.

Other opportunities include reconsideration of contracting with the County of San Mateo Sheriff's Department and consideration of service sharing with other agencies where service demands require special equipment or resources the City does not have. An example practiced by other cities includes contracting with another city for streetlight and signal maintenance.

In the case of police services, the Town of Larkspur and City of Corte Madera in Marin County have a joint powers agreement for a single police department. The Twin Cities Police Authority is a full service police agency for the communities of Corte Madera and Larkspur in Marin County, California. The communities consolidated police services in 1980 after a year of planning. Working under a Joint Powers agreement forming the Twin Cities

³² East Palo Alto Sanitary District Fiscal Year 2008-09 property tax in adopted budget is \$180,000.

Police Authority, the Town of Corte Madera and City of Larkspur, through two selected members from each Council, form the Twin Cities Police Council to develop policy for the Police Authority. Overall management of the Police Authority is the function of the Management Committee comprised of the City and Town Managers.

Recommended Determinations: 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.
- 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.

Sphere of Influence Review and Update

This section addresses Government Code Section 56425, which specifies that in determining the sphere of influence of each local agency, the Commission shall consider and prepare a written statement of its determinations with respect to each of the following:

1. *The present and planned land uses in the area, including agricultural and open-space lands*
2. *The present and probable need for public facilities and services in the area.*
3. *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*
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.*

This sphere of influence update incorporates information and determinations in the municipal service review as well as changes that have taken place since the sphere of influence was originally adopted and provides for public input on the four areas of determination listed above. Comments to LAFCo by affected agencies, organizations, and individuals are requested in order to be included in the Executive Officer's report to the Commission.

City of East Palo Alto Sphere of Influence:

The sphere of influence designation for the City of East Palo Alto is coterminous with City boundaries and as a city wholly surrounded by the County and or city boundaries and the bay, there are no unincorporated areas eligible for annexation. Since circulation of the draft, a reduced sphere of influence alternative has been suggested that would remove the area described as west and south of U.S. 101 and south of Menlo Park, from the City's Sphere of influence to provide for formation of a Community Services District to provide adequate city services. As noted in discussion and recommended determinations above, provision of consistent level of service to individual neighborhoods in the City should be a priority and it is recommended that City provide for increased communication, outreach and opportunity for feedback with neighborhoods like Woodland Park west of 101, to establish priorities to better meet service needs. Formation of a Community Services District and exclusion of this area from the City of East Palo Alto service would result in limited revenues for a small neighborhood to provide municipal services, a reduction in revenues to the City and loss of economies of scale.

- 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 elsewhere, 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.

Since circulation of the draft, a reduced sphere of influence alternative has been suggested that would remove the area west of U.S. 101 from the City's Sphere of influence to provide for formation of a Community Services District to provide adequate city services. As noted in discussion and recommended determinations above, provision of consistent level of service to individual neighborhoods in the City should be a priority and it is recommended that City provide for increased communication, outreach and opportunity for feedback with neighborhoods like Woodland Park to establish priorities to better meet service needs.

Formation of a Community Services District and exclusion of this area from the City of East Palo Alto service would result in limited revenues to provide municipal services for a small neighborhood, a reduction in revenues to the City and would conflict with policies and best practices promoting sharing of resources and elimination of overlapping service agencies. As noted above, remedies short of creation of a community services district exist by way of the City first responding to concerns cited about police and other services in the area west of U.S. 101 and taking action to improve service. This would include community workshops, assessment of resource allocation and potential funding sources and financing tools to enhance services in the area.

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.

Municipal Service Review - City of East Palo Alto
July 7, 2009

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.

City of East Palo Alto

2415 University Avenue
East Palo Alto, CA 94303

Contact Person: Alvin D. James
City Manager
650/853-3100
650/853-3115/FAX

Date of Incorporation: July 1, 1983

City Council: Five-member town council elected to four-year terms

- a. Membership and Term Expiration Date: Ruben Abrica, Mayor, David E. Woods, Vice Mayor, Carlos Romero, Laura Martinez, A. Peter Evans
- b. Compensation: Total council compensation for meeting attendance and benefits in adopted budget: \$12,597 per council member
- c. Public Meetings: 1st & 3rd Mondays each month at 7:30 pm
City Council Chambers, Municipal Services Building
2415 University Avenue, East Palo Alto

Services Provided: Administration, police, community development, redevelopment, rent stabilization recreational services, water, street maintenance, streetlights and drainage

Area Served: 2.5 sq. miles

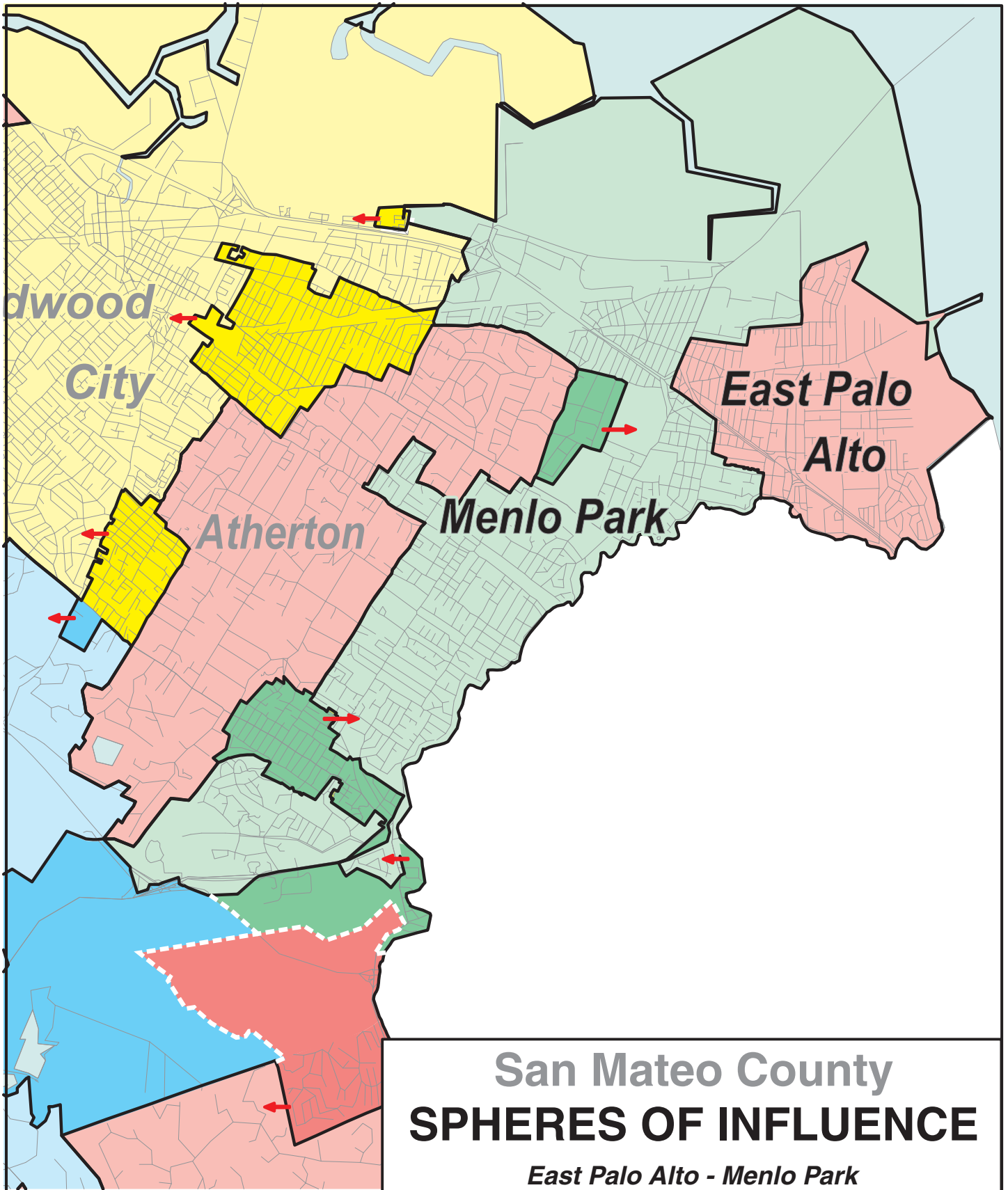
Estimated Population: 32,897 (DOF, 2008)

Contractual Arrangements: Operation of City Water Service by American Water

School Districts: Ravenswood Elementary School District, Sequoia Union High School District, San Mateo County Community College District



Sphere of Influence: Status quo (boundaries of 1985)


Budget: See Attached City of East Palo Alto Budget Summary on Pages () and refer to the City of East Palo Alto website for budget updates



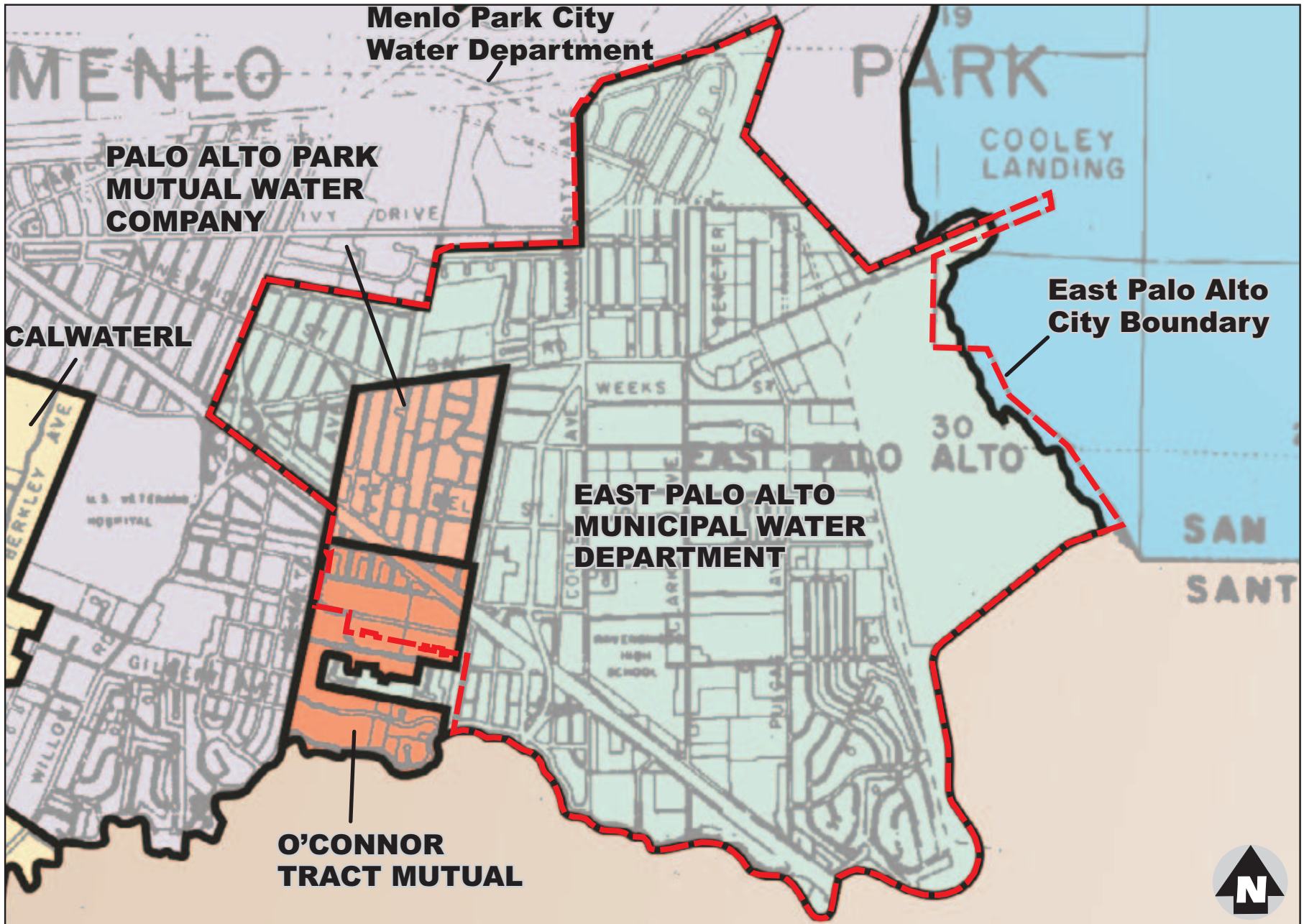
San Mateo County SPHERES OF INFLUENCE

East Palo Alto - Menlo Park

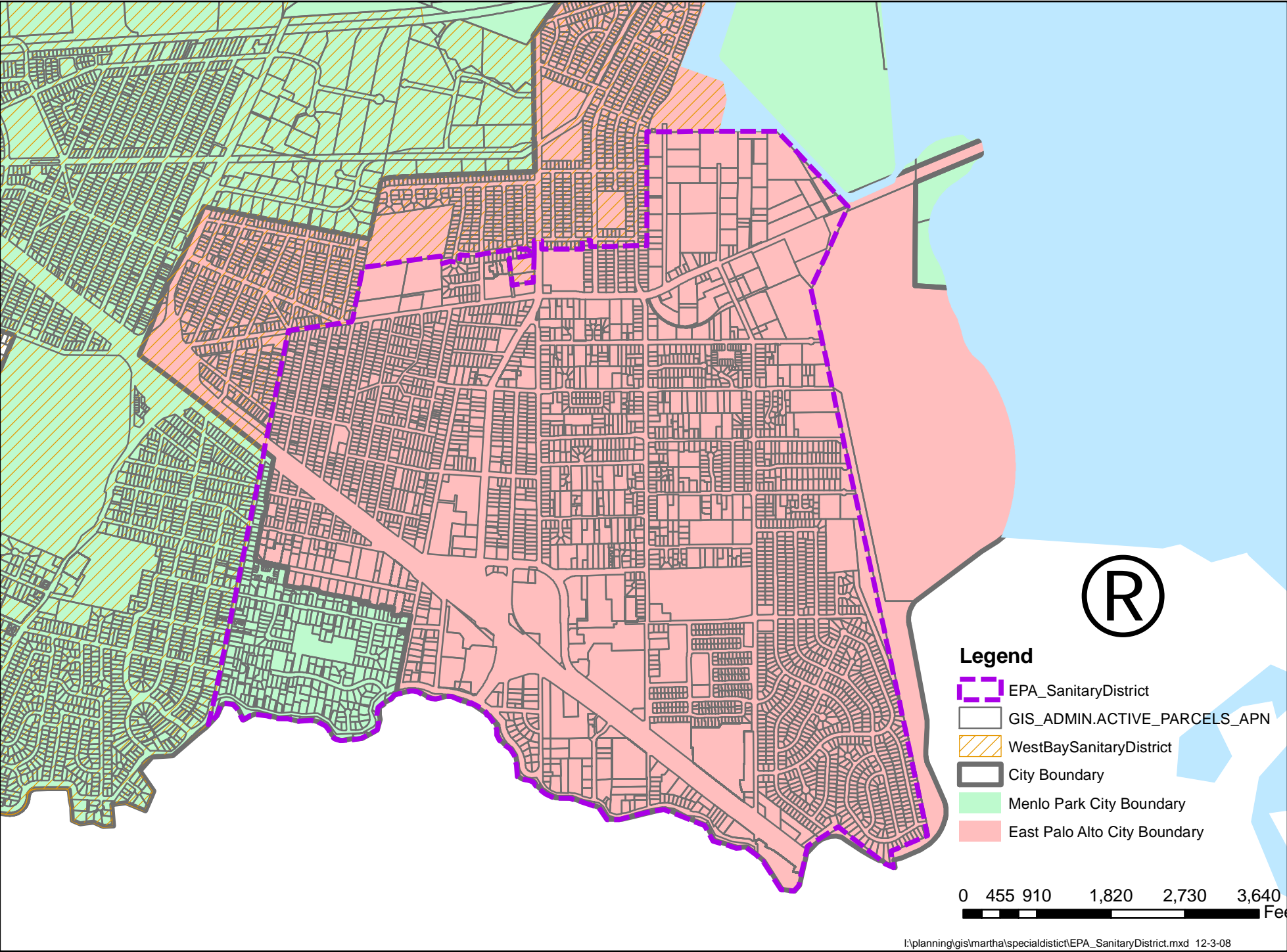
-  Indicates City Sphere of Influence
-  City Boundaries

-  Sphere of Influence Line Between Areas





East Palo Alto Sanitary District



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File No: 460/3

June 30, 2009

VIA ELECTRONIC MAIL

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

Re: Comments on Circulation Draft-Municipal Services Review and Sphere of
Influence Update, City of East Palo Alto; San Mateo County Local Agency
Formation Commission

Dear Ms. Poyatos:

I. INTRODUCTION

The communication comments 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”) 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”).²

¹ All 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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Woodland Park manages approximately 1,700 units of primarily mid-rise multi-family residential apartments in the City west and south of the 101 Freeway, adjacent to the City of Palo Alto (to the south and west), which is bordered on the North by the City of Menlo Park.³ The area surrounds the University Circle office and hotel complex and is referred to as the “affected area” in the balance of this communication.

On June 10, 2009, LAFCO Staff presented to the Commission, a Staff Report and Draft Circulation Municipal Service Review and Sphere of Influence Update for the City MSR (“Draft Review”) based on information provided by the City. The Draft Review proposes that LAFCO make findings that the City has adequate capacity for presently supplying and supplying in the future, services to the relevant area.

Woodland Park maintains that information available from the City⁴ and other government sources indicate that the proposed findings for the adequacy of City governmental services *cannot* be made under the Act 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 affected area because of the City’s current and expected future service inadequacies.

II. SUMMARY OF COMMENTS PRESENTED

Woodland Park respectfully submits that the Draft Review is legally insufficient due to the City’s failure to provide the Executive Officer with sufficient information to make the findings required by the Act for an MSR.

Any LAFCO action must be supported by substantial evidence including the determination of the factors associated with an MSR. The City has not set forth substantial evidence, nor does such evidence exist, to support the required MSR findings. The City has failed to present substantial evidence to show the adequacy of the City’s present and planned capacity of public services in light of the overwhelming existing evidence of deficient City

³ Woodland Park is an affiliated limited liability corporation of Page Mill Properties, LLC (“Page Mill”).

⁴ Woodland Park from the outset observes that obtaining City documents either on-line or in person is difficult. In many cases on-line references do not contain documents described or if the documents are linked they are incomplete.

law enforcement and crime prevention services, deficient City road maintenance, and deficient lighting. The City has provided little or no information regarding the capacity, present or planned, of other City services, including water supply, City vehicle fleet, storm drains, sewer system and road systems. The City has also failed to provide evidence that it has the financial ability to adequately and efficiently provide those governmental services, an established purpose of the Commission⁵ and has failed to point out for inclusion of the Draft Review, the potential impacts of State revenue transfers from the City.

The City has provided no evidence to identify opportunities for shared facilities under Section 56430(a)(4), or to support the Section 56430(a)(5) finding of adequate accountability for community service needs including governmental structure and operational efficiencies.

The Draft Review, when finalized, should acknowledge the failure of the City to comply with, and implement, its General and Redevelopment Plans. The City has failed to explain how the City General Plan Safety Element, Redevelopment Plan and other General Plan elements such as the Housing Element Update have been implemented or are consistent. The Draft Review should indicate that the City is not implementing the goals and/or policies of the General and Redevelopment Plans.

Finally, the Draft Review contains no SOI alternatives. LAFCO must consider alternatives to the existing SOI. Given the City's inability to provide City services, LAFCO should consider the option of reducing the City SOI to remove the affected area, allowing the formation of the community services district to directly address the deficiency of services.

III. PROCEDURAL REQUIREMENTS OF THE ACT

The Commission must conduct an MSR, prior to updating an SOI which contains a comprehensive study of each identifiable public service provided by the City, containing specific findings describing the present, and future services capacity and efficiency, in the area in, and around, the City. *See*, § 56430; Governor's Office of Planning and Research, Local Agency Formation Commission Municipal Service Review Guidelines, dated August

⁵ *See*, Section 56301.

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2003 (“*MSR Guidelines*”);⁶ Municipal Service Review Policies, San Mateo County LAFCO, dated March 20, 2002 (“*MSR Policies*”).⁷

Woodland Park experiences, sometimes daily, inadequate and sometimes non-existent services, including but not limited to, law enforcement, street maintenance, street lighting, and general governance including the day-to-day administration of City government including the administration by the City of its Rent Control Ordinance and compliance with the Ralph M. Brown Open Meeting Act (§ 54950 *et seq.*, the “Brown Act”) and the California Public Records Act (§ 6250 *et seq.*).

This communication describes City deficiencies in the five of the six mandatory MSR findings areas as supported by substantial evidence in the attached Appendix of documentary evidence (“Appendix”) and online references.⁸

The Commission, of course, *must rely* on the City for information gathering for the required MSR findings [*MSR Policies*, § VIII], however, there is insufficient substantial evidence submitted by the City to support the required Section 56430 MSR findings. Accordingly, the eventual adopted MSR should accurately reflect the reality of the inefficiencies of City governmental services and present other governmental service options.

⁶ The MSR Guidelines are available online at:
http://www.opr.ca.gov/planning/publications/General_Plan_Guidelines_2003.pdf.

⁷ The Commission has adopted Guidelines as authorized by Section 56375 for processing MSRs, with which all LAFCO actions must be consistent. § 56375; 56815.2. They are available online at:
http://www.co.sanmateo.ca.us/vgn/images/portal/cit_609/20/22/293799755msr-policies.pdf.

⁸ This communication also demonstrates how, given the lack of present and planned City service capacity, as well as the City’s failure to comply with, and implement, its Redevelopment and General Plan policies, it cannot ensure that LAFCO objectives for efficient development are achieved and that legally adequate findings, as required by the Act can be made. In examining this issue the standards of the Governor’s Office of Planning and Research the 2003 *General Plan Guidelines* (“*General Plan Guidelines*”), p. 187, *available online at*:
http://www.opr.ca.gov/planning/publications/General_Plan_Guidelines_2003.pdf, will be referenced.

IV. FACTUAL SUMMARY

As a long-standing property manager in the City, Woodland Park has experienced seriously inadequate public services in and around its properties – something which, according to documents in the public domain, occurs in the rest of the City as well. Included among the lack of public services are adequate and consistent crime prevention and law enforcement, road maintenance, street lighting deficiencies and failure of the day-to-day administration of City business.

These facts also show⁹ that the City has failed to comply with, and implement, its General Plan Safety and Housing Element policies and to timely update its Housing Element, and implement its Redevelopment Plan, all failures of governance.

V. DOCUMENTS REVIEWED

These comments are based on the documents included in the Appendix and the Draft Review. The Appendix contains Woodland Park/Page Mill communications with City departments requesting resolution of issues related to efficient governmental service, and attempting to cooperate with the City to alleviate the problems. The Appendix also contains public documents from the City and other public agencies setting forth law enforcement and crime prevention budget, logistical and infrastructure deficiencies that prevent the City from providing sufficient public services. Finally, the Appendix also presents regional media presentations confirming the limitations that the City has in providing efficient governmental services to its residents and property owners.

⁹ The experience of Woodland Park, which is based on personal observation, constitutes substantial evidence. *See, Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal. App. 3d 872, 882.

VI. MSR REQUIREMENTS AND STANDARD OF REVIEW

A. MSR REQUIREMENTS

1. MSR Purpose

The MSR is a *prerequisite* to the change or confirm an SOI. § 56430. As the *MSR Guidelines* and *Policies* indicate, the mandate for municipal service reviews is the product of the Commission on Local Governance of the 21st Century report entitled “Growth Within Bounds” (“*Growth Within Bounds*”).¹⁰

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)

¹⁰ 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.

Placer County Local Agency Formation Com. v. Nevada County Local Agency Formation Com. (2006) 135 Cal.App.4th 793, 817 (“*Placer County*”). *Growth Within Bounds* is available online at: <http://www.opr.ca.gov/planning/docs/79515.pdf>.

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)

Further, “*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)

In other words, it is clear that the intent and mandate of the Act is that an MSR identify alternative governmental service providers and other means to ensure more efficient governmental services.

2. MSR Requirements

Section 56430 sets forth MSR requirements:

(a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

(3) Financial ability of agencies to provide services.

(4) Status of, and opportunities for, shared facilities.

(5) Accountability for community service needs, including governmental structure and operational efficiencies.

(6) Any other matter related to effective or efficient service delivery, as required by commission policy.

B. FINDINGS MADE UPON APPROVAL OF AN MSR MUST BE SUPPORTED BY SUBSTANTIAL EVIDENCE

LAFCO decisions are characterized as quasi-legislative for which judicial review is appropriate under ordinary mandamus, Code of Civil Procedure section 1085.¹¹ LAFCO actions must be supported by “substantial evidence.” § 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.¹²

VII. THE CITY HAS NOT PROVIDED SUBSTANTIAL EVIDENCE, NOR DOES SUCH EVIDENCE EXIST, TO SUPPORT THE REQUIRED MSR FINDINGS

A. PRESENT AND PLANNED CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES, INCLUDING INFRASTRUCTURE NEEDS OR DEFICIENCIES (§ 56430(a)(2)).

The City has failed to supply substantial evidence to show the adequacy of the City present and planned capacity of public services in light of the overwhelming existing evidence of deficient City law enforcement and crime prevention services, deficient City road maintenance, and deficient lighting. The need for substantial evidence supporting present and

¹¹ *Sierra Club v. San Joaquin Local Agency Formation Commission* (1999) 21 Cal.4th 489, 499.

¹² *Placer County, supra*, 135 Cal.App.4th at 803.
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planned public services adequacy is especially important, given that the Draft Review predicts the City is to grow from a current population of roughly 33,000 to a projected 2035 population of 47,300. Draft Review, p. 5.

1. Inadequate City Law Enforcement and Crime Prevention Services

The Appendix presents evidence that the City does not have the present capacity (nor has it had the capacity) to serve the community with respect to crime prevention services. The Draft Review [pp. 11-12] only briefly provides information regarding the City Police Department statistics, including basic budget and staffing, information. However, substantial evidence shows the City's Police Department's continuing inability to meet its crime prevention duties.

As a part of Woodland Park's continuous experience concerning this inadequacy are specific examples involving its properties and crimes that have taken place on, and around, its properties, as documented in the Appendix. Woodland Park has communicated frequently with the City Police attempting to alleviate, prosecute and prevent crimes. These communications are reproduced in the Appendix, 001-010.¹³ For example, Woodland Park has reported numerous vandalism incidents and other property damage, and has met significant delay in response from the City Police.¹⁴ Appendix, 011-014. In addition, when requesting additional assistance and information from the City Police to investigate and prevent existing and future crime, Woodland Park has been met with opposition and non-cooperation from the City Police. Appendix, 011-014. In particular, the City Police have refused to meet with Woodland Park representatives to work on the crime problem, citing that discussing all concerns would be too time consuming. *See, e.g.*, Appendix, 015-023. Further, City Police have simply refused to respond and follow up on incidents of crime in and around the affected area. Appendix, 024-030.¹⁵

¹³The attached Appendix contains documents numbered 001-148.

¹⁴ One such example occurred in May 2009, where City Police responded to a trespass call, where Woodland Park security guards had witnessed the trespass and the perpetrator had assaulted the guards. Woodland Park security guards reported that the Police officer in question asserted that far from taking action to arrest the trespasser, all Woodland Park could do was to seek a restraining order, and then the trespasser could be arrested.

¹⁵ Despite this unwillingness to work with Woodland Park, on May 26, 2009 the City Police dispatch asked private Woodland Park security to respond to a call received in Police
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The Appendix also presents evidence, not limited to Woodland Park, that the City simply cannot meet the needs of the public with respect to law enforcement and crime prevention.¹⁶

Evidence also shows that the City cannot meet its own law enforcement duties without significant assistance from other law enforcement agencies.

Since 1996, the City has contracted with the County Sheriff's office to provide supplemental law and public safety communications dispatch services. Appendix, 032. The contract, among other things, provided for the County to provide law enforcement personnel to supervise and conduct crime investigation, personnel to provide a Crime Suppression Team whose duty was to:

“work collaboratively with City's Chief of Police to identify and to implement intensive enforcement activities for the suppression of gang-related criminal activities and associated violent street crimes.”

Appendix, 048.

Additionally, the Sheriff's Office provided emergency telephone dispatch services to the City Police. Appendix, 051.

Further, City Police historically have obtained assistance from the Drug Enforcement Agency to conduct mid-level narcotics investigations, from the California Department of Justice to conduct a five year comprehensive violent crime analysis, from the United States

dispatch for a disturbance and noise complaint, rather than the City Police responding themselves.

¹⁶ In another example of City failure to provide adequate law enforcement, and a failure of governance, it was reported that in a City and County subsidized affordable housing development, the Courtyard at Bay Road, has fallen into disrepair resulting in vandalism, which some tenants attribute to “inadequate security.” Jessica Bernstein-Wax, “East Palo Alto subsidized housing complex falls into state of deterioration,” *San Jose Mercury News*, June 24, 2009, *available at*, http://www.mercurynews.com/breakingnews/ci_12685178?source=email.

Marshal Service to serve warrants, and from the San Mateo County Crime Suppression Team to increase their enforcement efforts in the City.¹⁷

The City of Menlo Park, consistent with its Standard Operating Procedures, has responded to several incidents in the City. For example, the City of Menlo Park Police Department as part of its Police Department Policy #352 "Outside Agency Assistance," has responded to at least 187 calls in the City since July 1, 2006.¹⁸ Appendix, 056-061. The City of Palo Alto Police Department, although having no formal agreement with the City, in 2008 alone responded to 45 calls in the City. Appendix, 062-064.

Similarly, the City has requested and obtained assistance in 2005, 2007 and 2008 from the Department of California Highway Patrol ("CHP") most recently formulated in an aid agreement known as "Operation Impact," in which the Redwood City CHP Area assisted the City in combating their gang violence issues by providing aggressive traffic enforcement in their high intensity gang areas. Appendix, 065. Operation Impact generally consisted of one CHP sergeant and 4 CHP officers deploying weekly on Friday, Saturday, and Sunday. Appendix, 067.

One reason for the necessity for outside law enforcement assistance, as the City Police Chief has pointed out, is that the City has difficulty recruiting and retaining quality law enforcement officers. Appendix, 086. The City compensates its law enforcement officers significantly less than other law enforcement officers in the Bay Area. Appendix, 086-097. Despite the fact that City Police pay has increased the Police Department still suffers from this reputation. Appendix, 097.¹⁹

¹⁷ 2003-2004 San Mateo County Grand Jury Report on City Police Department, *available online* at: <http://www.sanmateocourt.org/director.php?filename=./grandjury/2003/index.php>.

¹⁸ City of Menlo Park Police Department Policy #352 clearly indicates that resulting calls *are not* "Mutual Aid" response calls.

¹⁹ As further evidence, the City recently announced that two experienced detectives have left the City Police force. Jessica Bernstein-Wax, "East Palo Alto Police Department roster changing," *San Jose Mercury News*, June 23, 2009, *available at*: http://www.mercurynews.com/breakingnews/ci_12677146?nclick_check=1. City Police officials acknowledge this deficiency, noting that the City "has long had trouble attracting qualified recruits because other Peninsula cities have higher salaries and better retirement deals." *Id.*

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Despite this ongoing outside agency supplemental law enforcement assistance, the City has one of the highest crime and murder rates in the Bay Area and in San Mateo County, which continues.²⁰ According to the City's own records, there were 1747 Serious Crimes²¹ reported in the City in 2008, up from 1167 in 2007 (*an increase of approximately 67%*), and the third most reported since 1999.²²

Again, *this inadequacy is historic*. The previously referenced 2003-2004 Grand Jury Report on the City Police, in accordance with recommendations from PSCComm, a police management consulting firm engaged by the City in July 2000,²³ contained 71 specific recommendations to improve police performance in the City, including the following findings:

- 1) Violent crime continues to be a problem in the City;
- 2) Many City Police improvement recommendations from the consultant were still not implemented;
- 3) The quality of the City Police force remained questionable;
- 4) The leadership of City Police does not enforce policies consistently;
- 5) A leadership succession plan is not being followed.

²⁰ Table 11, CRIMES, 2006, San Mateo County, from Department of Justice Criminal Justice Statistics Center, *available at: http://stats.doj.ca.gov/cjsc_stats/prof06/41/11.pdf*. In 2006, the City was tied for the most homicides in the County with Redwood City, despite the fact that Redwood City has over double the population of the City, and the third most violent crimes behind the City of San Mateo and Redwood City despite the fact that those cities have over three times and two times the population of the City respectively. *Id.*

²¹ The City defines "Serious Crimes" to include homicide, rape, robbery, robbery with a firearm, assault, assault with a firearm, burglary, theft, and auto theft. 2009-2010 Budget, Departmental Budget Report, DB 115, *available at, <http://www.ci.east-palo-alto.ca.us/09-10budget/DEPARTMENTAL%20BUDGETS/PUBLIC%20SAFETY/PUBLIC%20SAFETY.pdf>*.

²² City Fiscal Year 2009-2010 Proposed Operating Budget ("2009-2010 Budget"), Departmental Budget Report, DB 115, *available at, <http://www.ci.east-palo-alto.ca.us/09-10budget/DEPARTMENTAL%20BUDGETS/PUBLIC%20SAFETY/PUBLIC%20SAFETY.pdf>*.

²³ See, fn. 17, *supra*.

Reviewing the City response to the 2003-2004 Grand Jury Report, the 2004-2005 Grand Jury reported that the City, as late as 2005, still had not implemented all of the Grand Jury recommendations.²⁴

As an indication of the continued crime problems, last December, the City experienced a series of shootings that left nine people wounded. Appendix, 099-100.

Despite the continued high crime rate, and continued law enforcement problems, last year the City terminated its long-standing contract with the County Sheriff's office for additional crime prevention and enforcement assistance. Appendix, 097.

Finally, in December 2008, the City Police announced additional California Highway Patrol officers would be assigned to the city for a 90-day period. Appendix, 099.

The crime and inadequate enforcement continue despite the passage of Measure C, a special tax which was to provide additional funding for fighting crime. Appendix, 101-102. Despite the continued high crime rates, the City proposed Fiscal Year 2009-2010 budget includes a *decrease* of four police officers from Fiscal Year 2008-2009.²⁵ This reduction is especially questionable where the City in the Draft Review at page 16 notes that a vulnerability in the Fiscal Year 2008-2009 budget is Police Department overtime, reflecting, among other things, under staffing of the City Police Department.

Given the continued high City crime rate, the City's admission of difficulty and sometimes inability in combating crime (as Woodland Park and its tenants experience), the the City Police Department inability to retain officers and the necessity to obtain significant assistance from outside law enforcement agencies, 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.

²⁴ 2004-2005 Grand Jury Report, *available online at*:
http://www.sanmateocourt.org/grandjury/2004/reports/EPA_Police_Department_3_final.pdf.

²⁵ This reduction constitutes the *total* reduction in personnel for *all* City departments. 2009-2010 Budget, Departmental Budget Report, DB 113, *available at*,
<http://www.ci.east-palo-alto.ca.us/09-10budget/DEPARTMENTAL%20BUDGETS/PUBLIC%20SAFETY/PUBLIC%20SAFETY.pdf>.
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2. Deficient Road Maintenance

The City does not have the present capacity to serve the community with respect to maintaining the quality and safety of its streets and roads. As set forth in part in the Draft Review [p. 7], in a recent City Pavement Management Survey, only 47 percent of City roads are evaluated as “good or better” Pavement Management Survey, p. 3.²⁶ Approximately 40 percent of City streets are “poor” to “very poor” with almost 30 percent of City Streets in “very poor” condition. Pavement Management Survey, p. 3. Woodland Park’s properties have experienced lack of maintenance with potential significant safety and liability ramifications, and communicated this inadequacy to the City, specifically requesting the City take all action it can to alley the street maintenance problems in the City. Appendix, 103-104.

Although the Draft Review acknowledges the deficient street maintenance, and recites the Pavement Management Survey recommendation that the City needs to spend \$15.7 million in pavement maintenance and rehabilitation in the next five years, it should be supplemented to describe *how* the City will or proposes to actually pay for this necessary expenditure [Draft Review, p. 7] or if it cannot, what the governmental alternatives are for providing those services.

Further evidentiary review confirms this inadequacy. In response to acknowledged road maintenance problems, the City approved outlay for street repair in April 2008 which one Councilmember claimed would *not* address some of the worst streets in the City. Appendix, 105. The decision not to bring up all the streets for repair, including some of the worst, was made despite reports that the City had a budget surplus at the end of the Fiscal Year 2007-2008 of over \$800,000.00. Appendix, 104. Now of course, the continued State and nationwide financial crisis, as the Draft Review acknowledges, will undermine the City’s ability to maintain service levels in general, much less bring the City streets to an acceptable level of repair and periodic maintenance.

Indeed, this additional undermining of the City’s ability to provide services now appears to becoming true. In the Governor’s May Budget Revision, it is proposed that of almost \$1 billion in city and county shares of revenues in the Highway Users Tax Account (“HUTA”) be seized from the motor fuel tax to fund past and future State highway bond debt

²⁶ The Pavement Management Survey, Executive Survey is available online at:
<http://www.ci.east-palo-alto.ca.us/publicworks/EPAPMPREPORT2007.pdf>.
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service payments out of the general fund.²⁷ The City's potential revenue loss for Fiscal Year 2009-2010, of these funds that are used to maintain City streets would be \$558,696 (and another \$419,022 for Fiscal Year 2010-2011).²⁸ This proposal has now been adopted by the State Budget Committee.²⁹ Yet the City fails to recognize this very real additional funding threat to its street maintenance capability in its Budgeting function. Indeed, a review of the City Council Agendas and the City proposed 2009-2010 Budget since the Governor's announcement in May of this potential tax transfer reveals that the City has failed to acknowledge this potential revenue loss in its Draft Budget,³⁰ much less prepare contingencies for this potential loss, which in and of itself is a failure of governance. This reality of City fiscal uncertainty should be set forth in more detail in the final MSR.

3. Deficient Lighting Services

The City does not have the present capacity to serve the community with respect to maintaining the safe lighting of its streets. Over the last two and a half years, Woodland Park has implemented a property improvement program to address life safety, code, and security issues for their properties. In so doing, Woodland Park discovered that within the

²⁷ See, League of California Cities, June 12, 2009 memorandum re: Sample Resolution RE: Litigation Over Unconstitutional Diversion of Local Share of Motor Fuel (Gas) Tax. Appendix, 107-109

²⁸ See, California Local Government Finance Almanac, Highway Users Tax(1) - Projected FY2009-10 Revenues, *available at*: <http://www.californiacityfinance.com/HUTAprojFY10.pdf>. The City proposed budget for 2009-2010 lists the planned revenue from HUTA as \$578,200, but fails to acknowledge these funds are at risk. 2009-2010 Budget, Summary Information, p. SI-10, *available at*, <http://www.ci.east-palo-alto.ca.us/09-10budget/SUMMARY%20INFORMATION/SUMMARY%20INFORMATION.pdf>.

²⁹ <http://www.sen.ca.gov/budget/2009conf/2009ConfComHighlights.pdf>.

³⁰ On June 29, 2009, the City Council and Redevelopment Agency Board adopted a joint resolution of the City and Redevelopment Agency authorizing the City attorney and Redevelopment Agency Counsel to cooperate with the California Redevelopment Association, the League of California Cities, other cities and counties in litigation challenging the constitutionality of any seizure by state government of a) the city's street maintenance funds, and b) redevelopment funds. However, in discussing the City Budget at the June 29, 2009 City Council meeting, no City document reflected this reduction in revenue.

right-of-ways surrounding the affected area, current lighting levels do not meet minimum safety street lighting levels. Appendix, 110-112. Woodland Park pointed out to the City:

There are limited lighting levels and lack of lighting uniformity which create safety problems for vehicles and pedestrians. Additionally, with limited lighting levels and dark zones, illicit activities continue to be prevalent. Additional lighting has in fact been installed on private properties to try to compensate for this condition, but it does not negate the need for improved safety lighting within the public right-of-way. We have had to overcompensate with new lights on our properties to mitigate some of the worst areas. The condition of the City street lighting system impacts all properties and all residents in the neighborhood not just the properties managed by us, and we are concerned about public safety and liability.

Appendix, 111. To attempt to alleviate the lighting problems, Woodland Park met numerous times with various City officials, and developed a Conceptual Street Lighting Plans for the City's roadways west of US. Highway 101, to work cooperatively with the City, to address the lighting issues, including submission of an application for an encroachment permit to make lighting improvements at Woodland Park's own expense. Appendix, 111-112. Despite these efforts, the City has yet to approve of or submit comments for the revision of these lighting plans, leaving the rights-of-way surrounding the properties Woodland Park manages without sufficient an safe lighting.³¹

Thus, substantial evidence indicates that the City *is not providing* presently adequate public street lighting service with respect to the public rights-of-way in and surrounding the

³¹ The City's failure to respond to these lighting improvement proposals conflicts with the City General Plan Safety Element, Safety Plan, which sets forth proper lighting as a way to reduce crime:

When property owners present development proposals, the City will encourage the use of defensible space *and lighting concepts to deter on-site crime.*

General Plan, Safety Element, p. 14 (emphasis added). The City General Plan is available online at: <http://www.ci.east-palo-alto.ca.us/planningdiv/index.html>.

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affected area.³² The Draft Review, however, currently sets forth the facts surrounding the 2005 transfer of the Ravenswood Lighting District to the City, but does not acknowledge any lighting deficiencies or potential City plans to alleviate them. Draft Review, p. 7.

4. Capacity Of Other City Services, Including Water Supply, City Vehicle Fleet, Storm Drains, Sewer System And Road Systems

The City has provided little or no information regarding the capacity, present or planned, of other City services. For example, although the Draft Review discusses water supply facilities, and a brief discussion of how to augment water supply, the City fails to give any information of the City's actual available water supply and any limits on it. Draft Review, pp. 8-11. Further the City provides no discussion of the status of the City's vehicle fleet, *i.e.*, will the City have sufficient operating vehicles to provide services? With respect to storm drains, although the Draft Review again discusses some drain infrastructure, it does not provide any discussion of the capacity, present or future of the City's storm system or sewer system. Finally, although the Draft Review discusses the poor state of the City's streets, it does not discuss the capacity of those street systems.

For all of the City services, even with respect for those areas discussed above, law enforcement, road maintenance and street lighting, the City has provided essentially no information as to the level of service, any standard against which those levels might be provided, and any commentary on the adequacy of service, in clear violation of section 56430(a)(2).³³

In light of the lack of evidence to support the findings required by Section 56430(a)(2), the Draft Review would be flawed and should be revised to reflect the actual present inadequate service capacity.

³² Neither this communication, nor the Draft Review examine the very real issue of liability to the City for dangerous conditions of public property (§ 830 *et seq.*) of which the City is on notice and has a mandatory duty to cure.

³³ The only "comparative information" on crime statistics is a comparison advanced by LAFCO Staff between the City and the City of Millbrae, a dissimilar community, at Draft Review p. 4 n.3 and p. 11.

B. FINANCIAL ABILITY TO PROVIDE SERVICES (§56430(a)(3)).

Again, the City has failed to provide evidence that it has the financial ability to provide adequate governmental services. First, the Draft Review does not explain why the City's own projected revenue from local property taxes, is approximately 18 percent *more* than what the County projects will be collected and allocated on behalf of the City for Fiscal Year 2009-2010. As the City projects \$7,556,450 in property tax revenue for Fiscal Year 2009-2010³⁴— an 18 percent shortfall would result in \$1,360,161 less than the City is projecting in its budget. Clearly such a revenue shortfall would threaten all the categories of City services, something the City has not accounted for in any submission to Commission for inclusion in the Draft Review.

Second, the Draft Review states a projected increase in City personnel costs from the Fiscal Year 2007-2008 amended budget to the adopted Fiscal Year 2008-2009 budget from \$9.6 million to \$12.0 million. Draft Review, p. 15. Those figures *do not match* the data presented in the City's proposed Fiscal Year 2009-2010 budget.³⁵

Third, the City's 2008-2009 Fiscal Year Budget indicates that it will not be able to meet its services obligations. Draft Review, p. 21. As previously noted, the City has been unable to compensate its Police officers at a rate consistent with other Bay Area local agencies. Appendix, 097. Also, as noted, the City struggles to maintain its streets and safety lighting. Even though the City reported a budget surplus in Fiscal Year 2007-2008, the service issues referenced continue to be unresolved. It can be concluded that even the Fiscal Year 2007-2009 budget surplus does not suffice to adequately fund the City's service deficiencies, especially with the continued State and nationwide financial crisis. Indeed the Draft Review indicates that City's Midyear 2008-09 budget update includes projections of a funding gap of \$300,000. Draft Review, p. 16.

³⁴ 2009-2010 Budget, Summary Information, p. SI-12, *available at*, <http://www.ci.east-palo-alto.ca.us/09-10budget/SUMMARY%20INFORMATION/SUMMARY%20INFORMATION.pdf>.

³⁵ 2009-2010 Budget, Summary Information, p. SI-13, *available at*, <http://www.ci.east-palo-alto.ca.us/09-10budget/SUMMARY%20INFORMATION/SUMMARY%20INFORMATION.pdf>.

This mid-year 2008-2009 update *inconsistently* is not reflected in the proposed 2009-2010 Budget. The City has not provided evidence that it has the present financial ability to provide adequate services now, recognizing that they have not adequately provided them in the past.³⁶

Finally, the City failed to point out for inclusion in the Draft Review, the potential impacts of State revenue transfers from the City, including the referenced proposed HUTA tax seizure and the proposed seizure of redevelopment funds, which has been approved by the State Senate Budget Committee, which if approved would approximately \$1.050 billion of funds from local agencies.³⁷

**C. STATUS OF, AND OPPORTUNITIES FOR, SHARED FACILITIES
(§ 56430(a)(4)).**

The City has not provided *any evidence* to even examine *opportunities* for shared facilities, because although the Draft Review [pp. 17-18] sets forth *existing* practices of shared facilities, instead, substantial evidence indicates that the City is *losing* opportunities

³⁶ It is also noted that that the Draft Review on page 15 references “an unstructured loan repayment from the Redevelopment Agency” that assisted in past years in covering the City’s chronic General Fund structural budget deficit and the City budget also suggests that transfers from the Redevelopment Agency to the City general fund are discretionary. and may not always be counted on to meet the budget deficits. 2009-2010 Budget, Financial Plan, FP-1, *available at*, <http://www.ci.east-palo-alto.ca.us/09-10budget/FINANCIAL%20PLAN/FINANCIAL%20PLAN.pdf>.

³⁷ *See*, Budget Conference Committee Highlights, June 17, 2009, *available at*: <http://www.sen.ca.gov/budget/2009conf/2009ConfComHighlights.pdf> and, League of California Cities online memorandum dated June 19, 2009, *available at*: http://www.cacities.org/index.jsp?displaytype=11&zone=locc§ion=&sub_sec=&tert=&story=27770. The State initially attempted to transfer local government redevelopment revenues for Fiscal Year 2008-2009 as part of a budget trailer bill (AB 1389 (2008)), but on April 30, 2009, the Sacramento Superior Court ruled it unconstitutional. *See, summary and ruling, available online at*: <http://www.calredevelop.org/AM/Template.cfm?Section=Home&CONTENTID=5443&TEMPLATE=/CM/ContentDisplay.cfm>. Again, a review of the proposed 2009-2010 City budget does not review a reference acknowledging the potential loss, nor was there inclusion of that amount by Council action at its June 29, 2009 meeting.

for shared facilities. In fact, in 2008, the City failed to renew its contract with the County Sheriff's Office for supplemental law enforcement services. Appendix, 097-98. Additionally, the City of Menlo Park has recently approved a traffic study, among whose conclusions considered recommending placing barricades on streets near the City border. Appendix, 113-114.

These actions indicate that the City's opportunities for shared facilities are decreasing as they indicate a reduction in cooperation with neighboring jurisdictions and agencies. The Draft Review should be updated to reflect this reality and prospectively what facilities could share given its inadequacies in crime prevention and law enforcement and its increasing inability to accomplish street maintenance.

D. ACCOUNTABILITY FOR COMMUNITY SERVICE NEEDS, INCLUDING GOVERNMENTAL STRUCTURE AND OPERATIONAL EFFICIENCIES (§ 56430(a)(5)).

Once again, the City has failed to provide substantial evidence supporting the Section 56430(a)(5) finding of adequate accountability for community service needs including governmental structure and operational efficiencies. The Draft Review [pp. 3-4] sets forth general information regarding the meetings of the City Council, and the information provided by the City website, but does not discuss this point any further. Additionally, the MSR does not acknowledge that the City has failed to comply with its duty of governmental transparency so that City residents and businesses, such as Woodland Park can meaningfully participate in, much less know what City business or actions are prepared.

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.³⁸

Regular meeting agendas of local agencies such as the City must be posted at least 72 hours before the meeting in a location that is freely accessible to the public. *See*

³⁸ *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555.
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§ 54954.2(a).³⁹ The agenda must specify the time and location of the meeting and a "brief general description" of each item of business to be transacted or discussed. § 54954.2(a).

The City, through its Rent Control Board and Subcommittees have engaged in a pattern and practice of violating the Brown Act, including failure to post agendas for subcommittee meetings in October 27, 2007 and frequently in 2008 (including April 9, 2008 and August 27, 2008). Appendix, 115-130. Further, the City appointed 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. Appendix, 131-137. 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. This prevention of public participation means that accountability for community service needs are hampered.

Stated differently, if meetings of City Council, Boards and Committees are not open to the public, 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?

The City Rent Control Board is not the only City Department to violate the Brown Act. The East Palo Alto 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. Appendix, 138-139.

These repeated Brown Act violations result in a failure of governance-how can the public, individuals or property owners participate in a City proceeding, especially those focused on a particular individual's or business' interest, if they were unaware of matter or it has not been properly described on a given Agenda?⁴⁰

³⁹ The City in the Draft Review [p. 3] acknowledges that City Council Agendas are posted at least 72 hours prior to regular meetings, but does not analyze Brown Act compliance, which has been the subject of litigation. Appendix 115-130.

⁴⁰ Additionally, a review of the City Council meeting Agendas available online *do not* contain the required Americans With Disabilities Act of 1990 disclosures as to the manner in

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Because substantial evidence exists of a pattern and practice of Brown Act violations, hampering government accountability, the City cannot substantiate a finding that it provides adequate accountability for community service needs.

E. ANY OTHER MATTER RELATED TO EFFECTIVE OR EFFICIENT SERVICE DELIVERY, AS REQUIRED BY COMMISSION POLICY (§ 56430(a)(6)).

1. The Draft Review Should Acknowledge The Failure Of the City To Comply With Its General Plan

The MSR should state that the City has failed to implement its General Plan Safety Element due to its failure to adequately provide police services, by its failure to implement its Redevelopment Plan to alleviate crime and assist in street maintenance and that the City is in danger of failing to accomplish its mandatory Housing Element Update.

2. Requirement of General Plan Consistency and Implementation

The General Plan has been described as the “constitution for all future developments” within the city. *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62 Cal.App.4th 1332, 1336. “[T]he propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 570 (“*Citizens*”); § 65300.9.

The City also has a *mandatory* duty to implement its General Plan Goal and Policies. § 65103(b), (c).

LAFCO MSR analysis should contain LAFCO review of applicable local general plan policies and development proposals to ensure that LAFCO objectives for efficient development are achieved and that legal findings can be made. *General Plan Guidelines*, p. 187. The Draft Review contains no information from the City establishing that its

which persons needing assistance to attend meetings may be accommodated and assisted. § 54953.2. This failure begs the question as to how persons needing assistance because of a disability may fully participate in City government as they are guaranteed by the Brown Act. G:\460.003\LTRS\2009\Poyatos (Final).wpd

governmental services implement and are consistent with, its General and Redevelopment Plan Goals and Policies.

3. The Draft Review Fails to Indicate That the City Is Not Implementing the Issues, Goals or Policies of the City General Plan Safety Element As Required By Sections 65103(b) And (c)

i. General Plan Crime Prevention Issues, Goals and Policies.

The City General Plan, adopted in 1999, sets forth issues, related to public safety that specifically address the goal and necessity for adequate police protection, which the Safety Element addresses as a significant issue within the City. First, Safety Element, Issue 2, provides the “*Need to reduce risks attributable to human activity such as aircraft overflights, hazardous materials, fire and criminal activity*” and continues setting forth the importance of reduction of crime:

Certain human activities, such as . . . criminal actions, expose the population of East Palo Alto to risk. The risk of exposure to these hazards can be reduced to acceptable levels through *proper planning* and regulation of human activities.

General Plan, Safety Element, p. 5. To address this issue, the General Plan sets forth Goal 2.0:

Protect the community from hazards associated with . . . criminal activity.

General Plan, Safety Element, p. 5. More specifically, the Safety Element set forth Policy 2.5 to address criminal activity, which requires the City to:

Provide police protection to address criminal activity.

General Plan, Safety Element, p. 6. Following this direction, the General Plan sets forth a Safety Plan, that with respect to policing, emphasizes the importance of crime prevention:

Criminal activity is higher in East Palo Alto than in other parts of San Mateo County and has generally increased over time.

Issues facing the citizens of East Palo Alto include a high violent crime rate, and a serious crime problem among the youth in the City. Ten organized gangs are known in the surrounding area. Protecting citizens and businesses from criminal activity *is a priority in the City*. Crime prevention techniques include substantive levels of police protection and educating the public about methods to reduce criminal activity.

General Plan, Safety Element, p. 14 (emphasis added).

ii. The City's Crime Rates and Failure to Provide Adequate Law Enforcement Demonstrates The City General Plan Safety Element Goals and Policies Are Not Being Achieved.

Ten years after the General Plan's adoption, the City continues to fail to implement or meet the goals, policies and Safety Plan, as set forth, *supra*, section VII.A.1. As set forth, crime continues to be unreasonably high in the City. Although the General Plan set forth the importance of crime protection in the City, the City cannot be said to have met the policy to "Provide police protection to address criminal activity," because the MSR does not mention the City's failure to comply with the General Plan Safety Element or reconcile how LAFCO objectives for efficient development are achieved in light of the fact that the LAFCO objectives must be evaluated against the City General Plan policies. *General Plan Guidelines*, p. 187.

iii. The City's Failure to Comply With Its Redevelopment Plan Emphasizes The City's Failure to Comply With Its General Plan Safety Element Goals and Policies

As a significant portion of the affected area is located within the University Circle Redevelopment Project Area, Woodland Park has direct knowledge, as set forth in the Appendix, that the City has failed to implement its own Redevelopment Plan, through the East Palo Alto Redevelopment Agency 5 Year Implementation Plan, dated October 16, 2007 ("Redevelopment Implementation Plan" or "RIP").⁴¹ This failure to implement the

⁴¹ The RIP covers three (3) Redevelopment Project Areas in the City: 1) 1. University Circle Project ("UCI") Area; 2. Gateway/101 Corridor Project Area; and 3. Ravenswood Project Area. RIP, p. 3. In May 1999, the Redevelopment Agency amended the UCI and Gateway 101
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Redevelopment Plan, and in particular the UCI further illustrates the City's lack of compliance with its General Plan Safety Element, as the principal goal of an implementation plan is to guide an agency's redevelopment programs to help eliminate blighting influences, which in turn among other things are intended to alleviate a high crime rate in the UCI. RIP, p 3.⁴²

As noted, the RIP lists eliminating blighting influences as a principal goal, which "will create an investment environment in which private developers and property owners have the incentive and the means to redevelop their properties." RIP, p. 16. But even though the RIP notes that the UCI continues to suffer physical blighting conditions [RIP, p. 16]⁴³ and Woodland Park has made significant efforts to reduce the blighted conditions, in and around the properties that they manage and own as part of the Page Mill Properties Plan,⁴⁴ the actions of the City are actually making it difficult for Woodland Park to rehabilitate and improve their properties by illegally (as determined now by the Court in a number of hearings) interpreting the Rent Stabilization Ordinance RSO,⁴⁵ and in issuing Stop-Work

Redevelopment Plans to fiscally merge the two project areas. RIP, p. 5. Now the 2007 RIP includes as a goal the merger of the merged UCI and Gateway/101 Corridor Project areas with the Ravenswood Business District Project Area. RIP, p. 5. The RIP is available online at http://www.ci.east-palo-alto.ca.us/pdf/fiveyear/Final_5_Year_Plan_Adopted_Oct_07.pdf.

⁴² The RIP also lists a high crime rate as one of the blighting influences in the other two Redevelopment Plan areas as well. RIP, pp. 28, 39.

⁴³ The RIP sets forth on page 16.

blighting influences remain within the boundaries of the Project Area. The University Circle Project Area continues to suffer from some characteristics defined by the CRL as physical blighting conditions. These conditions include:

- Factors that prevent the economically viable use of lots,
- Underutilized properties,
- Incompatible uses, and
- Parcels of irregular shape, inadequate size and poor configuration.

⁴⁴ Appendix, 140.

⁴⁵ Appendix, 141-142.

Orders to prevent Page Mill from improving the infrastructure (paving alleys, etc.) and sending a delegation to ask CALPERS to withdraw its investment to East Palo Alto,⁴⁶ are all actions that are in *direct opposition* to the goals as set forth in the RIP. These City actions might be described as targeting Woodland Park, even though the Page Mill Properties Plan is consistent with the goals of the RIP, in that both that Page Mill Properties Plan and the RIP are aimed at eliminating blight and improving the environment, particularly the residential environment, within the UCI (as well as within the other areas in which manages properties that are not included in any currently adopted redevelopment project).

Further, the City's failure to implement long-planned redevelopment projects demonstrate the City's lack of Redevelopment Plan implementation. An example is the "Manhattan site" project, a long-planned "significant project at the corner of Manhattan Avenue and O'Connor Street" (RIP, p. 10), which was included in previous 2002 RIP program activities. RIP, p. 13. Yet, seven years after it was planned, the Manhattan site project remains underdeveloped, even though funding appears to be available for such a project. According to the 2007 Five-Year Implementation Plan, at least ten million dollars (\$10,000,000.00) is available for programs, that 20% of that, or two million, seven-hundred seven thousand, two hundred twenty-four dollars (\$2,707,224.00) is available for housing, and the remaining eight million dollars (\$8,000,000.00) should be available for programs other than affordable housing. RIP, pp. 5-6. Accordingly, although available funds exist, the City is not complying with the RIP, which leaves the blighting influences in the Redevelopment Plan un-remedied.

Additional Redevelopment Plan questions remain, for which the City has not provided answers for inclusion in the MSR, including but not limited to if the three Redevelopment Plan areas are to be merged, will this allow the City to divert money from the UCI to the other Redevelopment Plan areas, even though the RIP states that blighting remains in the UCI, including the Manhattan site project? *See generally*, Appendix, 145-148.

The clear violation of the City Redevelopment Plan through its RIP for the UCI, which fails to adequately address the blighting influences, including a high crime rate, thus further illustrates how the City has failed to comply with, or implement, its General Plan Safety Element.

⁴⁶ Appendix, 143-144.
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Further, it should be noted a City Redevelopment Plan *must be* consistent with the City's General Plan. Health & Saf. Code § 33331. Accordingly, if the City interprets its Redevelopment Plan in such a way that fails to protect the City against criminal activity, a stated goal of the General Plan, then that interpretation renders the Redevelopment Plan and its RIP inconsistent with the General Plan. As noted, *any* local decision affecting land use and development depends upon consistency with the applicable general plan and its elements. *Citizens, supra*, 52 Cal.3d at 570; § 65300.9. The MSR should be amended to indicate this incompatibility so that LAFCO may reconcile how LAFCO objectives for efficient development are achieved in light of the fact that the LAFCO objectives must be evaluated against the City General Plan policies, which here are clearly not being met by the City.⁴⁷ *General Plan Guidelines*, p. 187.

4. The Draft Review Fails to Indicate That the City May Be Is Out Of Compliance With Its Mandated General Plan Housing Element Update

Section 65588(e)(2) requires that the City update (*i.e.* adopt an update to) its Housing Element by June 30, 2007, which had been extended to June 30, 2009.⁴⁸ A review of the City website shows the City's Housing Element Update in *draft* form as of June 30, 2009.

Accordingly, the City is out of compliance with its statutory requirement of the Housing Element Update. The Draft Review fails to account for, as it must, this failure to implement the Housing Element, and this additional example of failure of City Governance.

⁴⁷ Although this communication focuses on the substantial evidence regarding lack of General Plan consistency with the Safety Element and the Redevelopment Plan, the lack of adequate services in the categories otherwise discussed in this communication, including street maintenance, lighting, or other general government services indicate that findings of General Plan consistency in these categories also likely cannot be made, as the City clearly is not meeting its goals for the provision of those services.

⁴⁸ The deadline extension was requested by the Association of Bay Area Governments for all cities in San Mateo County and was granted by the Department of Housing and Community Development under Section 65584.02. *See*,

http://www.hcd.ca.gov/hpd/hrc/plan/he/abag_update.pdf.

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5. The Draft Review Fails To Adequately Discuss Cost Avoidance Opportunities, And Opportunities For Rate Restructuring

The *MSR Policies*, section III requires a MSR discuss cost avoidance opportunities, and opportunities for rate restructuring. The Draft Review does not discuss cost avoidance opportunities, other than a recommendation that the City consider consolidation with the East Palo Alto Sanitary District. Other than solid waste rates [Draft Review p. 13], which are higher than those of the City of Menlo Park for the same service provided by the same private franchise, no rate information is provided in the Draft Review, and the Draft Review does not provide any analysis of means to restructure rates or to achieve rate efficiencies.

Cost avoidance should also include *different forms of governance*, such as a community service or a police protection district being formed in the affected area to allow, through adequate funding, alleviation of the currently inadequate City services.

VIII. SPHERE OF INFLUENCE AMENDMENT

The Draft Review impliedly supports the premise that the City SOI should stay the same⁴⁹, in that it repeatedly states that the SOI is coterminous with City boundaries and there are no unincorporated lands eligible for annexation to the City. *See, e.g.*, Draft Review, pp. 3, 19.

As established earlier,⁵⁰ LAFCOs, however, *must consider, alternatives to the existing SOI*. Woodland Park, respectfully submits that given the substantial evidence illustrating a complete inability of the City to provide City services, including but not limited to, crime prevention and law enforcement, street maintenance, and street lighting, LAFCO should consider the option of reducing the City SOI to remove the affected area, allowing the formation of the community services district (§61100 et seq.) and/or a police protection district (Health & Safety Code section 20000 et seq.) to directly address inadequate law enforcement and street maintenance 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 the County

⁴⁹ This recommendation is sometimes referred to as “zero sphere” in LAFCO actions generally.

⁵⁰ See, Section IV.A., *supra*.

Sheriff's Office. The Draft Review currently contains no SOI amendments which, in turn would allow such alternatives.

To the extent that further comments will be solicited on a potential SOI amendment, Woodland Park respectfully requests notice and the opportunity to present further comments on such an amendment.

IX. CONCLUSION

Although Woodland Park acknowledges the hard work of the LAFCO Executive Officer in preparing the Draft Review, the City has failed to provide the Executive Officer sufficient information necessary to make the findings required by the Act for an MSR, rendering the Draft Review insufficient.

Specifically, the City has failed to provide substantial evidence setting forth and explaining the insufficient and sometimes non-existent services including but not limited to law enforcement, street maintenance, lighting, and other government services and has failed to explain how the Commission may make a finding of General Plan compliance with respect to the City General Plan Safety Element, Redevelopment Plan and with respect to other General Plan elements setting forth goals and policies for the provision of the other government services referenced, and the non-implementation of its Housing Element Update. These informational deficiencies should be remedied in a final adopted MSR, and require a significantly more information-rich document.

Woodland Park respectfully represents that the Municipal Service Review: Fire and Emergency Medical Service Providers prepared by the Contra Costa County LAFCO as an example of a document that meets the standards for an MSR,⁵¹ including the provision for providing governmental alternative service providers, which here would take the form, at a minimum, of contracting the City SOI to allow the formation of a community services district in the affected area to address inadequate City services.

⁵¹ This MSR is available online at:

http://www.contracostalafco.org/municipal_service_reviews/fire_and_emergency_medical_services/Fire%20and%20Emergency%20MSR%20Final%20Draft_april16.pdf.

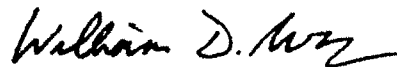
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Ms. Martha Poyatos, Executive Officer
San Mateo Local Agency Formation Commission
June 30, 2009
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Woodland Park reserves the right to offer additional evidence and argument so that there may be a legally adequate City MSR.

Thank you for your consideration of these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "William D. Ross", with a stylized flourish at the end.

William D. Ross

WDR:lla

Enclosure: APPENDIX

APPENDIX

Date	Description	Bates Stamp No.
7/7/08	E-mail to Doris Cohen, East Palo Alto Police Department Regarding Request for Criminal Activities on Page Mill Properties	001
7/17/08	E-mail to Tim Morgan, Consultant Page Mill Properties from Doris Cohen, East Palo Alto Police Department Regarding Crime Analysis Information	002
08/26/08 - 8/27/08	E-mail Communications Between Tim Morgan, Consultant Page Mill Properties and Capt. Chalmers, East Palo Alto Police Department Regarding Safety Concerns on Page Mill Properties	003-004
09/03/08	Letter to Tim Morgan, Consultant Page Mill Properties from Doris Cohen, East Palo Alto Police Department Regarding Criminal Activity	005-006
09/07/08	E-mail to Capt. Chalmers, East Palo Alto Police Department from Tim Morgan Regarding Proposed Security Video Camera Installation Program on Page Mill Properties	007
09/10/08 - 09/15/08	E-mail Communications between Tim Morgan, Consultant Page Mill Properties and Capt. Chalmers, East Palo Alto Police Department Regarding Date for Meeting	008-009

APPENDIX

09/22/08	E-mail to Capt. Chalmers, East Palo Alto Police Department from Tim Morgan, Consultant Page Mill Properties Regarding Installment of Security Cameras on Page Mill Properties	010
09/22/08 - 09/23/08	E-mail Communications Between Tim Morgan, Consultant Page Mill Properties and Capt. Chalmers, East Palo Alto Police Department Regarding Meeting and Cameras on Page Mill Properties	011-013
11/15/08	E-mail to Chief Ronald Davis, East Palo Alto Police Department from Tim Morgan, Consultant Page Mill Properties Regarding Safety Issues at Page Mill Properties	014
11/25/08	E-mail to Tim Morgan, Consultant Page Mill Properties from Chief Ronald Davis, East Palo Alto Police Department Regarding Meeting Request	015-016
11/25/08 - 11/26/08	E-mail Communications Between Elizabeth Lam, City of East Palo Alto and Tim Morgan, Consultant Page Mill Properties Regarding Meeting with East Palo Alto Police Department	017-019
Undated	E-mail to Jim Shore Regarding all E-mail Communications Received and Sent to East Palo Alto Police Department and Obtaining Meyer Vandalism Report	020

APPENDIX

12/12/08 - 12/19/08	E-mail Communications Between Elizabeth Lam, City of East Palo Alto, Jim Shore, Page Mill Properties and Tim Morgan, Consultant Page Mill Properties Regarding Shotspotter	021-022
12/30/08	E-mail to Elizabeth Lam, City of East Palo Alto from Tim Morgan, Consultant Page Mill Properties Regarding Shotspotter	023
01/09/09	Declaration of Teresita Alaniz	024-026
Undated	Declaration of Guadalupe Montes	027-029
01/10/09	Woodland Park Apartments Incident/Discrepancy Report Regarding Vehicle Vandalism	030
01/10/06	City Council/Redevelopment Agency Staff Report for Agenda Item No. 6A10 Regarding Resolution Authorizing City Manager of City of East Palo Alto to Enter into an Agreement with the County of San Mateo for Supplemental Law Enforcement and Public Safety Communication Services	031-055
02/04/09	Menlo Park Police Department Outside Agency Assistance Policy and Letter with Enclosed List of Responses for the Time Period of July 1, 2006 through January 8, 2009	056-061
01/13/09	E-mail from Donald Larkin, Palo Alto Assistant City Attorney, Regarding Enclosed Calls for Service Report Showing Responses by Palo Alto Police Department to East Palo Alto for Past Year	062-064

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12/09/08	Letter to J.A. Farrow, Commissioner California Highway Patrol from Chief Ronald Davis, East Palo Alto Police Department Requesting Implementation of "Operation Impact" in the City of East Palo Alto	065
Undated	California Highway Patrol CalGRIP Operation IMPACT 2008 Redwood City Area Operational Plan	066-085
09/07	<i>Journal</i> Article, "11,000 Vacant Police Jobs in California"	086-087
Undated	Various Job Postings with Salaries for Police Officers in City of East Palo Alto and Surrounding Cities	088-096
12/12/08	<i>San Jose Mercury News</i> Article, "Officials Say Shootings Not Connected to Staffing"	097-098
12/11/08	<i>San Jose Mercury News</i> Article, "East Palo Alto Police Chief Details Response to Shootings"	099-100
01/30/08	<i>Palo Alto Daily News</i> Article, "E. Palo Alto's Measure C Moves Forward"	101-102
03/06/08	Letter to Mayor Patricia Foster, City of East Palo Alto from James E. Thompson, Page Mill Properties Regarding Maintenance of the Public Rights-of-Way	103-104
04/30/08	<i>San Jose Mercury News</i> Article, "East Palo Alto Council Oks Street Repair Plans"	105-106

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06/12/09	League of California Cities Memorandum Regarding Sample Resolution for Litigation Over Unconstitutional Diversion of Local Share of Motor Fuel (Gas) Tax	107-109
02/14/08	Letter to Patricia Foster, Mayor, City of East Palo Alto from James E. Thompson, Page Mill Properties Regarding City Street Lighting West of Highway 101	110-112
12/10/08	<i>The Almanac</i> News Article, "Menlo Council Signs Off on Willows Study"	113-114
01/20/09	Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, Case No. CIV 480456 (Brown Act Violations)	115-130
12/16/08	City of East Palo Alto Amended Agenda for Regular Joint City Council/Redevelopment Agency Meeting	131-135
01/05/09	Letter to East Palo Alto City Council from Christine Griffith, Ellman Burke Hoffman & Johnson Regarding December 16, 2008 Appointments to Rent Stabilization Board	136-137
06/11/09	<i>San Jose Mercury News</i> Article, "East Palo Alto Grocers Accuse City of Brown Act Violation"	138-139
03/31/08	Letter to James E. Thompson , Page Mill Properties from Sgt. Ed. Barberini, San Mateo County Sheriff's Office Regarding Safety and Security Programs and Property Improvements	140

APPENDIX

09/10/08	Writ of Mandate Ordering the City Rent Stabilization Board to Comply with the Rent Stabilization Ordinance	141-142
12/17/08	<i>San Jose Mercury News</i> Article, "Council Condemns Property Company"	143-144
05/19/09	Letter to East Palo Alto City Council from William R. Garrett, Woodland Park Representative Opposing the Redevelopment Plan Mergers	145-148

July 7, 2008

Ms. Doris Cohen
East Palo Alto Police Department
Crime Analysis Unit
141 Demeter St.
East Palo Alto, CA. 94303

Dear Ms. Cohen,

I am a consultant for Pagemill Properties which own a numerous properties in the City of East Palo Alto. I am requesting information on any police related calls for service and criminal activities related to the below listed property, and the public property surrounding this area. The requested time frame is March 1, 2008 to July 1, 2008.

This information will be used to assist Pagemill Properties in providing a safe environment for our tenants and their guests. Pagemill Properties is committed to enhancing the quality of life the community.

Please send this information to _____ and _____

Thank you,

Tim Morgan
Pagemill Properties Consultant

July 17, 2008 to Doris Cohen

Hi Tim,

I have received your letter and will be looking at these addresses to provide you the information you have requested. I should have it ready by early next week.

Best,
Doris

From: Tim Morgan
Sent: Monday, July 14, 2008 10:25 AM
To: Doris Cohen
Subject: Crime Analysis Information

Doris,

I am working as a consultant for Pagemill Properties LLC. At my request a letter was sent to you requesting information about crimes that have been reported or are occurring around some properties owned by Pagemill Properties. Because I am working as a consultant, I would like only that information other public persons would be able to obtain. In the future, I will be requesting additional information on other properties owned by Pagemill Properties.

Thank you in advance for your help.

Tim Morgan
Consultant Pagemill Properties

August 27, 2008

Mr. Morgan,

I too am glad we met as it turned out to be a productive session. I will check with Doris myself for the crime analysis information, along with the vandalism case you have requested. As for the other issues, I trust they are being dealt with accordingly on your end and that there will be no more "confusion" with future calls. Again, if there is a problem on our end, I would ask that you contact me so that I can look into the matter, whatever it may be. I'll get back to you soon regarding the requested information.

Thanks again,

Captain Chalmers

From: Tim Morgan
Sent: Tuesday, August 26, 2008 10:49 PM
To: John Chalmers
Cc: Jim Shore
Subject: Meeting followup

Capt. Chalmers,

I have finally received a response from Toney Canty regarding the concerns that we discussed in your office last week. For an unknown reason East Palo Alto Police Department was not contacted when the dry ice bomb went off inside the Newell Apartment building. No officer was contacted nor was dispatch notified.

I find this type of behavior not only contrary to what is expected from a security company, but extremely poor judgment on the part of the security officers that were present. I want to apologize for any comments that I made to you that might have indicated that your department did not respond properly to the event.

Toney also informed me that he has the video of the possible robbery suspect and that he has not turned it in as he has not received a phone call from the detective. I am willing to pick this video up myself and provide it to your agency in hopes that a suspect can be developed. Just let me know when you want me to do accomplish this very minor task that should have been done over a month ago.

I have requested 30 Woodland Park key FOBS for your officers. Obtaining them took a little longer than I had hoped, but I should have them by next week. I will let you know when I have them in hand. If possible I would like to drop them off with the robbery video next week.

Finally, I wish to thank you and Capt. Estelle for meeting with Jim Shore and I. I hope that this will be the beginning of a new relationship of mutual cooperation and that we

will be able to assist East Palo Alto Police Department in protecting our tenants and our property.

Have you been able to determine the status of the Meyer vandalism and the status of the crime analysis information that I requested. I do understand that Ms. Cohen has been on vacation, but hopefully the information will be available to us soon.

Thank you,
Tim Morgan

September 3, 2008

Hello Tim,

Below is a listing of the information you requested. If you have any questions or require additional information, please give me a call.

Thanks,
Doris
O.
C.

Count of Address		
Address	Offense #1 Desc	Total
1777 WOODLAND AV	AUTO BURGLARY	1
	Dom. Viol. Checklist	1
	INFORMATION CASE	1
	PETTY THEFT/LARCENY	1
	REG EXPIRED FOR 6 MONTHS	1
	STOLEN VEHICLE	1
1777 WOODLAND AV Total		6
1779 WOODLAND AV	MISSING PERSON	1
1779 WOODLAND AV Total		1
1820 W.BAYSHORE ROAD	INFORMATION CASE	1
	Vndlsm:less than \$400	1
1820 W.BAYSHORE ROAD Total		2
1828 W. BAYSORE RD	STOLEN VEHICLE	1
1828 W. BAYSORE RD Total		1
1830 W BAYSHORE RD	Adw Not F/Arm Or Frce:gbi	1
	BENCH WARRANT/MISDEMEANOR	1
	BURGLARY:RESIDENTIAL	1
	L&I W/Child Under 14	1
	Offensive Words:public PI	1
	PETTY THEFT:FROM AUTO	1
	Vndlsm:less than \$400	1
1830 W BAYSHORE RD Total		7
1920 COOLEY AV	BENCH WARRANT/FELONY	1
	CHILD PROTECTIVE SERVICES	1
	MISSING PERSON	1
	Obstruct Public Officer	1
1920 COOLEY AV Total		4
1928 COOLEY AV	Fraud use/personal info/SS#,etc.	1
	Offensive Words:public PI	1
	Vandalism: Deface W/Graffiti	1
1928 COOLEY AV Total		3
1957 COOLEY AV	Dom. Viol. Checklist	1
	DRIVING W/SUPENDED LICENSE	1

	MENTAL CASE	1
	MISSING PERSON	1
	OUTSIDE WARRANT/FELONY	1
	VEH FOUND/REPORTED STOLEN	1
	Vndlsm:less than \$400	2
<i>1957 COOLEY AV Total</i>		8
1991 MANHATTAN AV	Annoying Phone Calls	1
	Aslt W/Firearm On Person	1
	INFORMATION CASE	1
	USE OF OFFENSIVE WORDS IN PUBLIC	1
<i>1991 MANHATTAN AV Total</i>		4
355 E OKEFFE ST	POSSESSION OF MARIJUANA	1
	Vndlsm:less than \$400	1
<i>355 E OKEFFE ST Total</i>		2
Grand Total		

September 7, 2008 e-mail from Tim Morgan to Capt. Chalmers

Captain Chalmers,

I am not sure if you are aware of the video camera installation program that Woodland Park Management has developed for our properties in East Palo Alto . In an attempt to deter criminal activity, provide video evidence of criminal activity to law enforcement, assist in identifying persons involved in criminal activity, and enhance the quality of life of our residents, Woodland Park Management is installing security cameras at many of our complexes. These video cameras will have the capability of recording events, allowing us to assist law enforcement and protect our property.

The City of East Palo Alto can assist us by allowing Woodland Park Management permission to place cameras on telephone poles and street lights in the area of our properties. I know that allowing us to place these cameras on some of the telephone/street light poles would assist East Palo Alto Police Department in investigating criminal activities that would occur in the areas where the cameras were placed.

I am sure there are other people in city government that I must talk with to obtain permission to accomplish this goal. I am hoping that you could steer me in the right direction as well as assist me in this worthwhile security program.

Please let me know who I need to speak with and what the process would be to obtain agreement on the video surveillance.

Regards,

Tim Morgan
Consultant Page Mill Properties

E-mail from Capt. Chalmers September 15, 2008

Tim,

Please advise me of your cell phone number.

Thanks,

Captain Chalmers

From: Tim Morgan
Sent: Tuesday, September 16, 2008 6:24 AM
To: John Chalmers
Cc: Jim Shore
Subject: Re: Date for meeting

Thanks, I will wait to hear from you. I would also like to discuss the idea of security cameras on some of the light and telephone poles, this would benefit both the city and us. Let me know when you have a few minutes to talk.

Tim

----- Original Message -----

From: John Chalmers
To: Tim Morgan
Sent: Monday, September 15, 2008 9:54:13 AM
Subject: RE: Date for meeting

Tim,

Just returned from being out of town for the week. I'll talk to Captain Estelle regarding another meeting and also will look into getting that vandalism report.

Thanks,

Captain Chalmers

From: Tim Morgan
Sent: Wednesday, September 10, 2008 6:07 PM
To: John Chalmers; Jim Shore
Subject: Date for meeting

Captain Chalmers,

Per our discussion of a few weeks ago I would like to set up a meeting with you, your partner, Jim Shore and myself for September. The best days for me are Monday and Tuesday for this month. Please let me know which days are good for you. Further I sent you an e-mail asking for a status on the Meyer vandalism as well as a question about

street lights. I am sure that you are swamped with work, however if I can get those answered for me I would be grateful

Thanks

Tim Morgan
Consultant Page Mill Properties

September 22, 2008

Captain John Chalmers
East Palo Alto Police Department
141 Demeter Street
East Palo Alto, CA. 94303

Dear Captain Chalmers,

Woodland Park Management is placing security cameras around many of the apartment complexes that we manage. The cameras and the security officer that will be monitoring the cameras will be a benefit to East Palo Alto Police Department and our residents by providing video evidence of any crimes that are committed, as well as enhance their quality of life.

As stated in the welcome by Chief Ron Davis on the East Palo Alto Police Department web site, "The department works closely in partnership with neighborhood residents, business owners and their employees to solve neighborhood public safety problems." Woodland Park Management is looking to partner with East Palo Alto Police Department and the City of East Palo Alto on this very important community safety project. Woodland Park has already contracted with a vendor as well as has employed an engineer to design the wireless camera system. East Palo Alto Police Department and the City of East Palo Alto can assist us by allowing our vendor to place some of the cameras on telephone and street light poles owned by the city. This will allow us to have better line of sight for the wireless system, better camera viewing, as well as allow us to power the cameras. Powering the cameras will be an issue that we will work on once permission is received to place the cameras on the identified locations.

I would like to speak with you as soon as you are available as I have a specific time line to complete this project. Please contact me at your earliest convenience.

Tim Morgan

Consultant Page Mill Properties

e-mail dated September 23, 2008 from Capt. Chalmers

Tim,

I must apologize but we had a homicide yesterday and a double shooting this afternoon so we are VERY busy with no time for anything right now. I will be in touch though and we can hammer things out.

Thank,

Capt. Chalmers

From: Tim Morgan
Sent: Tuesday, September 23, 2008 1:18 PM
To: John Chalmers
Subject: Re: Meeting and cameras

Capt.

I am not getting my concerns across very well and that is my fault. Is it possible for you to call me at around 3:30 or so when I will have a few minutes to explain myself. I am just not able to put my thoughts down on paper that I am trying to make. Again my fault and hopefully I can better explain what I am trying to do.

Thanks again

Tim

----- Original Message -----

From: John Chalmers
To: Tim Morgan
Sent: Tuesday, September 23, 2008 1:10:36 PM
Subject: RE: Meeting and cameras

Tim,

You may come down and obtain a copy of the report for the vandalism from the records clerk. Secondly, there is definitely some miscommunication regarding the cameras on your property. The PD can come down and assess the property to suggest what the most advantageous positions would be for the cameras.

Thanks,

JC

From: Tim Morgan
Sent: Tuesday, September 23, 2008 11:41 AM

To: John Chalmers
Cc: Jim Shore
Subject: Re: Meeting and cameras

Capt. Chalmers

A few things.....Can I get a copy of the case so that I can provide it to the attorney who, if they decide to, will file a civil action against Mr. Meyers. As we discussed I was at EPAPD to pick up a copy several weeks after the case was taken and no report was completed. Second is can you refer me to who I would need to speak to about the camera issue at the city. I understand that you can not provide approval, however the locations of these cameras could be a huge benefit to EPAPD and I am aware of at least one agency in Santa Clara County is working on this same issue. I would want, if permission is given, to have the input of EPAPD on the locations of some of the cameras as there may be some strategic locations that EPAPD would like viewed around our property.

Thanks

Tim

----- Original Message -----

From: John Chalmers
To: Tim Morgan
Sent: Monday, September 22, 2008 3:19:51 PM
Subject: RE: Meeting and cameras

Tim,

The Meyer case has been filed on by the DA's office. As far as the camera issue, that's between PageMill and the City. The police department cannot dictate on where or why the cameras are being utilized. I'll talk to Capt. Estelle regarding the location and time of our meeting.

Thanks,

Capt. Chalmers

From: Tim Morgan
Sent: Monday, September 22, 2008 2:56 PM
To: John Chalmers
Subject: Meeting and cameras

Capt. I have attached a letter, which I drafted asking for a partnership on this camera issue, hoping to get some help from the city. Please review and let me know if this is possible. I am on a pretty stiff timeline and would like to get some indication if this is possible. Further I know that I have been a thorn in your side about this, but the vandalism case against Meyer...I need a copy and to know if it has been sent down for filing...We want to file a small claims suit against him, however do not want it to interfere

with the prosecution and want to consult with the D.A. on if that will be necessary or if the D.A. would ask the judge to require restitution.

Lastly a meeting for this month. I am not available this Thursday or Friday but am available next Tues, Wed. Thurs

Thanks

Tim

November 15, 2008

Chief Ronald Davis
East Palo Alto Police Department
141 Demeter Street
East Palo Alto, CA. 94303

Dear Chief Davis,

On November 14, 2008 I received a request from your organization asking permission to place a "Shotspotter" sensor on several of our properties. We are committed to protecting members of our community and enhancing the quality of life of our tenants. With that being said, we would like to meet with you to discuss this very important public safety tool as well as other safety issues in and around our properties.

I previously sent you a letter, dated November 2, 2008, requesting a meeting date to discuss safety related concerns as well as establishing a partnership with our extensive surveillance camera equipment. I have not heard back from you regarding this meeting.

Hopefully your request to place a "Shotspotter" on our properties will be a catalyst for us to meet and partner on many worthwhile public safety issues. Please feel free to contact me at my e-mail address of _____ or on my telephone at _____

Sincerely,

Tim Morgan
Consultant Page Mill Properties

From: Ronald Davis
Sent: Tuesday, November 25, 2008 12:38 PM
To: ; John Chalmers; Carl Estelle; Shore, Jim
Subject: RE: Meeting request

Mr. Morgan,

I have personally met with the management at Page Mill properties on several occasions. As with any organization, I have competent staff that I entrust and empower to make decisions on behalf of the Department. As the chief of police, I unfortunately cannot attend every meeting as requested. Moreover, based on your email, and the concerns outlined in these communications, I have scheduled a meeting with the residents so that I can hear from them first hand – as I do with other residents at Beat meetings, Chats with the Chief, etc. In fact, I am hosting a special meeting for your tenants so that we can address these concerns. You are welcomed, and I suggest, you attend this meeting as well so that I can hear all concerns.

I prefer to hear first-hand from the residents about crimes and other violations that affect their lives; especially considering crime and disorder are affected by living conditions and the surrounding environment. If issues arise that require me to directly meet with you, I will make that determination. Until that time, however, the appropriate step is to coordinate with the Area Commanders who can best respond to your concerns. With regards to ShotSpotter, CSO Lam has been tasked with that project. You can imagine how many meetings I would have to attend if I were to meet with every property owner we are seeking authorization to place sensors at their location.

Chief Davis
From: Tim Morgan
Sent: Tuesday, November 25, 2008 12:09 PM
To: Ronald Davis; John Chalmers; Carl Estelle; Jim Shore
Subject: Meeting request

November 25, 2008

Chief Ronald Davis
East Palo Alto Police Department
141 Demeter Street
East Palo Alto, CA. 94303

Dear Chief Davis,

I recently received an e-mail response from Captain Estelle about my request to meet with you, your staff and with Jim Shore, the General Counsel of Page Mill Properties. Despite repeated attempts over the last three months to set up a meeting with you, you continue to avoid meeting with me. I know you are busy but you haven't even suggested one time for us to meet. I can meet on weekends or evenings with some advance notice.

At your request in July, 2008 I met with Captains Chalmers and Estelle. Although the one meeting we had went well, nothing they promised happened. I barely even received

any response from my numerous emails to your captains after that initial meeting. It wasn't until I sent you two emails on November 2, 2008 and November 15, 2008 that Captain Estelle responded. He has now suggested I meet with him and Captain Chalmers yet again.

While I have respect both of your captains for the work they both do, given their previous failed attempts to work cooperatively, I respectfully request a meeting directly with you. I am not sure why you are making yourself available to meet with our tenants (which I applaud) and not meet with our management (which I don't understand).

In addition to the request from your staff to discuss the placement of the shot spotter technology on our properties I need to discuss other vital issues that directly affect the safety and security of our residents and guests on the West Side of highway 101 directly with you. Please do not allow the legal issues between us and the City to stand in the way of you meeting with me to discuss the public safety and security of East Palo Alto.

As I have said before, we want to partner with East Palo Alto Police Department to enhance the quality of life of our residents. We are hopeful that this meeting will allow further dialogue that will benefit everyone.

Please feel free to contact me at my e-mail address of
on my telephone at

Sincerely,

Tim Morgan
Consultant Page Mill Properties

From: Elizabeth Lam
Sent: Wednesday, November 26, 2008 8:28 AM
To:
Cc: Carl Estelle; John Chalmers; Patricia Del Castillo; Shore, Jim
Subject: RE: Meeting with East Palo Alto Police Department

Dear Mr. Morgan,

Please forgive me if I relayed the information in a manner that conveyed we were not being receptive or empathetic towards the management. Including the management was a priority on our part and this is the main reason we wished to inform you about the meeting prior to hosting it. The reason we are not able to reschedule is due to our Chief's busy schedule. It is important to him to be there and to reschedule for a later date would create too long of a delay. Ultimately we cannot address all of the concerns without your partnership. We have enjoyed a very close working relationship with the management of Pagemill in the past and we hope this continues.

The meeting date, time and location are as follows:

Date: Tuesday, December 9th, 2008
Time: 5:30pm – 6:30pm
Location: St. Samuel's Church of God in Christ
1199 East Bayshore Road, East Palo Alto, CA 94303

Please feel free to contact one of us if you should have any questions or concerns. Captain Chalmers is the Area Captain of Beat Four where Pagemill is situated, therefore he is the most appropriate person for you to contact

Sincerely,

E. Lam
Community Service Officer

From: Tim Morgan
Sent: Wednesday, November 26, 2008 6:50 AM
To: Elizabeth Lam
Cc: Carl Estelle; John Chalmers; Patricia Del Castillo; Jim Shore
Subject: Re: Meeting with East Palo Alto Police Department

Of Course it will be held that day, we anticipated this. I will be checking to see if other staff can attend, however I am not optimistic. There appears to be a prevailing attitude of non-cooperation with the concerns of our property management company. On a completely different note, the request for your shotspotter technology set up on our buildings is still being evaluated.

I hope to have an answer to you soon.

Tim Morgan

From: Elizabeth Lam
To: Tim Morgan
Cc: Carl Estelle ; Patricia
John Chalmers
Del Castillo
Sent: Tuesday, November 25, 2008 9:56:30 PM
Subject: RE: Meeting with East Palo Alto Police Department

Dear Mr. Morgan,

I checked with the Command Staff and was told that we will not be able to reschedule the meeting and we will continue to attempt to hold it on the 9th.

I will keep you posted to the date, time and location in case your schedule should change.

Sincerely,

E. Lam

Community Service Officer
East Palo Alto Police Department
Phone:

-----Original Message-----

From: Tim Morgan [mailto:
Sent: Tue 11/25/2008 7:44 AM
To: Elizabeth Lam
Cc: Jim Shore
Subject: Meeting with East Palo Alto Police Department

Ms. Lam,

My name is Tim Morgan and I am a consultant with Woodland Park Management/Pagemill Properties. I provide assistance to the management company regarding security and security preparedness issues.. I am not available on December 9, 2008, however am available to meet on the 10th, 11th or 12th, as well as other days the next week. Is the meeting on with the police command staff alone, or is this a larger meeting involving tenants of Woodland Park Management?

I would like to be provided a list of concerns that you mentioned the tenants have with the police department...Of course, you can imagine that Woodland Park Management has some different concerns and we are always willing to discuss security and safety issues.

In your e-mail request to meet, you say "The Police Department has been receiving a myriad of concern regarding Pagemill Properties", what does this mean. I would like clarification on this issue so that I can properly prepare for the meeting.

As far as a location, if the meeting is between Woodland Park Management/Pagemill Properties, then any venue would work. If the meeting involves a larger number of people a different location would be necessary. It is important for us to come to an understanding that this meeting is regarding security and safety issues, not greater issues that I do not have the knowledge nor authority to discuss.

Again I am not available on the 9th of December, but am available the other days.

Thank you for your time,

Tim Morgan
Consultant Woodland Park Management/Pagemill Properties

Jim,

Per your request I have attached all e-mails received and sent to East Palo Alto Police Department. I have had other contacts with their organization. I went there to pick up the Meyer vandalism police report over 2 weeks after it was reported and was told that the officer had not finished the initial report. I was asked to come back the next day. I was also told that the officer would be calling me that day. I never received a telephone call.

The next day I called on the watch commander line twice and never received a return telephone call. I can obtain the dates if necessary as they should be in my billing system.

I called the watch commander line on two other occasions to advise them of potential protestors on the Newell property and never received a telephone call back.

I called the detective working robbery, I do not remember his name, however I did not receive a call back from him.

-----Original Message-----

From: Elizabeth Lam
Sent: Friday, December 14, 2008 12:13 AM
To: Shore, Jim;
Subject: RE: Shotspotter

Dear Mr. Shore and Mr. Morgan,

I confirmed with Patty, the Chief's assistant, that the Chief did receive your letter. She advised me to have you contact her for future inquiries regarding the Chief. Her direct number is _____ and her e-mail is _____

If I can be of any assistance to you on lesser matters, please let me know.

Sincerely,

E. Lam

-----Original Message-----

From: Shore, Jim
Sent: Tue 12/16/2008 9:13 AM
To: _____ ; Elizabeth Lam
Subject: RE: Shotspotter

Any word from Davis?

Jim Shore, General Counsel

Page Mill Properties, LLC

From: Tim Morgan
Sent: Friday, December 12, 2008 11:13 AM
To: Elizabeth Lam
Cc: Shore, Jim
Subject: Shotspotter

Elizabeth,

I am working on this and for your information I sent a letter to Chief Davis about three days ago and have not heard back from him, regardless we are working on it....I have a few questions for you, they have to do with interference with our wireless camera network...Here are the questions that my staff is asking. Can you get these answers to me so that I can get approval for the system. The sooner the better.

Thanks

Tim Morgan

The Shotspotter product does NOT interfere with the Mesh Nodes or WiFi, unless they intend on using a wireless backhaul system. If they use a wireless backhaul, we still MAY be o.k. since they will probably use the public safety 4.9GHz frequency. I would double check and find out if they are:

- A. planning on using a wireless backhaul
- B. if so, find out what frequency they intend on using

From: Tim Morgan
Sent: Tuesday, December 30, 2008 8:28 AM
To: Elizabeth Lam
Cc: Shore, Jim
Subject: Shotspotter

Elizabeth,

After much discussion, and even though Chief Davis is refusing to meet with us, we are going to allow EPAPD to have shotspotter placed on some of our buildings. We feel that enhancing the quality of life and protecting our tenants is paramount. I need to know which apartment buildings, how long it will take, what access the company will need, will they need to get power to the equipment? Get me this information as well as the contracts for signature.

Tim Morgan
Consultant Woodland Park Management

DECLARATION OF TERESITA ALANIZ

I, TERESITA ALANIZ, declare as follows:

1. I am one of the property managers for the apartment complex located at 1-8 Newell Court in East Palo Alto, and I work for Woodland Park Management, LLC.
2. On or about April 1, 2008, Guadalupe Montes, one of our tenants who reside at 2 Newell Court, Apt. 2108, came to the apartment management office to discuss the break-in which occurred on March 31, 2008.
3. Sylvia Mariscal, a property management employee, and I were present during the meeting with Guadalupe Montes.
4. After Guadalupe recited the facts of the prior day, I requested that Guadalupe again call the East Palo Alto Police Department in an attempt to get a case number.
5. During our meeting, I asked one of our maintenance workers to go to Guadalupe's apartment and rekey the unit and install a chain on the door in an attempt to protect this tenant and her family and prevent further break-ins.
6. I asked Sylvia to contact the East Palo Alto Police Department. Sylvia made several unsuccessful attempts before finally speaking to someone at the East Palo Alto Police Department. Sylvia was told by the East Palo Alto Police Department that Guadalupe Montes needed to go to the East Palo Alto Police Station to make a report.
7. When it was evident that we would not receive any help from the East Palo Alto Police Department by telephone, Guadalupe Montes left to go back to her apartment.
8. About an hour or so later, Guadalupe Montes came back to the management office with her daughters. She was shaking and appeared frightened. When she told me of this

recent incident of her door being kicked in, I asked Sylvia to drive Guadalupe to the East Palo Alto Police Department to report these crimes.

9. Because of the severity of this matter, I met with James E. Thompson, an executive at Woodland Park Management, LLC, at the management office. We discussed both the crime that occurred at Guadalupe's apartment involving Mario Rios, the boy who was identified by Guadalupe's daughter as being one of the boys who broke into their apartment and a prior crime that occurred on the 1-8 Newell property resulting in the destruction of surveillance cameras. The surveillance camera tapes identified Mario Rios to be the perpetrator of this crime.

10. Within a few hours after Sylvia took Guadalupe to the East Palo Alto Police Department, two police officers came to the management office while I was meeting with James E. Thompson. James E. Thompson and I explained to these two officers the crimes that occurred involving the break-in of Guadalupe's apartment and the destruction of the surveillance cameras, both of which were committed by the same juvenile male, Mario Rios.

11. I do not remember the complete names of these two police officers, but one of the police officers was known as Officer Johnny and the other police officer was known as Officer Vasquez.

12. While we were talking to these police officers, one of the officers received a phone call from someone who I believed was their supervisor based on the tone of the officer's voice. Shortly after the phone call, an African American police officer whom I believed was in a supervisory position, came into the management office. While James E. Thompson and I explained the situation to him, he appeared to be disinterested and annoyed at what we were telling him. I cannot remember his exact words, but basically he indicated that he did not have time for this. He said he had to go and took off shortly after he arrived. Officer Johnny and

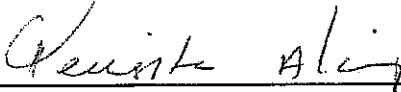
Officer Vasquez stayed for a short time after their supervisor left. They apologized for his response and behavior but said they had to follow his orders. James E. Thompson presented these two officers with a CD which contained the surveillance tape footage which showed Mario Rios destroying the surveillance cameras so they would have the evidence necessary to make a case against Mario Rios so he would be prosecuted for this crime. The officers then left.

13. Within one week after the break-in crimes which were committed against Guadalupe Montes and her family, I transferred this family to another apartment complex for their safety.

14. I have not heard anything further from the East Palo Alto Police Department regarding the crimes committed by Mario Rios regarding both the destruction of the surveillance cameras and the break-in of Guadalupe Montes' apartment.

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct. Executed at East Palo Alto, California.

Date: 1/9/09



TERESITA ALANIZ

DECLARATION OF GUADALUPE MONTES

I, GUADALUPE MONTES, declare as follows:

1. In March of 2008, my family and I resided at Apt. 2108, 2 Newell Court, East Palo Alto, California 94303.
2. On or about March 31, 2008, while I was taking groceries into my apartment, I heard my daughter Crystal yell for me in the apartment. My daughter told me she heard noises from the bedroom and when she went to check what caused the noises, she saw two boys in the room and three boys standing on the balcony. When she yelled for me, the boys fled through the balcony.
3. My daughter told me one of the boys who were in our apartment was Mario Rios, a 16 years old Hispanic male who lives at 5 Newell Court. She said she did not recognize the other boys.
4. My family and I had not given anyone permission to enter our residence.
5. My husband and I then walked to the apartment where Mario resided with his family and knocked on the door, but no one answered. On the way back to our apartment, we saw the security patrol and so we reported to them what happened. One of the security guards contacted the police. While we were talking to the security guards, I remember hearing whistles like the kids were signaling to each other that the police was being notified.
6. When the East Palo Alto Police Officer arrived, no report was made and no case number was given to me. All the Police Officer said to me was to go to the East Palo Alto Police Department and report the incident in person.
7. The morning after the above incident, I went to the apartment management office to report to them what had happened the night before. Teresita Alaniz, the Property Manager,

and Sylvia Mariscal, one of the property management personnel, spoke with me regarding the incident. Sylvia attempted several times unsuccessfully to talk to someone at the East Palo Alto Police Department. When she finally spoke to someone at the East Palo Alto Police Department, they told her that the incident needed to be reported in person.

8. After I left the management office and went back to my apartment, there were several knocks on my door. Initially, I did not answer the door to see if the knocking would stop. It did not, so before opening the door, I confirmed that the chain was secure on the door. I attempted to see who was at the door through the peephole, but I wasn't able to see anyone. I waited for a while longer, asked my daughters to step back, and then proceeded to open the door. When I opened the door slightly, the person on the other side of my door kicked the door and broke the security chain on my door, but this person did not enter the apartment. My daughters were at home with me that day because they were afraid to go to school because Mario attended the same school that they did.

9. My daughters and I waited for a few minutes and then went immediately to the apartment management office because I was scared of what would happen next. Sylvia, a management office employee, called the East Palo Alto Police Department, but the police would not come out to the apartment so Sylvia took me to the East Palo Alto Police Station to report this second incident. We told Police Officer Darren Marshbank what happened, and he gave me his business card with a case number. He asked me if I was willing to take this matter to court, and I responded that I did.

10. After making this police report, incidents kept happening, like someone kicking my door and someone throwing rocks at my door.

11. The following week, I went back to the East Palo Alto Police Station to inquire about the status of the case. The only answer I got from the Police Officer I spoke to was that nothing serious really happened so they couldn't do anything. I was very upset at this response.

12. Even though I clearly identified the boy who broke into our apartment, the East Palo Alto Police Department has done nothing to assist in the prosecution of Mario Rios.

13. Within one week after the above crimes were committed against me and my family, Teresita Alaniz relocated me and my family to another apartment complex.

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct. Executed at East Palo Alto, California.

Date: _____

Guadalupe Montes
GUADALUPE MONTES



Incident / Discrepancy Report

Time: 12:30pm	Date: 1/10/09	Officer making report: Shawn Owens
Location of Incident / Discrepancy: 1871 Woodland		
Type of Incident / Discrepancy: Vehicle Vandalism		Complaining party (if any): Gabriel Mendez
Any use of outside agencies, if so name them (police, fire, ambulance or other agency)		
Victims? (name, address and phone) Karla Melchor- vehicle owner 1871 Woodland		Witnesses? (name, address and phone) Gabriel Mendez- RP / roommate 1871 Woodland 650-315-1100
Police or other agency report number: I put in Crime Report & filed online & - # = TBD		1 st Responders name (outside agency) * Officer Turner @ Orion at the time of initial phone call (1/9/09)
<p>Details of report:</p> <p>Just before 8pm resident, Gabriel Mendez of 1871 Woodland, heard a noise coming from the front of the building. He stepped outside and walked from his fenced yard to the street. An unknown neighbor (that he did not know) pointed north towards his residence and stated that he had just heard car tires squeal from that direction. Mr. Mendez found his roommate's car had been vandalized. The windshield & both driver's side windows were smashed. The vehicle is a green 4-door Dodge Neon. License plate #5DMG996. Registered owner is Karla Melchor.</p> <p>When he called the security office on 1-09-09, Officer Owens arrived on scene & found the vehicle parked on the street. He advised Mr. Mendez to call PD directly. EPAPD refused to respond & told him to file a police report online. However he can't since he does not have computer access.</p> <p>Karla Melchor was not home for a statement.</p>		

AGENDA ITEM
CITY COUNCIL/REDEVELOPMENT AGENCY
TUESDAY, January 10, 2006 ITEM No. 6A10

POLICY AND ACTION ITEM

RESOLUTION

A Resolution Authorizing the City Manager to enter into a 2-year Agreement with the County of San Mateo for supplemental law enforcement and public safety communication services in an amount not to exceed \$2,588,122

4-1



**CITY OF EAST PALO ALTO
OFFICE OF THE CHIEF OF POLICE**

To: Honorable Mayor and Members of the City Council
Via: Alvin D. James, City Manager
From: Ronald L. Davis, Chief of Police
Date: January 10, 2006
Re: Authorize the City Manager to enter into a two year agreement with the County of San Mateo for supplemental law enforcement and public safety communication services in an amount not to exceed \$2,588,122.

Recommendation

That the Council adopt a resolution authorizing the City Manager to enter into a two-year agreement (through June 30, 2007), with the County of San Mateo ("County") for supplemental law enforcement and public safety communication dispatch services in an amount not to exceed \$2,588,122.

Background

The City has continuously contracted with the County to provide supplemental law and public safety communications dispatch services since 1996. The most recent Agreement with the County expired on June 30, 2005. Since the Spring of 2005, the City and County have met on several occasions to define a subsidy extension arrangement and, to negotiate a new level of supplemental law enforcement services. The proposed two-year Agreement term is retroactive to July 1, 2005. The Agreement provides for a total fee of \$1,250,142 for FY 2005-06 which is essentially the same fee level as the previous fiscal year and, \$1,337,980 for 2006-07. The \$1,250,142 represents a county subsidy of \$481,398 for FY 2005-06. The county subsidy would reduce to \$0 in FY 2006-07 as the City's assumption of greater responsibility for service in several areas during the current fiscal year, including investigations, become more evident. The chart below provides a summary of expenses.

Type of Service	FY2005-06	FY2006-07	Total
Law Enforcement Services – Crime Suppression (1 Sergeant, 4 Deputies)	\$743,412	\$567,540	\$1,310,952
Public Safety Communications (7X24 Dispatch Console Services)	\$506,730	770,440	\$1,277,170
Total	\$1,250,142	\$1,337,980	\$2,588,122

Public Safety Communication Services

These services are critical to public safety as they include the processing of 911 emergency and non-emergency calls, as well as the dispatching of patrol officers and criminal investigators. The Department does not have the staff, equipment or facilities to provide this service, and it would be cost prohibitive to create this internal capacity at this time.

Supplemental Law Enforcement Services

Based on staffing shortages within the Police Department, the City contracted with the County in 1995 to provide criminal investigation services. This allowed the police department to reallocate resources from detectives to patrol duties. As part of that contract, the Sheriff's Office ("Sheriff") formed the Regional Investigations Bureau (RIB) and staffed it with one sergeant and five deputies.

In August 2005, the Department implemented the "Community Policing and Violence Reduction Plan." A key component of the plan was the formation of the East Palo Alto Police Criminal Investigations Division (CID), which assumed responsibility to conduct all criminal investigations. Five officers from patrol have been transferred to the newly formed CID.

The staffing shortages faced in 1995 still exist so the need for supplemental services remain. However, instead of using the County deputies to conduct criminal investigations, the Department is now proposing to use them to enhance field operations. Accordingly, the Sheriff will form a Crime Suppression Team (CST) that will supplement patrol units and focus on specific crime trends and patterns, such as gangs and drugs. The CST will work closely with the detectives assigned to CID and assist with the identification and apprehension of offenders.

The formation of CID is absolutely critical to reduce crime and violence in our community, and equally important to the Department's reform efforts. Criminal investigations are a basic core function of policing that must be accountable to the community. If we are to reduce crime and violence, we must increase the rate in which we solve crimes and prosecute offenders. Out of the 15 homicides committed during 2005, only 2 have been solved. Only 10 out of the 50 homicides committed since 2000 have been cleared as defined by the California Uniform Crime Report index. This rate is much lower than the national solve-rate (also known as clearance rates) of approximately 50%.

These low percentages do not reflect on the quality of investigations conducted by the Sheriff. To the contrary, the Sheriff detectives have served this community well for over ten years and I consider them top-notch professionals. These percentages do, however, reflect a need to localize the criminal investigation function and strengthen the Department's overall ability to respond to crime and violence. Many of the key factors that contribute to low clearance rates are local-based and best obtained by a local Department possessing a criminal investigation function. These factors include, but are not limited to:

- Intimate knowledge of the community as well as those persons involved in criminal activity. This knowledge is best obtained by working closely with the community daily.

As part of our community policing plan, patrol officers are assigned to one of four beats in the City. They are expected to become experts of their beats and interact with block groups, community-based organizations, faith-based organizations, businesses and schools, to develop contacts and information crucial in criminal investigations.

- The willingness of the community to provide information to the police. The community and police must have a relationship based on trust and confidence before the crime occurs, not after. Otherwise, a detective, especially one from another department and outside the community, asking questions about who did what is often perceived as a stranger not to be trusted.
- The Department's internal capacity to conduct thorough preliminary investigations and control and protect crime-scenes and evidence. The quality of preliminary investigations contributes greatly to the clearance rates. East Palo Alto police officers have historically been primarily assigned to field duties with little exposure to criminal investigations. This not only stifled their development, it limited their understanding of criminal investigations and the role preliminary investigations play in solving crime. We must invest in our staff so that we build internal capacity and increase our competency, and discontinue investing the City's scarce resources to develop outside staff who then take their knowledge and experiences away from the department and the community once they transfer out of the City.
- Coordination between patrol officers and County detectives. The Sheriff's Office and the Police Department enjoy a good relationship, however, the level of interaction is limited because of logistics. The County's homicide investigators are based in Redwood City. This disconnect contributed to slow communication and even the failure to share valuable information.
- Increased Accountability. The Sheriff deputies are not city employees; therefore, the City's police chief, has historically had little or no direct authority to select or remove detectives assigned to the investigations unit; change their work hours or days off if needed, or administer discipline if warranted. Such actions must be approved by the Sheriff.

Localizing the investigation function offers other benefits to the Department and City, such as:

- Single point of accountability. Residents no longer have to figure out whom to contact -- the police department or the sheriff's office -- to follow-up on an investigation. They can now contact the department regarding their concerns.
- Reduced costs. The new arrangement to be supported by the proposed agreement provides a less expensive way for the Department to operate an investigation function rather than contract with the Sheriff. Currently, the City leaves vacant six police officer positions to pay for the Sheriff's contract. Even at the subsidized rate, the costs of Sheriff deputies have exceeded the funds generated from the vacant positions. The City has increased the Department's budget in 2005 - 06 to make up the difference, however the

subsidy is scheduled to end during the FY 2006-07 budget, which means the cost of the contract would increase even more if the County continues to provide investigative services – about 40%.

- Professional Development. The department has lacked much opportunity for professional advancement for its patrol officers or incentives to attract new recruits. Now an ambitious officer can look forward to trying to become a detective. Detectives transferring out of the East Palo Alto investigations unit remain in the Department and share their knowledge and experience to less experienced officers. This will create a more experienced core of officers and prepare the future leadership of the Department.
- Increased Officer Recruitment and Retention. As we compete with other agencies to recruit qualified police officer candidates, we are limited by the growth and development we offer police officers. Without opportunities to learn and advance within the organization, many candidates look elsewhere. The newly formed investigations unit will provide for lateral movement within the organization.
- Increased grant opportunities. Because the City has not conducted criminal investigations over the past ten years, many grants designated to reduce crime and violence and increase clearance rates have not been available to the City. The Department will now seek grant opportunities and funding alternatives.
- Increased pride and morale. An important part of reform is creating an environment conducive to high morale and pride. Officers must take pride in their Department and their community. Contracting with the Sheriff for investigations has diminished organizational pride, albeit not intentional, as it may communicate an implication that EPA officers are not good enough to conduct a basic function in policing.

This has served as a source of tension for officers and has created what I can only describe as low organizational-esteem. If you set low standards and expectations, people will aim low. If you set high standards and expectations, people strive to those heights. This change has already created a level of excitement and synergy within the Department and increased organizational pride.

In May 2005, the City was notified by the County of its intent to end the subsidy for services provided. The City Manager, Police Chief, then Mayor Wood and then Vice Mayor Abrica met with the County Manager and each County Board Supervisor to request consideration of an extension to allow the City the time and financial flexibility to make this change. On December 6, 2005, the Board of Supervisors, County of San Mateo approved the proposed contract and extended the subsidy an additional year based on the Department's efforts to assume responsibility to conduct criminal investigations (See Attachment).

Fiscal Impact

The immediate cost to the general fund for fiscal year 2005 – 2006 is \$1,250,142 and \$1,337,980 for 2006-07. The total cost of the contract for the two year period is not to exceed \$2,588,122

for the two year period. The City currently freezes six police officer positions to help pay for the contract. This arrangement will phase out by the end of the two year period allowing the City to redeploy those resources to support city recruitments.

Attachment: Sheriff's Report to San Mateo County Board of Supervisors
Board of Supervisors Resolution No
Contract for Law Enforcement Services
Contract for Public Safety Communication Services

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
AUTHORIZING THE CITY MANAGER TO ENTER INTO A TWO-YEAR CONTRACT
WITH THE COUNTY OF SAN MATEO FOR SUPPLEMENTAL LAW
ENFORCEMENT AND PUBLIC SAFETY COMMUNICATIONS SERVICES IN AN
AMOUNT NOT TO EXCEED \$2,588,122**

WHEREAS, the City of East Palo Alto contracted with the County of San Mateo for supplemental law enforcement and public safety communication services since 1996; and

WHEREAS, the services provided as part of this contract are critical to public and officer safety; and

WHEREAS, the City of East Palo Alto Police Department is facing staff shortages and does not have a police dispatch center or the internal capacity to provide these services; and

WHEREAS, the Board of Supervisors, County of San Mateo has agreed to provide supplemental law enforcement and public safety communication services for a two-year period,

THEREFORE, IT IS NOW RESOLVED that the City Council of East Palo Alto authorizes the City Manager to enter into a two-year contract with the County of San Mateo for supplemental police and public safety communication services in an amount not to exceed \$2,588,122.

Passed and Approved this 10th day of January 2006, by the following vote:

AYES:

NAY:

ABSTAIN:

ABSENT:

Ruben Abrica, Mayor

APPROVED AS TO FORM

ATTEST:

City Clerk

City Attorney



COUNTY OF SAN MATEO
Sheriff's Office
Inter-Departmental Correspondence

DATE: November 28, 2005

BOARD MEETING DATE: December 6, 2005

TO: Honorable Board of Supervisors

FROM: Sheriff Don Horsley
Mary Welch, Director of Employee & Public Services

SUBJECT: Agreement With the City of East Palo Alto for Law Enforcement & Public Safety Communications

Recommendation

Adopt a Resolution authorizing the County Manager to execute an Agreement with the City of East Palo Alto, including the negotiation of any minor adjustments not significantly impacting services, costs, or payments, for a two-year term through June 30th, 2007 with a total reimbursement to the County of \$2,588,122.

Background

San Mateo County has been providing contract supplemental law enforcement and public safety communication services to the City of East Palo Alto since 1996. The deployment of Sheriff's Office personnel in the City has historically helped mitigate and reduce serious crime rates against citizens and property in the City.

The most recent Agreement with the City (Board Resolution 66339) expired on June 30, 2005. Since the Spring of 2005, the City and the County have been meeting to both define and negotiate a new level of supplemental law enforcement services. The City government has also transitioned during the prior contract period, under a new City Manager (Alvin James) and with the appointment of a new Police Chief (Ron Davis), who replaced the previous interim police chief, Steve Belcher. A new City administration has been re-designing community police services with a fresh vision. These factors delayed the finalization of this Agreement, which is now being brought to your Board for approval.

Over the last several years, the County's subsidy to East Palo Alto has been reduced from approximately \$1.5 Million down to about \$565,000 in 2004-05. Permanent Sheriff's Office staffing has been reduced by six positions, and Public Safety Communications services have remained steady with no significant staffing increases.

Discussion

The two-year Agreement term is retroactive to July 1, 2005. The Agreement provides for total reimbursement to the County of \$1,250,142 for FY 2005-06, and \$1,337,980 for 2006-07. This represents an increase of \$341,228 or 15%, over the prior contract total two-year payments.

Sheriff's Office services and corresponding reimbursements decrease to \$567,540 in FY 2006-07 and reimbursement to Public Safety Communications increases to \$770,440 in FY 2006-07. The Agreement provides for the complete elimination of a County subsidy by the conclusion of FY 2006-07.

Under the Agreement, Public Safety dispatch services remain unchanged, while Sheriff's Office services transition from direct provision of investigation services to operation of a street crimes suppression unit for the City. Police Chief Davis intends to initiate and transition to a full City-led investigative unit by the end of FY 2005-06, taking over responsibility for all criminal investigations in the City. The FBI has been recruited to help investigate select major crimes cases with no identified suspect. The Sheriff's Office will continue to assist in investigation of extra-ordinary major crime cases under mutual aid (which is the case for all cities within the County), and will negotiate a reimbursable cost with the City for additional or supplemental investigative work, on a case-by-case basis.

Sheriff's staffing reduces from one Sergeant and five Deputies at the beginning of FY 2005-06, to a Sergeant and two Deputies in FY 2006-07. The importance of a street crime suppression team is well-established, and the Agreement provides for the City's gradual assumption of staffing for this unit, with a full City takeover of street crime suppression planned beginning July 2007 (FY 2007-08). All Sheriff's Office services will be phased out by the beginning of FY 2007-08, and the City has stated that it intends to commence full service policing by that date. Public Safety Communications services will remain unchanged.

The proposed Agreement has been developed in consultation with City officials, and is scheduled to go to the City Council for approval in December. To prevent further delay in implementation of the agreement, it is recommended that your Board authorize the County Manager to complete the execution of the Agreement on behalf of the County, including any minor changes or issues related to the Agreement that may arise during Council consideration, provided the changes do not substantively alter the nature, cost or payment for County services provided to the City. County Counsel will be asked to review the final Agreement prior to execution, if any changes are made from the attached version.

Vision Alignment

The proposed Agreement aligns with the Shared Vision 2010 Goal of ensuring basic health and safety for all, under Commitment No. 7 – maintain and enhance the safety of all residents and visitors; Commitment No. 8 – protecting the quality of life of the vulnerable elderly and children, who are disproportionately victimized by street crime activity; as well as the Goal of responsive, effective, and collaborative government, under Commitment No. 20 – Government decisions are based on careful consideration of future impact, rather than immediate relief.

Performance Measures

Due to the transition of Sheriff's services over to the City police department, it was not practical to develop new Sheriff's performance measures with the City at this time. The Agreement calls for weekly activity reporting by Crime Suppression Team personnel directly to the Police Chief.

Performance measures for public safety communications services are as follows:

Performance Measures	FY 2004-05 Actual	FY 2005-06 Target	FY 2006-07 Target
No. of PSC calls processed annually by category:			
- High Priority	69,529	65,500	65,500
- Other Dispatched Calls	181,261	206,350	203,650
- Informational Calls	399,893	376,400	376,400
Percent of High Priority calls dispatched within established time frames:			
- Police	88 %	82 %	82 %
- Fire	94 %	94 %	94 %
- Medical	93 %	94 %	94 %

Fiscal Impact

By FY 2006-07, the County's cost of service, and the City's payment of same, will be fully covered through contractual payments from the City. Revenue from the Agreement is included within the Sheriff's Office and EPS Public Safety Communications FY 2005-06 budget, and the City will begin payment for the contractual service through the December, 2005 property tax levy, which has been the historical method of payment. There is no increase in budgeted net County cost from approval of this Agreement. The Agreement calls for the complete elimination of a County subsidy for the City by FY 2006-07.

Cc Mary Welch, Director of Employee & Public Services
Jaime Young, Public Safety Communications Manager.

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE CITY OF EAST PALO ALTO FOR SUPPLEMENTAL LAW ENFORCEMENT AND PUBLIC SAFETY COMMUNICATIONS SERVICES FOR FY 2005-06 & FY 2006-07

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the County of San Mateo has contracted to provide supplemental law enforcement and public safety communications to the City of East Palo Alto ("City") since 1996;

WHEREAS, The most recent Agreement (Resolution No. 66339, adopted 11/04/03) expired June 30, 2005, and the County and City have been negotiating service and reimbursement levels since that date, and this Board finds it is necessary and desirable to continue to contract to provide a reduced level of law enforcement and public safety communications support for the City, in order to help the City assure public safety for its residents and to help protect nearby County unincorporated area residents; and

WHEREAS, this Board has been presented, for its consideration, an Agreement with the City, whereby the County would continue to provide services to the City until June 30, 2007, in exchange for City reimbursement to the County of a total of \$2,588,122 for said period, and

WHEREAS, the City Council of the City of East Palo Alto has executed or will execute said Agreement, and this Board has now been presented with a draft of said Agreement, and has examined it and found it to be satisfactory, and desires to authorize the County Manager to finalize contract proceedings with the City, including the authority to negotiate minor issues and procedures not substantively altering the intent and financial impact of said draft Agreement, and following a final review by County Counsel, to then execute said Agreement on behalf of the County;

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED THAT: the County Manager of San Mateo County be, and he is hereby authorized and directed to execute the Agreement between the County of San Mateo and the City of East Palo Alto for and on behalf of the County, including negotiation of minor adjustments as may be desired by the City and are acceptable to the County, and the Clerk of this Board shall attest his signature thereto.

* * * * *

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
THE CITY OF EAST PALO ALTO**

THIS AGREEMENT, entered into this _____ day of _____, 2005, by and between the **COUNTY OF SAN MATEO**, hereafter called "County," and **CITY OF EAST PALO ALTO** hereafter called "City";

WITNESSETH:

WHEREAS, pursuant to Government Code §§ 51300 *et seq.*, County may contract with City for the performance of City functions by the appropriate officers and employees of County; and

WHEREAS, City desires to have County provide certain law enforcement services and public safety communications through the County as hereafter set forth, for and on behalf of City, within the territorial limits of said City, and County, by and through the San Mateo County Sheriff is willing to perform such services,

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits.

Exhibit A, describing the **Law Enforcement services** that the parties have agreed the COUNTY will provide for the CITY, as well as the prices the CITY will pay COUNTY for said law services, is attached hereto and incorporated by reference herein.

Exhibit B, describing the **Public Safety Communications services** that the parties have agreed the COUNTY will provide for the CITY, as well as the prices the CITY will pay COUNTY for said services, is attached hereto and incorporated by reference herein.

2. Services to be performed by County.

In consideration of the payments set forth herein, County shall perform a defined range of law enforcement services for City as set forth herein and in Exhibit A and B. These services will supplement the public safety services administered by the City of East Palo Alto.

- (a) COUNTY will provide CITY with Investigative and Street Crime Suppression Unit services from July 1, 2005 through June 30, 2007 as set forth in Exhibit A.
- (c) COUNTY will rent to CITY the use of pagers that are compatible with the COUNTY dispatch system, at the rates set forth in section 3 of this agreement.
- (d) COUNTY will provide Public Safety Communications services as set forth in Exhibit B.

3. Payments.

(a) In consideration of the services provided by County in accordance with Exhibits A and B, City shall make payment to County based on the rates set forth below. The City's total fiscal

obligation for fixed services under this Agreement shall not exceed the amounts set forth in Sections "b" and "c", below, which total \$1,250,142 for Fiscal Year 2005-06, and \$1,337,980 for Fiscal Year 2006-07. Payments for variable services such as homicide/major crime investigation support, and for pager services, shall be at the established rates for said services, as set forth in Exhibits A and B, and Sections 3 (g) and (h) below.

(b) In consideration for the County's furnishing the law enforcement services set forth in Exhibit A, City shall pay County the sum of \$743,412 for the Fiscal Year 2005-06 (July 1, 2005 through June 30, 2006); and the sum of \$567,540 for the Fiscal Year 2006-07 (July 1, 2006 through June 30, 2007). Any supplemental major crime investigative services mutually agreed upon by the City and Sheriff to be reimbursable services, shall be invoiced separately, over and above the dollar payments set forth above.

(c) In consideration for the County's furnishing public safety communications services set forth in Exhibit B, City shall pay County the sum of \$506,730 for the Fiscal Year 2005-06 (July 1, 2005 through June 30, 2006); and the sum of \$770,453 for the Fiscal Year 2006-07 (July 1, 2006 through June 30, 2007);

(d) In the event this Agreement is amended to extend the initial term, payment amounts shall be determined by mutual discussion and agreement between the parties prior to execution of the extension.

(e) The County Controller shall pay, and City does specifically authorize the Controller to pay, the amounts owed to the County from property tax receipts, other than taxes from the supplemental roll, that would otherwise be payable by the County to the City of East Palo Alto not later than December 15 and not later than April 15 of the Fiscal Year in which payments become due (hereinafter "payment date(s)"). Controller shall make such payment(s) to County prior to making any other payments to City or any other person or entity. Notwithstanding the above, the parties agree that County may, at its option, choose to postpone to a later payment date any payment from tax receipts due under this Agreement.

(f) City and County agree that County or Sheriff will not apply for any grant funding based upon Sheriff's participation in City and/or using City's statistics without collaboration with City and participation by the City in any grant awards based upon such application(s).

(g) In addition to the services and payments described in this agreement, County will rent alphanumeric pagers to city at the price of \$10.00 per pager, per month. The rental fee includes the use of the pagers as well as their maintenance. City may rent as many pagers as City deems necessary to ensure efficient notification/calls for service, and will be separately invoiced by County for pagers on a quarterly basis. City agrees to pay for any cost increases related to pager rental/maintenance as may from time to time occur, provided that in no event will City pay an amount in excess of \$18.00 per pager, per month. Cost is not included within the total compensation for services stated Paragraph 3(a) above.

It is agreed by the parties that future cost increases in pager rental/maintenance above the current \$10.00 per pager, per month, or an increase in the monthly number of total pagers rented, shall be considered to modify the maximum payment limits set forth in Paragraph 3(a) above, by the specific amount of said increase in pager costs.

(h) In addition to the services and payments described in this agreement, the City will pay County for supplemental major crimes and homicide investigation support provided by the Sheriff's Investigations Bureau, at the rate of \$65 per hour. The level of said major crimes investigation

support shall be mutually determined between the City Police Chief and the Sheriff's Office contract representative, on a case-by-case basis.

4. Term and Termination.

The term of this Agreement shall be from July 1, 2005 through June 30, 2007. This Agreement may be extended by a written amendment approved and signed by the parties.

This Agreement may be terminated by City, Sheriff or his/her designee without a requirement of good cause upon sixty (60) days written notice to the other party.

In the event of termination, payment shall be based on the prorated rates described in section 3.

5. Relationship of Parties.

Both parties agree and understand that the work/services performed under this Agreement are performed as an independent contractor, and that neither party's employees acquire any of the rights, privileges, powers, or advantages of the other party's employees. No pension rights of City or County employees will be affected by this Agreement.

6. Hold Harmless.

- A. City shall defend, save harmless and indemnify County, its officers and employees from any and all claims which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions of City, its officers and/or employees.
- B. County shall defend, save harmless, and indemnify City, its officers and employees from any and all claims for injuries or damage to persons and/or property which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions of County, its officers and/or employees.
- C. In the event of concurrent negligence of County, its officers and/or employees, and City, its officers and/or employees, then the liability for any and all claims for injuries or damage to persons and/or property which arise out of terms and conditions of this Agreement shall be apportioned according to the California theory of comparative negligence.
- D. This section shall include, without limitation, any actions, claims, suits, demands, and liability of every name, kind, and description brought for, or on account of injuries to or death of any person, including City or County, or damage to property of any kind whatsoever and to whomsoever belonging.
- E. The duty to indemnify and hold harmless as set forth herein shall include the duty to defend as set forth in Civil Code Section 2778.

7. Assignability and Subcontracting.

Neither party may assign the benefits nor delegate the duties set forth in this Agreement.

8. Insurance.

Both parties shall maintain sufficient insurance, self-insurance or a combination thereof to comply with the following requirements, and, if requested, each party shall furnish the other party with certificates of insurance evidencing the required coverage. Thirty (30) days' notice must be given, in writing, to the Sheriff's Office and County of any pending change in the limits of liability or of any cancellation or modification of the policy.

- A. **Worker's Compensation and Employer's Liability Insurance.** Both parties shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance, or an acceptable program of self-insurance providing full statutory coverage. In signing this Agreement, parties certify, as required by Section 1861 of the California Labor Code, that they are aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and parties will comply with such provisions before commencing the performance of the work of this Agreement.
- B. **Liability Insurance.** City and County shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from City's and County's operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified on the following page.

Such insurance shall include:

1. Comprehensive General Liability	\$5,000,000
2. Motor Vehicle Liability Insurance	\$5,000,000

9. Non-Discrimination.

No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.

City and County shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. City's and County's equal employment policies shall be made available to either party upon request.

10. Retention of Records.

Each party agrees to provide to the other party, to any federal or state department having monitoring or reviewing authority, to County's or City's authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine and audit records and documents necessary to determine compliance with relevant federal, state, and local statutes, rules, and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

City and County shall maintain and preserve all financial records relating to this Agreement for a period of four (4) years from the termination date of this Agreement, or until audit findings are resolved, whichever is greater.

All investigations completed by the Sheriff as part of this contract are considered work product of East Palo Alto. The Sheriff shall transfer to East Palo Alto PD investigations and evidence upon the request of the EPA Chief of Police, and shall provide reports upon request of the Chief of Police, although the Sheriff may keep copies of reports.

11. Merger Clause.

This Agreement, including the Exhibit hereto constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

12. Controlling Law.

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

13. Notices.

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of COUNTY, to:

County Manager
Hall of Justice and Records
400 County Center
Redwood City, CA 94063

In the case of CITY, to:

City of East Palo Alto Police Department
Chief Ronald Davis
2415 University Avenue
East Palo Alto, CA 94303

14. Fines and Forfeitures.

City shall be entitled to the total fines and forfeiture to which City would otherwise be entitled pursuant to subparagraph (d) of paragraph (1) of Section 1463 of the Penal Code upon conviction or upon the forfeiture of bail following arrests made or citations issued by the Sheriff or Deputy Sheriff of the County for the commission of a misdemeanor or infraction within the territorial limits of City.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
John L. Maltbie, County Manager

Date: _____

CITY OF EAST PALO ALTO

By: _____

Date: _____

EXHIBIT "A"
LAW ENFORCEMENT SERVICES

In consideration of the payments set forth County shall provide the following services:

I. DESCRIPTION OF LAW ENFORCEMENT SERVICES PROVIDED BY COUNTY.

A. Investigation Services From July 1, 2005 – December 31, 2005

1. Sheriff will assign:
 - One (1) detective sergeant who will supervise criminal investigations for City's Police Department.
 - Four (4) detectives for major crimes investigations.
 - One (1) detective for domestic violence and sex crime investigations.
 - On a case-by-case basis, Sheriff's Redwood City Major Crimes Unit may provide supplemental investigative support for homicides.
2. Sheriff agrees to work collaboratively with City's Chief of Police in assignment of and changes in personnel within the Investigative Services Unit, pending the completed Transition Plan turning over Investigative Services to the Police Department effective December 31, 2005.
3. The Investigations sergeant will receive operational direction from City's Police Chief.
4. City agrees to work with Sheriff to assign City police officers, on a schedule and staff plan to be mutually determined by the two agencies, into the criminal investigation unit, for purposes of training in preparation for transition of services.

B. Crime Suppression Team

1. Sheriff will assign the following personnel to form a Crime Suppression Team, which will work collaboratively with City's Chief of Police to identify and implement intensive enforcement activities for the suppression of gang-related criminal activities and associated violent street crimes:
 - From January 1, 2006 to June 30, 2006:
 - One (1) sergeant.
 - Four (4) deputies.
 - From July 1, 2006 to June 30, 2007:
 - One (1) sergeant.
 - Two (2) deputies.
2. The assigned sergeant will receive operational direction from City's Chief of Police.
3. Activities and scope of work will be established and prioritized by the City and may include:
 - Surveillance.
 - Identification of gang members.
 - Criminal methods and territories.
 - Communication with local business and residential groups in at-risk areas.
 - Interrogation of suspects.
 - Evidence gathering & Follow-up support
 - Arrests.
 - Other related activities determined necessary by City's Chief of Police.

4. City and Sheriff agree to periodically review the Crime Suppression Unit to determine the status of staffing, training, and effectiveness.
 5. Officers will work forty (40) hours per week on a modified schedule designed to maximize staffing during the hours of greatest criminal activity. Determination of the appropriate schedule shall be made collaboratively between the Sheriff and City's Chief of Police.
- C. MAJOR CRIMES: On a case -by-case basis, Sheriff's Redwood City Major Crimes Unit may provide supplemental investigative support for homicides. The extent and nature of the assistance shall be jointly determined by the City and the Sheriff. The Sheriff agrees to provide, at no charge, investigative support to the City under extraordinary circumstances. For continued and long-term assistance, the Sheriff and City Chief of Police will negotiate the terms and costs of the additional services, on a case-by-case basis.

II. **SELECTION OF PERSONNEL.**

The selection, supervision and control of personnel providing services described herein shall be exercised by the Sheriff or under his discretion. The Sheriff shall notify City of changes in personnel who provide law enforcement services mentioned herein. Upon formal request from the City's Chief of Police, the Sheriff shall remove staff from the Street Crime Suppression Team within thirty days.

III. **REPORTS.**

The Sheriff shall submit to the City's Chief of Police or designate weekly statistical reports documenting activities conducted by the Street Crime Suppression Team within the borders of the City of East Palo Alto. Responsibility to prepare public reports regarding crime and crime-reduction activities within the City of East Palo Alto shall rests solely on the City's Chief of Police.

IV. **UNIFORMS.**

The Sheriff's officers shall be in the prescribed uniform of the San Mateo County Sheriff's Office during the performance of their duties.

V. **PENSION RIGHTS.**

No pension or personnel rights of City or County employees will be affected by this Agreement.

VI. **MAINTENANCE OF EFFORT.**

City agrees to continue providing local funding for Public Safety at the same or a higher proportionate local funding level than it has in Fiscal Year 2005-06 during the term of this Agreement.

VII. **ADMINISTRATIVE COORDINATION.**

- A. The Sheriff shall designate a management representative as liaison with City's Chief of Police or designate, with respect to services provided under this Agreement.

1. Said representative shall maintain regular communications with City's Chief and his/her command staff, by telephone and in-person, to ensure effective delivery of services provided under this Agreement, and shall be available to meet with City's Chief of Police and/or his/her command staff as required.

2. Said representative will regularly communicate with Sheriff's personnel assigned under this Agreement, to help ensure the proper allocation of resources and prompt resolution of emergent issues.
- B. Both parties agree that there will be a mutual and free exchange of reports and memoranda that concern services provided by the Sheriff to City, including continued access to the City's Records Management System (RIMS).
 - C. Sheriff agrees to meet with City's Chief of Police, upon City's request, to discuss particular issues that may occur relating to this Agreement, or the services provided therein.

EXHIBIT "B"
PUBLIC SAFETY COMMUNICATION SERVICES

In consideration of the payments set forth Contractor shall provide the following services:

I. DESCRIPTION OF PUBLIC SAFETY COMMUNICATION SERVICES PROVIDED BY COUNTY.

A. County shall provide City's Police Department with:

1. Telephone answering.
(i) However, County will not be responsible for answering any of City's Police non-emergency, administrative telephones.
2. Personnel notification.
3. Equipment dispatching, including automated status keeping, and associated activity reports and inquiries.
4. Notification/call-alert by activating digital pager equipment.
5. County's Computer Aided Dispatch (CAD) equipment will be accessed upon receipt of a call for service, whereby the call information will be transmitted via CAD to the digital pager, which is in-turn assigned to the appropriate field unit(s).

B. County shall provide City's Police Department with the aforementioned services twenty-four (24) hours a day, three hundred sixty-five (365) days per year.

1. Ensure law enforcement dispatchers have attended a minimum of twenty-four (24) hours every twenty-four (24) months of law enforcement training in order to remain proficient and capable of providing services that meet or exceed the needs and standards of the division.
2. City shall have direct access to "SMARTS" twenty-four (24) hours a day, three hundred sixty-five (365) days a year. This access will provide information from:
 - NLETS (National Law Enforcement Telecommunications Systems)
 - CLETS (California Law Enforcement Telecommunications System)
 - PIN (Police Information Network)
 - CJIS (Criminal Justice Information System)
 - Networks associated to DMV (Department of Motor Vehicles).
3. CHS (Criminal History System) access will not be available to City through this Agreement. This access is for the dispatch function only, not for the purposes of the Police Department's records and/or administrative purposes.

II. RESPONSIBILITIES OF COUNTY.

- A. Provide working space and facilities overhead costs at the County facility for the personnel and equipment described in this Agreement.
- B. Provide and maintain telephone equipment to accommodate the East Palo Alto Police Department's 9-1-1 and seven (7) digit emergency telephone volume.
- C. Provide and maintain radio console equipment within the Communications Center to effect radio transmissions from the Communications Center to the East Palo Alto mobile and portable cites, on the frequencies designated by the Department.

- D. Provide and maintain recording equipment to log and record incoming and outgoing transmissions related to East Palo Alto Police related radio and telephone incidents. All radio frequencies or telephone lines used for East Palo Alto Police business in the Communications Center operation (not Administrative Offices) shall be recorded.
- E. Serve as 9-1-1 PSAP (Public Safety Answering Point) and ensure that an alternative 9-1-1 site is established and lines are maintained in compliance with rules, policies, and regulation of the State of California 9-1-1 Program, should the Center's 9-1-1 system fail.
- F. The geographic file of City's Police Department's response areas needed for CAD will be jointly maintained by the County and City's Police Department.
- G. Update wants and warrants after established business hours via the automated computer system in accordance to state, local, and departmental policy.
- H. Host periodic liaison meetings that include line supervisors and/or management representatives of each agency in order to decide issues of mutual interest.
- I. Ensure that the existing CAD System accurately reflects the operation of the East Palo Alto Police Department.
- J. Will accommodate the East Palo Alto Police Department with communications/dispatch services that necessitate additional communications center staffing above and beyond the designated staffing of one (1) twenty-four (24) hour console (Special Details). Pass through costs not to exceed the overtime rate of a Supervising Communications Dispatcher will be invoiced to the City for actual hours worked.
- K. Provide a general business telephone number that can be used for official business of the East Palo Alto Police personnel in order to communicate directly with the designated police dispatcher.
- L. Provide and maintain CAD equipment within the Communications Center to effect digital pager activation from the Communications Center to City police field units.

III. RESPONSIBILITIES OF CITY.

- A. At its own facility, provide personnel to answer and coordinate incoming business and other non-emergency calls;
 - 1. City will provide a recording for its business telephone lines which will inform callers that emergency calls should be directed to 9-1-1 and non-emergency, business calls should be made on the following business day.
- B. Require its officers to respond to the City's Police station upon request of the County Communications Center to reference original case files and other hard copy documents for purposes of vehicle release, recovered property "hits" and other case-related incidents.
- C. Insure that its officers learn and comply with established procedures with regard to the communications operation, regardless of whether an official written document of said procedure exists or its simply an understood practice.

- D. Procure and pay invoiced pager rental/maintenance fees not to exceed a maximum of \$18.00 per pager, per month. East Palo Alto Police Department will rent as many pagers as they feel necessary to ensure efficient notification/calls for service.
- E. Manager of County's Dispatch Center shall enjoy a direct line of communication with designated City's Police Department's Patrol Commander and supervisory personnel in matters of radio traffic manner and procedures, intra-personal relationships and CRO/police officer and communications procedure matters.
 - 1: In the event of conflicting policies, procedures and other patrol/dispatch related matters between City and County, or between the supervisory personnel of City and County, City's ranking supervisory person on-duty at the time of the conflict shall have the overriding voice.
- F. Maintain all necessary telephone lines for digital/computer communications between the County and the East Palo Alto Police Department.
- G. City's Police Department shall ensure that the radio equipment is operating in an acceptable manner that is free from static, squelch and interference.
- H. Provide County at least thirty (30) days notice of any operations changes that affect its response.

County Services to East Palo Alto REVISED PROPOSAL 11/21/05		
	2005-06 Proposed	2006-07 Proposed
<u>Sheriff's EPA Street Crime Suppresion Unit</u>		
Fixed Services - Crime Suppression Unit	\$983,540	\$567,540
Contract Reimbursement From City	\$743,412	\$567,540
County Subsidy - Sheriff's Fixed Services	\$240,128	\$0
<u>Phase - In of EPA Staff to Street Crimes Unit</u>		
City staffing contribution cost estimate	(Est. City Cost for Info Only) \$0	\$273,492
<u>Variable Services - Major Crime Investigation</u>		
Sheriff's Detective cost @ \$65 per hour (Svcs to be negotiated on case-by-case basis)	As Needed: Case Basis	As Needed: Case Basis
<u>Public Safety Communications</u>		
7x24 Dispatch Console Services	\$748,000	\$770,440
Contract Reimbursement (With Amendment #1)	\$506,730	\$770,440
Net County Subsidy - PSC	\$241,270	\$0
<u>Combined Services RECAP</u>		
County Cost - Sheriff Fixed & PSC Combined	\$1,731,540	\$1,337,980
Combined Contract Reimbursement From City	\$1,250,142	\$1,337,980
Net County Subsidy - Combined Services	\$481,398	\$0

**County Services to East Palo Alto
REVISED PROPOSAL updated 11/28/05**

	2005-06 Proposed	2006-07 Proposed
<u>Sheriff's EPA Street Crime Suppression Unit</u>		
<u>Fixed Services - Crime Suppression</u>		
1 Detective Sergeant, 5 Detectives July-Dec 05	\$454,312	--
1 Detective Sgt, 4 Det: Jan-June 2006	\$381,086	\$0
1 Detective Sgt, 2 Det: FY 2006-07		\$483,345
Vehicle Costs (4 Vehicles down to 2 Vehicles 06/07)	\$71,430	\$36,786
Rental Space Costs	\$21,149	\$13,070
Misc. Utility Costs & Liability Insurance	\$13,500	\$8,343
Communications & Safety Equipment	\$24,764	\$15,304
Informant Funds	\$0	\$0
All Other Operating Expense	\$17,300	\$10,691
Total Fixed Expense:	\$983,540	\$567,540
Contract Reimbursement From City	\$743,412	\$567,540
County Subsidy - Sheriff's Fixed Services	\$240,128	\$0
<u>Phase - In of EPA Staff to Street Crimes Unit</u>		
Transition two EPA Staff to replace 2 SO in 2006-07	\$0	\$273,492
Assume City Transition Full EPA Unit by 2007-08:	\$0	\$866,263
<u>Variable Services - Major Crime Investigation</u>		
Sheriff's Detective cost @ \$65 per hour (Svc's to be negotiated on case-by-case basis)	As Needed: Case Basis	As Needed: Case Basis
<u>Public Safety Communications</u>		
7x24 Dispatch Console Services	\$748,000	\$770,440
* Based on previous negotiations, assume annual adjustment of 3% each year		
Contract Reimbursement (With Amendment #1)	\$506,730	\$770,440
Net County Subsidy - PSC	\$241,270	\$0
<u>Possible Subsidy Reduction Option Summary:</u>		
County Cost - Sheriff Fixed & PSC Combined	\$1,731,540	\$1,337,980
Combined Contract Reimbursement From City	\$1,250,142	\$1,337,980
Net County Subsidy - Combined Services	\$481,398	\$0

Outside Agency Assistance

352.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance.

352.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Watch Commander's office for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a case number will be issued to report action taken by Menlo Park Police Department Personnel. Probation violators temporarily detained by this department will not ordinarily be booked by this department.

352.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions.

352.1.3 SUPERVISOR RESPONSIBILITY

Supervisors will document the outside assist to their Division Commander via daily supervisor reports.

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NICOLAS A. FLEGEL
LEIGH F. PRINCE
KRISTINA B. ANDERSON

February 4, 2009

William D. Ross, Esq.
Law Offices of William D. Ross, APC
400 Lambert Street
Palo Alto, CA 94306

Re: Request for Public Records to the City of Menlo Park

Dear Mr. Ross:

In following up with my letter of January 23, 2009, we are providing you with a list of Menlo Park Police Department responses for the time period of July 1, 2006 to present. The list includes the date, time, and block address of each incident in which the Menlo Park police performed an Outside Assist in East Palo Alto. Please note that incident numbers and addresses have been redacted for privacy purposes. Also, please note that just because the incident is labeled as an Outside Assist does not necessarily mean that the East Palo Alto Police Department requested assistance. It is also possible that the Menlo Park Police Department initiated the assist.

Provided is a list of incidents that are accessible by the City by performing a computer search. Please note that no document exists that lists a summary of each type of assistance requested, nor can such a document be created by performing a computer search. I trust this meets your needs. If this does not meet your needs or if you have any questions, please contact me at (650) 324-9300.

Sincerely,


Nicolas A. Flegel

Enclosure

NAF:rr

cc: Sergeant Matt Bacon (w/o encl.)
Dan K. Siegel, Esq. (w/o encl.)
Susie Eldred (w/o encl.)

Type	Date	Time	Location (Block)	City
OA	12/31/2008	02:20:31	101/UNIVERSITY AV	EPA
OA	10/20/2007	17:13:21	1000 MYRTLE ST	EPA
OA	10/1/2006	02:29:46	1000 ALBERNI ST	EPA
OA	9/26/2008	23:04:15	1100 SARATOGA AV	EPA
OA	5/5/2007	11:02:42	1100 WESTMINSTER AV	EPA
OA	9/25/2008	14:39:47	1100 SAGE ST	EPA
OA	12/3/2006	15:19:22	1100 CAMELLIA DR	EPA
OA	3/25/2008	13:14:48	1100 LAUREL AV	EPA
OA	3/15/2008	22:04:10	1200 LAUREL AV	EPA
DA	1/2/2007	00:31:22	1200 E BAYSHORE RD	EPA
OA	4/7/2008	00:05:53	1200 CAMELLIA DR	EPA
OA	1/18/2009	05:53:37	100 HOLLAND WY	EPA
OA	3/8/2008	10:09:09	1200 WESTMINSTER AV	EPA
OA	5/29/2007	17:20:55	1200 JERVIS AV	EPA
OA	5/14/2007	21:46:18	1200 JERVIS AV	EPA
OA	1/19/2007	20:32:49	1300 CAMELLIA DR	EPA
OA	12/20/2007	00:40:37	1300 UNIVERSITY AV	EPA
OA	11/21/2007	22:51:49	100 ASTER WY	EPA
OA	9/26/2006	12:58:36	100 AZALIA WY	EPA
OA	11/20/2006	16:35:34	1400 KAVANAUGH DR	EPA
OA	12/10/2007	09:25:12	100 DEMETER ST	EPA
OA	5/5/2008	23:43:11	100 DEMETER ST	EPA
OA	8/7/2008	05:48:36	100 DEMETER ST	EPA
OA	10/8/2008	06:20:53	100 DEMETER ST	EPA
OA	11/10/2008	14:19:34	1400 CAMELLIA DR	EPA
DA	8/9/2008	18:40:02	1400 BAY RD	EPA
OA	9/20/2007	21:55:13	1600 RUTGERS ST	EPA
OA	11/22/2008	00:03:30	1600 WOODLAND AV	EPA
OA	2/24/2008	15:47:46	1600 TULANE AV	EPA
OA	8/16/2008	00:56:08	1700 TULANE AV	EPA
OA	8/16/2008	00:56:25	1700 TULANE AV	EPA
OA	1/4/2007	20:56:46	1700 BAY RD	EPA
OA	9/4/2008	14:59:31	1700 TULANE AV	EPA
OA	3/19/2007	12:02:13	1700 WOODLAND AV	EPA
OA	12/15/2007	13:49:56	1700 BAY RD	EPA
OA	8/5/2008	06:42:51	1800 E BAYSHORE RD	EPA
OA	6/25/2008	09:45:37	1800 WOODLAND AV	EPA
OA	12/8/2008	17:28:19	1800 E BAYSHORE RD	EPA
OA	9/22/2008	13:57:21	1900 MANHATTAN AV	EPA
OA	8/1/2008	22:45:27	1900 COOLEY AV	EPA
OA	1/17/2008	17:08:23	1900 PULGAS AV	EPA
OA	11/10/2008	16:07:54	1900 CAPITOL AV	EPA
OA	1/21/2007	12:34:31	1900 COOLEY AV	EPA
OA	7/11/2008	16:36:44	1900 MANHATTAN AV	EPA
OA	4/11/2007	21:00:56	1900 MANHATTAN AV	EPA
OA	7/12/2007	16:45:02	200 E OKEEFE ST	EPA
OA	8/17/2007	09:05:38	2000 MANHATTAN AV	EPA
OA	1/10/2008	22:40:43	2000 EUCLID AV	EPA
OA	3/19/2008	23:39:51	2100 PULGAS AV	EPA
OA	8/22/2008	22:39:09	200 E OKEEFE ST	EPA

OA	8/22/2008	22:39:10	200 E OKEEFE ST	EPA
OA	5/11/2008	15:36:01	2100 DUMBARTON AV	EPA
OA	1/10/2009	18:48:08	2100 ADDISON AV	EPA
OA	12/5/2008	20:43:22	2100 EUCLID AV	EPA
OA	4/3/2008	22:58:44	200 VERBENA DR	EPA
OA	1/31/2008	22:50:37	2200 RALMAR AV	EPA
OA	12/20/2006	22:03:53	2200 COOLEY AV	EPA
OA	10/15/2007	03:37:05	2200 RALMAR AV	EPA
OA	2/24/2007	22:01:19	2200 EUCLID AV	EPA
OA	10/27/2008	16:28:34	2200 CAPITOL AV	EPA
OA	12/8/2006	19:07:50	2200 CAPITOL AV	EPA
OA	12/2/2008	15:22:50	2200 PULGAS AV	EPA
OA	11/4/2008	12:20:29	2300 OAKWOOD AV	EPA
OA	12/13/2006	10:46:56	200 E OKEEFE ST	EPA
OA	12/5/2008	20:36:11	2300 GLEN WY	EPA
OA	8/29/2008	22:45:48	2300 CLARKE AV	EPA
OA	12/15/2007	17:03:11	2300 CLARKE AV	EPA
OA	9/24/2006	13:22:05	2300 COOLEY AV	EPA
OA	10/20/2007	16:58:19	2300 OAKWOOD AV	EPA
OA	1/17/2007	19:30:46	2300 PALO VERDE AV	EPA
OA	1/27/2008	01:26:08	2300 GLEN WY	EPA
OA	10/20/2007	18:37:04	2300 OAKWOOD AV	EPA
OA	9/15/2007	14:20:46	2400 GLORIA WY	EPA
OA	8/29/2008	22:45:11	2400 ILLINOIS ST	EPA
OA	10/13/2008	17:40:30	2400 GONZAGA ST	EPA
OA	4/5/2008	00:24:13	2400 ILLINOIS ST	EPA
OA	6/13/2007	21:24:53	2500 FORDHAM ST	EPA
OA	8/4/2008	12:28:25	2500 BAYLOR AV	EPA
OA	3/26/2008	00:47:18	2500 EMMET WY	EPA
OA	12/3/2007	01:29:38	2500 GONZAGA ST	EPA
OA	5/11/2008	22:23:16	2500 ILLINOIS ST	EPA
OA	7/6/2007	17:21:07	2500 HAZELWOOD WY	EPA
OA	12/15/2007	13:17:33	2500 PULGAS AV	EPA
OA	1/17/2007	19:01:50	2500 FORDHAM ST	EPA
OA	10/9/2006	13:32:07	2500 FARRINGTON WY	EPA
OA	2/1/2007	01:21:05	2600 FORDHAM ST	EPA
OA	12/29/2006	22:37:15	2600 FORDHAM ST	EPA
OA	12/29/2006	23:12:08	2600 FORDHAM ST	EPA
OA	1/20/2007	14:58:37	2700 XAVIER ST	EPA
OA	9/10/2006	08:05:17	2700 GONZAGA ST	EPA
OA	4/20/2007	22:18:41	200 E OKEEFE ST	EPA
OA	4/21/2007	03:10:08	200 E OKEEFE ST	EPA
OA	2/21/2008	01:50:53	2700 GONZAGA ST	EPA
OA	6/10/2008	03:04:40	200 E OKEEFE ST	EPA
OA	5/2/2007	01:26:18	2800 ILLINOIS ST	EPA
OA	4/12/2008	01:23:29	2800 FORDHAM ST	EPA
OA	8/19/2008	20:41:27	300 E OKEEFE ST	EPA
OA	10/14/2008	11:13:14	300 E OKEEFE ST	EPA
OA	7/27/2006	21:22:21	300 AZALIA WY	EPA
OA	11/29/2008	22:08:48	300 WISTERIA DR	EPA
OA	4/5/2008	18:05:06	300 E OKEEFE ST	EPA

OA	3/21/2008	15:51:50	300 WISTERIA DR	EPA
OA	2/7/2008	12:43:01	300 E OKEEFE ST	EPA
OA	6/26/2007	20:46:33	00 NEWELL CT	EPA
OA	9/8/2007	20:33:08	400 E OKEEFE ST	EPA
OA	7/25/2008	20:46:00	400 E OKEEFE ST	EPA
OA	8/15/2008	23:21:41	400 E OKEEFE ST	EPA
OA	7/6/2007	20:27:20	400 E OKEEFE ST	EPA
OA	7/13/2006	00:27:16	400 E OKEEFE ST	EPA
OA	7/5/2006	05:29:39	400 E OKEEFE ST	EPA
OA	5/29/2008	22:09:14	400 E OKEEFE ST	EPA
OA	1/28/2008	23:03:33	00 NEWELL RD	EPA
OA	7/26/2008	00:46:23	00 NEWELL RD	EPA
OA	10/28/2008	22:59:41	00 NEWELL RD	EPA
OA	12/22/2006	23:08:34	00 NEWELL CT	EPA
OA	9/17/2007	21:56:28	800 SCHEMBRI ST	EPA
OA	5/3/2007	13:44:23	800 DONOHOE ST	EPA
OA	5/16/2007	14:12:05	800 DONOHOE ST	EPA
OA	7/18/2006	14:33:55	900 OAKES	EPA
OA	8/25/2006	20:32:15	900 RUNNYMEDE ST	EPA
OA	11/25/2006	03:19:46	ALBERNI ST/WILLOW RD	EPA
OA	8/1/2008	00:11:07	BAY RD/DUMBARTON AV	EPA
OA	5/6/2007	17:08:38	BAY RD/GLORIA WY	EPA
OA	4/29/2008	20:38:35	BAY RD/GLORIA WY	EPA
OA	3/8/2008	02:22:58	BAY RD/UNIVERSITY AV	EPA
OA	12/24/2008	23:42:53	BAYLOR AV/MICHIGAN AV	EPA
OA	1/4/2007	22:59:44	BELL ST/CLARKE AV	EPA
OA	1/4/2007	23:00:03	BELL ST/CLARKE AV	EPA
OA	12/8/2008	19:06:41	BELL ST/COOLEY AV	EPA
OA	10/20/2007	17:14:38	BUCHANAN CT/CLARKE AV	EPA
OA	10/9/2007	20:22:54	CLARKE AV/BAY RD	EPA
OA	4/4/2008	16:14:23	CLARKE AV/BELL ST	EPA
OA	4/4/2008	17:25:29	CLARKE AV/BELL ST	EPA
OA	12/17/2007	11:03:05	CLARKE AV/GARDEN ST	EPA
OA	5/7/2008	12:32:37	COOLEY AV/BELL ST	EPA
OA	8/23/2007	14:52:32	COOLEY AV/DONOHOE ST	EPA
OA	12/3/2007	16:13:21	COOLEY AV/RUNNYMEDE ST	EPA
OA	9/20/2007	21:50:54	COOLEY AV/UNIVERSITY AV	EPA
OA	10/20/2007	17:13:57	DAPHNE WY/WISTERIA DR	EPA
OA	7/5/2007	16:54:08	DEMETER/STEVENS	EPA
OA	9/24/2007	10:36:19	DONOHOE ST/UNIVERSITY AV	EPA
OA	5/12/2008	15:55:00	E BAYSHORE RD/MENALTO AV	EPA
OA	4/30/2008	02:20:01	EUCLID AV/E OKEEFE ST	EPA
OA	12/15/2008	01:39:24	EUCLID AV/WOODLAND AV	EPA
OA	7/12/2006	18:08:21	FORDHAM ST/BAY RD	EPA
OA	1/21/2007	13:05:19	GEORGETOWN ST/TULANE AV	EPA
OA	2/9/2008	20:19:35	ILLINOIS ST/MICHIGAN AV	EPA
OA	7/25/2008	23:14:54	KAVANAUGH DR/GLORIA WY	EPA
OA	9/22/2008	17:29:43	LAUREL AV/HOLLAND WY	EPA
OA	7/23/2006	20:11:48	LAUREL AV/NEWBRIDGE ST	EPA
OA	3/2/2008	09:25:26	MANHATTAN AV/OCONNOR ST	EPA
OA	8/28/2006	16:19:50	MICHIGAN AV/FORDHAM ST	EPA

OA	1/12/2008	18:22:51	MICHIGAN AV/GONZAGA ST	EPA
OA	10/4/2008	03:35:32	NEWBRIDGE ST/LAUREL AV	EPA
OA	3/31/2007	01:48:07	NEWBRIDGE ST/SARATOGA AV	EPA
OA	2/16/2008	18:40:14	NEWBRIDGE ST/SARATOGA AV	EPA
OA	1/20/2009	16:16:24	NEWBRIDGE ST/SARATOGA AV	EPA
OA	11/5/2006	01:14:23	NEWBRIDGE ST/WILLOW RD	EPA
OA	1/19/2007	10:32:01	NEWBRIDGE ST/WILLOW RD	EPA
OA	6/3/2007	21:29:49	NEWBRIDGE ST/WILLOW RD	EPA
OA	6/10/2007	11:34:02	NEWBRIDGE ST/WILLOW RD	EPA
OA	3/9/2007	22:50:10	NOTRE DAME AV/UNIVERSITY AV	EPA
OA	8/17/2008	18:27:47	OCONNOR ST/TATE	EPA
OA	10/18/2006	04:33:18	PULGAS AV/BEECH ST	EPA
OA	10/26/2008	12:56:43	PULGAS AV/CAMELLIA DR	EPA
OA	11/25/2006	10:51:03	PURDUE AV/FORDHAM ST	EPA
OA	10/29/2007	07:19:59	RUNNYMEDE ST/CLARKE AV	EPA
OA	11/6/2007	17:59:13	RUNNYMEDE ST/PULGAS AV	EPA
OA	5/20/2007	13:41:50	RUTGERS ST/FORDHAM ST	EPA
OA	9/17/2006	01:49:04	UNIVERSITY AV/101	EPA
OA	10/6/2008	01:15:26	UNIVERSITY AV/101	EPA
OA	11/5/2008	00:47:37	UNIVERSITY AV/101	EPA
OA	11/27/2007	21:52:45	UNIVERSITY AV/BAY RD	EPA
OA	7/31/2008	22:19:15	UNIVERSITY AV/DONOHUE ST	EPA
OA	12/19/2006	17:27:51	UNIVERSITY AV/KAVANAUGH DR	EPA
OA	5/24/2008	00:45:42	UNIVERSITY AV/MICHIGAN AV	EPA
OA	1/8/2008	07:20:07	UNIVERSITY AV/NOTRE DAME AV	EPA
OA	1/1/2009	02:57:24	UNIVERSITY AV/PURDUE AV	EPA
OA	12/11/2008	21:52:10	UNIVERSITY AV/SACRAMENTO ST	EPA
OA	2/19/2007	12:27:43	UNIVERSITY AV/WOODLAND AV	EPA
OA	7/6/2007	22:26:32	UNIVERSITY AV/WOODLAND AV	EPA
OA	7/8/2008	20:55:47	UNIVERSITY AV/WOODLAND AV	EPA
OA	7/18/2008	22:37:41	URSULA WY/FARRINGTON WY	EPA
OA	1/20/2007	03:32:15	WESTMINSTER AV/ALBERNI ST	EPA
OA	6/29/2007	23:04:53	WESTMINSTER AV/ALBERNI ST	EPA
OA	4/15/2007	22:48:44	WOODLAND AV/UNIVERSITY AV	EPA
OA	1/8/2009	02:20:47	WOODLAND AV/UNIVERSITY AV	EPA

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William Ross

From: Larkin, Donald [Donald.Larkin@CityofPaloAlto.org]
Sent: Tuesday, January 13, 2009 5:52 PM
To: William Ross
Cc: Scheff, Lisa; Tavares, Dacia; Burns, Dennis
Subject: RE: Request for Public Records

Mr. Ross,

Following up on our conversation last week regarding your Public Records Act Request, I am providing a "calls for service" report that shows responses by the Palo Alto Police Department to East Palo Alto for the past year. The Cities of Palo Alto and East Palo Alto do not have a formal Mutual Aid Agreement, and we have no other written documentation of requests for assistance from the City of East Palo Alto. I will try to follow up with you tomorrow to see if there is other information we can provide that will be helpful to you. In the meantime, please feel free to call me if you have questions or concerns.

Thanks,

Donald Larkin
Assistant City Attorney
City of Palo Alto
(650) 329-2171

donald.larkin@cityofpaloalto.org

This e-mail may contain confidential and/or attorney-client privileged material. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

From: William Ross [mailto:wross@lawross.com]
Sent: Wednesday, December 31, 2008 2:00 PM
To: Larkin, Donald
Subject: Request for Public Records

Please see the attached communication.

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6/29/2009

Calls for Service = Responded/Assisted East Palo Alto
 January 1, 2008 to January 9, 2009(5:00PM)

Rec Date	Rec Time	CAD Call Type	Location	City	Dispo
9/30/2008	23:28	666-Road Block SMCO	ADDISON ST / DONOHOE AVE	EPA	NR
11/8/2008	23:03	666-Road Block SMCO	UNIVERSITY AV / WOODLAND AV	EPA	NR
9/16/2008	19:48	952-Report on Conditions	UNIVERSITY AV / WOODLAND AV	EPA	NR
5/22/2008	11:20	1024-Directed Patrol	UNIVERSITY AV/BELL	EPA	NR
6/21/2008	05:03	1024-Directed Patrol	EAST PALO ALTO	EPA	NR
9/7/2008	15:07	1033-Alarm	1121 ALBERNI ST ; VALDIVIA RES	EPA	CU
6/13/2008	12:21	1033-Alarm	2310 PALO VERDE AV ; AMAROL RESIDENCE	EPA	IN
4/19/2008	09:31	1033-Alarm	2227 POPLAR AVE	EPA	NR
7/18/2008	22:56	1033-Alarm	1700 E BAYSHORE RD ; IKEA	EPA	NR
7/18/2008	22:57	1033-Alarm	1700 E BAYSHORE RD ;IKEA	EPA	NR
6/22/2008	20:20	1057-Firearm Discharge	UNIVERSITY AV / WOODLAND AV	EPA	NR
3/15/2008	08:58	1062-Meet Citizen	UNIVERSITY AV / WOODLAND AV	EPA	NR
4/30/2008	20:36	1062-Meet Citizen	1854 W BAYSHORE RD	EPA	NR
8/13/2008	17:39	1062-Meet Citizen	POLICE @141 DEMETER ST	EPA	NR
12/29/2008	00:32	1062-Meet Citizen	1700BL WOODLAND AV	EPA	NR
6/26/2008	09:47	1065-Missing Person	2033 POPLAR AV	EPA	CM
5/24/2008	18:28	1066-Suspicious Person	UNIVERSITY AV / WOODLAND AV	EPA	NR
8/25/2008	09:02	1091-Stray Animal	1830 W BAYSHORE RD	EPA	NR
10/11/2008	22:38	1125-Traffic Hazard	UNIVERSITY AV / WOODLAND AV	EPA	NR
12/17/2008	08:09	1182-Accident Property Damage	UNIVERSITY AV / WOODLAND AV ;JWO	EPA	NR
7/23/2008	08:11	1182-Accident Property Damage	UNIVERSITY AV / WOODLAND AV	EPA	RM
12/7/2008	19:27	1182-Accident Property Damage	UNIVERSITY AV / WOODLAND AV	EPA	UL
6/5/2008	13:26	1033T-ETS Alarm	UNIVERSITY AVE / BELL ST	EPA	NR
7/17/2008	15:41	1033T-ETS Alarm	POLICE - EPA @2415 UNIVERSITY AV ; EPA ETS	EPA	NR
11/21/2008	20:33	OUTSIDE-Outside Agency Assist	2742 HUNTER ST	EPA	CM
7/2/2008	10:45	OUTSIDE-Outside Agency Assist	1420 CAMELLIA DR ;CROSS OF JASMINE ST.	EPA	CT
4/3/2008	23:06	OUTSIDE-Outside Agency Assist	219 VERBENA DR	EPA	IN
1/30/2008	18:22	OUTSIDE-Outside Agency Assist	1900BLK MANHATTAN AVE	EPA	NR
5/11/2008	22:25	OUTSIDE-Outside Agency Assist	2200BLK POPLAR AV	EPA	NR
5/31/2008	00:24	OUTSIDE-Outside Agency Assist	77 NEWELL RD	EPA	NR
7/5/2008	02:11	OUTSIDE-Outside Agency Assist	901 WEEKS ST	EPA	NR
7/9/2008	21:58	OUTSIDE-Outside Agency Assist	UNIVERSITY AV / WOODLAND AV	EPA	NR

7/26/2008	00:48	OUTSIDE-Outside Agency Assist	77 NEWELL RD : 7-11 LOT	EPA	NR
7/27/2008	01:35	OUTSIDE-Outside Agency Assist	1128 BAY RD	EPA	NR
8/31/2008	12:23	OUTSIDE-Outside Agency Assist	CAPITAL / SCOFIELD	EPA	NR
9/19/2008	22:47	OUTSIDE-Outside Agency Assist	CAMELIA/PULGAS	EPA	NR
9/20/2008	02:28	OUTSIDE-Outside Agency Assist	2200BL UNIVERSITY AV	EPA	NR
9/23/2008	11:20	OUTSIDE-Outside Agency Assist	UNIVERSITY AVE / DONOHOE ST	EPA	NR
10/5/2008	20:42	OUTSIDE-Outside Agency Assist	77 NEWELL RD	EPA	NR
11/25/2008	18:21	OUTSIDE-Outside Agency Assist	POLICE - EPA @2415 UNIVERSITY AV	EPA	NR
12/8/2008	17:39	OUTSIDE-Outside Agency Assist	55 NEWELL RD	EPA	NR
12/17/2008	23:49	OUTSIDE-Outside Agency Assist	1227 CAMELIA	EPA	NR
12/24/2008	23:56	OUTSIDE-Outside Agency Assist	2500BL GLORIA WY	EPA	NR
1/28/2008	22:31	OUTSIDE-Outside Agency Assist	UNIVERSITY AV / RUNNYMEDE : Y7	EPA	RM
12/24/2008	23:45	OUTSIDE-Outside Agency Assist	BAYLOR ST / MICHIGAN AV	EPA	UL



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

RONALD L. DAVIS
CHIEF OF POLICE
(650) 853 -3125
rdavis@cityof epa.org

December 9, 2008

J.A. Farrow, Commissioner
California Highway Patrol
P.O. Box 942898
Sacramento, CA 94298-001

Dear Commissioner Farrow:

Please accept this letter as my official request to the California Highway Patrol (CHP) to implement "Operation Impact" in the City of East Palo Alto. This request is based on a recent surge of violence that has resulted in 9 people being shot in the 5 days, and an increasing level of violence over the past few months. Considering East Palo Alto is 2 square miles with a population of 32,000, these violence rates are among the highest in San Mateo County and most likely among the highest in the United States.

As you know, the City of East Palo Alto has historically faced the challenge of drugs, gangs and violence. In 1992, the City experienced 42 homicides earning the dubious distinction of the "murder capital of the nation". Although much progress has been made since 1992, the City experienced 174 assaults with a firearm and 15 homicides in 2005, which was the 5th highest murder per capita rate in the United States. In 2006, East Palo Alto Police Officer Richard May was shot and killed by a known gang member. In late 2006 and early 2007, the City was again hit with a 3-month surge of violence that resulted in 6 homicides and 56 shootings. Consequently, the City of East Palo Alto has been identified as a high-intensity gang area.

In response to this violence, Operation Impact was implemented in 2005, 2007 and in 2008 (April) with great success. In 2006, homicides decreased 60% from 15 to 6 and assaults with a firearm decreased over 40% from 174 to 99. In 2007, Operation Impact was instrumental in stemming the surge and violence. The City went 8 months without a homicide. In 2008, the City once again experienced a notable reduction during the Operation Impact period.

I believe Operation Impact can once again assist the City of East Palo Alto quell the extreme level of violence that is plaguing our community. If this request is approved, I request that Operation Impact be implemented as the part of the California Gang Reduction, Intervention and Prevention (CalGRIP) program and start as soon as possible.

Thank you for your consideration.

Respectfully,

Ronald Davis
Chief of Police



1. INTRODUCTION

Event Identification: CalGRIP Operation IMPACT 2008 -- East Palo Alto

Event Dates: April 2008 -- June 2008

Event Times: 1600 hours to 0000 hours.

Event Location: Deployment will be throughout the city of East Palo Alto, with concentration on the high intensity gang areas.

Event Details: The Redwood City CHP Area will assist the city of East Palo Alto in combating their gang violence issues by providing aggressive traffic enforcement in their high intensity gang areas. On the specified dates, the details will consist of one sergeant and 4 officers deploying on Friday, Saturday, and Sunday. The East Palo Alto Police Department (EPAPD) will continuously monitor their crime index to determine the best times, necessary number of personnel, and locations to deploy Impact members.

2. SITUATION

The city of East Palo Alto has experienced increased homicide incidents, violent crimes, and vehicle sideshow activities in various areas of East Palo Alto. The Governor of California has declared the city of East Palo Alto as a High Intensity Gang Area. The quality of life in many East Palo Alto neighborhoods is impaired by assaults, street-level narcotics trafficking, and on going vehicle code violations associated with gang violence. Prior to the implementation of the current CalGRIP operations, the city of East Palo Alto has experienced a recent surge of violence that has resulted in 1 homicide and 45 shootings in the past 90 days. Five people shot in the past week.

Redwood City Area has experienced enforcement success by working in partnership with the EPAPD since 1992, to combat sideshow incidents which affect both East Palo Alto surface streets and the freeway system and for the past two years, to combat gang-related activity under the CalGRIP program. During the enforcement deployments, violent crimes and calls for service have dramatically decreased as a result of the efforts of both agencies. The CHP received a request from East Palo Alto Police Chief Ronald Davis to provide supplemental traffic law enforcement assistance for an additional 60 days to combat violent crime through minimum tolerance, proactive traffic law enforcement, and arrest warrant operations directed in violent crime areas identified by East Palo Alto crime trend analysis. The last scheduled CalGRIP operation conducted by the Redwood City Area ended on May 19, 2007.



MISSION

- a) Consistent with CHP policy, personnel will provide enhanced proactive traffic law enforcement services within the city of East Palo Alto in order to reduce crimes impacting community welfare and quality of life.
 - i) Conduct maximum enforcement of DUI and traffic laws.
 - ii) Focus CHP patrols on areas identified by EPAPD as displaying gang-related crime trends.
 - iii) Conduct warrant checks on any suspects detained during enforcement actions and debrief suspects arrested regarding criminal activity in Oakland. Appropriate information should be communicated to EPAPD.
- b) Maximize the safety and tactics of officers during enforcement actions.

3. STAFFING

- a. Incident Commander: Captain Bridget Lott, #10899
- b. Deputy Incident Commander: Lieutenant Mike Chaty, #11702
- c. Squad 1: The squad will be comprised of one (1) sergeant and four (4) officers.
- d. Canine Operations: If needed, Impact sergeants will coordinate EPAPD canine responses.
- e. Investigative/Warrant Service Team Assistance: As needed, Impact sergeants will coordinate with the Golden Gate Investigative Services Unit (ISU) for cases requiring forced/non-consensual building entry for parole and probation searches. Additionally, ISU will be contacted for investigative assistance for cases requiring additional investigative resources.
- f. Air Support: Golden Gate Division Air Operations will provide air support and coordinate air coverage on an as need basis. Maximum use of air support should be utilized for all pursuits.
- g. EPAPD Staffing: An EPAPD sergeant or manager will coordinate with CHP sergeants during deployments as necessary to adjust deployment areas as needed to deter and prevent crime.



4. STAGING AREAS

Primary: East Palo Alto Police Department
2415 University Drive
East Palo Alto, CA

Secondary: Redwood City Area
355 Convention Way
Redwood City, CA 94063

5. MOBILIZATION

- a. Briefings: Briefings will be held at the East Palo Alto Police Department or CHP Redwood City Area. Refer to Annex B for briefing times and locations.
- b. Civil Disturbance: All personnel assigned to deployments will be equipped with protective chemical masks. Additionally, all personnel shall carry their general duty helmets. In the event of civil disturbance, CHP squads will serve as Area Control Teams (ACT) to reinforce EPAPD Mobile Field Force operations.
- c. Equipment: All uniformed personnel shall wear their tan work uniform with all safety equipment. Officers shall utilize a black and white patrol vehicle, preferably with a Mobile Digital Computer (MDC).
- d. Policy/Supervision: All CHP personnel shall adhere to Department policies and procedures and remain under CHP supervision throughout the operation.

6. FINANCES AND LOGISTICS

CalGRIP funds have been allocated for this operation. All CHP 415s shall contain the Special Code of 855. All enforcement documents (CHP 202, 216, 215, 302A, etc) shall be turned in to the sergeants at the end of each detail. The sergeants shall complete and submit a statistical data sheet after each detail.



7. COMMUNICATIONS

Primary radio communications will be assigned to the "Amber Gate" frequency. The "Blue Gate" frequency will be utilized as secondary. Extender Channel 3 will be used for inter-squad communications. Call signs shall be assigned during briefings and provided to GGCC. Each CHP vehicle will be equipped with a hand-held EPAPD radio. The EPAPD radio will be used to monitor EPAPD priority calls.

8. ARREST AND BOOKING PROCEDURES

EPAPD will provide an Intoxilizer (or Draeger) breath testing machine at the East Palo Alto Police Department for use by CHP personnel. San Mateo County (SMC) requires personnel be trained by SMC. Those officers who have not been trained will be required to have a trained officer conduct the breath test.

San Mateo County Jail will be utilized for booking arrestees.

9. DEMOBILIZATION

The demobilization of each event will be given at the direction of the Incident Commander based upon current in-progress incidents. Extended shift periods should be anticipated to support EPAPD operations. Prior to returning to their home Area, officers shall provide required documentation to their squad leaders. At the conclusion of each deployment, squad leaders shall ensure that all injury, use of force, or significant case information is reported and documented.

10. ADMINISTRATIVE PROCEDURES

If CHP personnel are injured and require medical treatment, request an ambulance through the Golden Gate Communications Center (GGCC). The officer's squad leader shall be notified immediately. The squad leader is responsible for completing all required reporting and documentation. If a civilian or suspect is injured, request an ambulance through GGCC and immediately notify the squad leader. Photographs will be taken of all injured civilians or suspects stemming from an enforcement action.

Use of force incidents will be reported and documented by the squad leaders as soon as possible. Use of force incidents will be documented on a CHP 216 and CHP 268.



11. TIME KEEPING AND REPORTING REQUIREMENTS

- a) All personnel shall utilize the CHP 415C, with the designated Special Code of 855.
- b) TITLE: Calgrip Operation Impact 2008 East Palo Alto shall be placed in the notes section of the CHP 415.
- c) Officers assigned will complete a Deployment Statistical Sheet and submit them to the appropriate Sergeant at the conclusion of their shift. This document will be completed in addition to the CHP 415C.
- d) A bi-monthly report shall be completed at the conclusion of each series of deployments. The bi-monthly report shall be forwarded through channels to the Assistant Commissioner, Field no later than the 1st and 15th of the month.
- e) At the conclusion of the detail, an After Action report shall be routed through channels to the Assistance Commissioner, Field. The After Action report should include letters of support from the community.



Annex A
COMMUNICATIONS MATRIX

California Highway Patrol

Redwood City Area:

Captain Bridget Lott	91-C	Cell:	(415) 385-9794
Lieutenant Mike Chaty (Operation Impact Manager)	91-L2	Cell:	(209) 769-0852
Lieutenant Tim Walker	91-L1	Cell:	(510) 661-9383
Sergeant Steve Larson (Operation Impact Supervisor)	91-S4	Cell:	(510) 728-1935
Sergeant Ed Delacruz	91-S9	Cell:	(510) 862-4656

East Palo Alto Police Department:

Chief Ronald Davis	Cell:	(650) 269-3375		
Captain J. Chalmers (he will coordinate PAO issues)	Cell:	(650) 464-6824		
Captain Estelle (he will coordinate PAO issues)	Cell:	(209) 610-0578		
Watch Commander	Desk:	(650) 853-3171	Cell:	(650) 464-6835
Dispatch		(650) 363-4910		
Records (Supervisor Vicki Porter)		(650) 853-3163		

Golden Gate Division TMC: (510) 286-6920

Golden Gate Communications Center: Amber: (707) 551-4191 Blue: (707) 551-4101
Supvsr: (707) 551-4110

Golden Gate Division Air Operations: (707) 257-0103

CHP STATE WARNING CENTER: (916) 845-8931



ANNEX B

Cal GRIP Impact Deployments

Date of Operation	Day of Week	Hours of Operation	Briefing Time	Briefing Location
April 25, 2008	Friday	1600 - 0000	1600	Redwood City Area
April 26, 2008	Saturday	1600 - 0000	1600	Redwood City Area
April 27, 2008	Sunday	1600 - 0000	1600	Redwood City Area
May 2, 2008	Friday	1600 - 0000	1600	Redwood City Area
May 3, 2008	Saturday	1600 - 0000	1600	Redwood City Area
May 4, 2008	Sunday	1600 - 0000	1600	Redwood City Area
May 9, 2008	Friday	1600 - 0000	1600	Redwood City Area
May 10, 2008	Saturday	1600 - 0000	1600	Redwood City Area
May 11, 2008	Sunday	1600 - 0000	1600	Redwood City Area
May 16, 2008	Friday	1600 - 0000	1600	Redwood City Area
May 17, 2008	Saturday	1600 - 0000	1600	Redwood City Area
May 18, 2008	Sunday	1600 - 0000	1600	Redwood City Area
May 23, 2008	Friday	1600 - 0000	1600	Redwood City Area
May 24, 2008	Saturday	1600 - 0000	1600	Redwood City Area
May 25, 2008	Sunday	1600 - 0000	1600	Redwood City Area
May 30, 2008	Friday	1600 - 0000	1600	Redwood City Area
May 31, 2008	Saturday	1600 - 0000	1600	Redwood City Area
June 1, 2008	Sunday	1600 - 0000	1600	Redwood City Area
June 6, 2008	Friday	1600 - 0000	1600	Redwood City Area
June 7, 2008	Saturday	1600 - 0000	1600	Redwood City Area
June 8, 2008	Sunday	1600 - 2300	1600	Redwood City Area

REDWOOD CITY
CalGRIP Operation Impact 2008 2009

	East Palo Alto Year 2008	East Palo Alto Year 2009	San Mateo Gang Task Force 2008	San Mateo Gang Task Force 2009	CUMULATIVE TOTALS
TRAFFIC STOPS	345	217	961	141	1664
DUI IN CUSTODY	11	9	0	0	20
CITATIONS TOTAL	184	113	0	0	297
IMPOUNDED VEHICLES	39	14	0	0	53
Replica Guns Removed	0	0	11	0	11
GUNS REMOVED	1	2	15	0	18
VERBAL WARNINGS	135	68	800	107	1110
Gang members interviewed			1264	51	
New Gang validations			221	14	
OTHER IN-CUSTODY	3	8	161	34	206
FELONY TOTAL:	3	8	312	0	323
10851	1	2	0	0	3
DRUGS	6	5	92	3	106
FELONY-4 DUI'S IN 10yr	0	0	0	0	0
PD ASSISTS	68	75	29	5	177
CHP 320(a) FI Card	0	0	456	251	707
OFFICER HOURS	664	583.5	296	50	1593.5
NUMBER OF OFFICERS	82	67	37	5	191
SGT. HOURS	169	140.5	24	0	333.5
NUMBER OF SGT'S	21	16	3	0	40
NO LPR activity					
No warrant arrests					

CalGRIP Operation Impact 2008

East Palo Alto

April 25, 2008

Through

	Week Ending 04/27/2008	Week Ending 05/04/2008	Week Ending 05/11/2008	Week Ending 05/18/2008	Week Ending 05/25/2008	Week Ending 06/01/2008	Week Ending 06/08/2008	CUMULATIVE TOTALS
TRAFFIC STOPS								0
VEHICLES IN CUSTODY								0
VIOLATIONS TOTAL								0
IMPOUNDED VEHICLES								0
VEHICLES REMOVED								0
VERBAL WARNINGS								0
OTHER IN-CUSTODY								0
DELINQUENCY TOTAL:								0
10851								0
DRUGS								0
DELINQUENCY- 4 DUI'S IN 10yr								0
ADJUDICATED ASSISTS								0
HP 320(a) FI Card								0
OFFICER HOURS								0
NUMBER OF OFFICERS								0
GT. HOURS								0
NUMBER OF SGT'S								0
<hr/>								
HOURS WORKED								0
MONEY USED								\$0.00

Prepared by: The Office of Assistant Commissioner, Field / 15707

MEMORANDUM OF UNDERSTANDING
OPERATION IMPACT 2008
EAST PALO ALTO ASSISTANCE

This is a Memorandum of Understanding (MOU) between the East Palo Alto Police Department (signatory agency) and the California Highway Patrol (CHP) Redwood City Area.

I. PURPOSE

The purpose of the MOU is to establish when the signatory agency may request additional uniformed patrol officers for the purpose of saturation patrols in high intensity gang areas.

II. PROCEDURES

As part of Governor Schwarzenegger's plan to combat gang problems locally, the CHP Redwood City Area office will deploy uniformed officers in two officer units along with two sergeants. These units will be deployed into gang-activity neighborhoods to provide for additional uniformed enforcement. Dates for CHP deployment have already been established with the option to change the dates as the needs arise.

Redwood City CHP will provide copies of enforcement documents generated, including Field Identification (FI) cards, to the East Palo Alto Police Department.

All CHP personnel shall adhere to CHP policies and procedures and remain under CHP supervision throughout the operations.

When an arrest or preliminary investigation indicates one or more of the following, Redwood City CHP personnel will notify and request assistance from the signatory agency:

- i. Detention/Arrest of suspected gang member(s) engaged in homicide (or attempted), battery/assault, burglaries, street or commercial robberies, vandalism, or similar criminal activity.
- ii. Detention/Arrest of suspected gang member(s) in possession of a firearm.
- iii. Detention/Arrest of any suspected gang member(s) wanted by the East Palo Alto Police Department.

III. EXPECTATION

When the signatory agency is notified of investigations which meet the aforementioned criteria, it is the expectation of the CHP that the signatory agency will accomplish the following:

- i. Either telephonically decline to respond or arrive at the scene of the local CHP unit within the jurisdiction of the signatory agency within 30 minutes of notification.
- ii. If accepted, the signatory agency shall prepare a through and comprehensive investigation into the related incident and initiate any necessary supplemental investigation.
- iii. If not accepted, the CHP will handle the investigation.

IV. DURATION AND TERMINATION PROVISIONS

Any party to this agreement desiring to terminate its participation shall notify each signatory to this agreement in writing of their intent to withdraw. Withdrawal from participation in this agreement shall not take effect less than ten days from the date of said notification.

The parties evidenced by their signatures hereto, agree that this MOU shall be effective upon approval and shall remain in full force and effect until any party withdraws from participation. It is further acknowledged by all parties that certain portions of this agreement may require amendments during the term of this MOU if their governing bodies so direct.

If any provision of this MOU is held invalid or unconstitutional, such decision shall have no effect on the validity of the remaining provisions of the MOU, and such remaining provisions shall continue to remain in full force and effect.

AGREED HERETO BY ALL PARTIES WHOSE SIGNATURES APPEAR BELOW:

RONALD DAVIS, Chief
East Palo Alto Police Department

Date

B. T. LOTT, Captain
California Highway Patrol
Redwood City Area

Date

The California Highway Patrol's Redwood City Area (RWC) recently completed a successful commitment to the city of East Palo Alto (EPA) through its Operation Impact 2008 deployment. Focused patrol operations were directed by the RWC Area management team, working in concert with EPAPD command staff. Officers executed proactive patrol within specific geographical areas to maximize their visible presence and enforcement based upon crime trends and incidents. Redwood City CHP officers initiated 345 traffic stops, arrested 10 felons and 11 intoxicated drivers as well as impounded 39 vehicles. CHP personnel also assisted the PD with 68 other enforcement situations.

Overall, Operation Impact was viewed by the community of East Palo Alto including city leaders, business owners and homeowners, as well as by the San Mateo County Board of Supervisors as a highly successful program. Chief Ron Davis further praised the work of the California Highway Patrol indicating his department was more effective and was able to better serve the community because of the excellent assistance from the CHP.

San Mateo County currently has a County-wide Gang Task Force in operation which utilizes officers from both county and city law enforcement agencies to suppress gang violence and related gang activity within the cities and county areas. Sheriff G. Munks has requested the Redwood City Area CHP to participate with the task force operation pending approval from the Department.

M e m o r a n d u m

Date: May 25, 2007

To: Golden Gate Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Redwood City Area

File No.: 330.12679.12679.07-157EPA

Subject: MONTHLY REPORT #3, OPERATION IMPACT - EAST PALO ALTO

DEPLOYMENT DATES:

May 2, 3, 4, 16, 17, 18, and 19, 2007.

ENFORCEMENT ACTIVITY:

Felony Arrests: 1
DUI Arrests: 2
Misdemeanor arrests: 1
Impounds: 22 vehicles
Citations: 181 citations
Verbal Warnings: 41
Police Department Assist: 46

DEPARTMENT RESOURCES:

Miles Driven: 2737 miles.
Overtime Hours expended: 539.5 hours
Regular Hours expended: 19.0

B. T. LOTT, Captain
Commander

M e m o r a n d u m

Date: March 29, 2007

To: Golden Gate Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Redwood City Area

File No.: 330.12679.12679.07-093EPA

Subject: MONTHLY REPORT #1, OPERATION IMPACT - EAST PALO ALTO

DEPLOYMENT DATES:

March 7, 9, 10, 21, 22, 23, and 24, 2007.

ENFORCEMENT ACTIVITY:

Felony Arrests: 0
DUI Arrests: 6
Misdemeanor arrests: 8
Impounds: 42 vehicles
Citations: 181 citations
Verbal Warnings: 78
Police Department Assist: 92

DEPARTMENT RESOURCES:

Miles Driven: 2876 miles.
Overtime Hours expended: 628 hours
Regular Hours expended: 0

B. T. LOTT, Captain
Commander

Safety, Service, and Security

M e m o r a n d u m

Date: May 31, 2007

To: Golden Gate Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Redwood City Area

File No.: 330.10899.07-163EPA

Subject: OPERATION IMPACT - AFTER ACTION REPORT

The California Highway Patrol's Redwood City Area recently completed a successful commitment to the city of East Palo Alto through its Operation Impact deployment.

The City of East Palo Alto had experienced a significant increase in criminal activity and more specifically a severe increase in shootings over the course of the first two months of 2007 resulting in three homicides, twenty one shootings, random gunfire, robberies, and assault related crimes. Additionally, stolen vehicles were commonly used to facilitate many of these offenses. Consequently, at the formal request of East Palo Alto Police Chief Ron Davis, on March 1, 2007, Golden Gate Division and the Redwood City (RWC) Area were directed through channels to conduct proactive traffic enforcement deployments in the city of East Palo Alto

During several initial meetings, the EPAPD Chief approved a jointly developed plan to deploy a patrol squad of eight (8) officers (two officer units) and one (1) sergeant, every other week during the months of March, April and May, 2007. The patrol squad worked shifts of 1530 to 0130 hours on Wednesday, Thursday, Friday and Saturday. Additionally, Golden Gate Division, Investigative Services Unit (ISU) conducted proactive vehicle theft suppression and warrant service operations during the weeks of the CHP deployments. Golden Gate Division provided Redwood City Area with \$150,00.00 or 2,381 hours of overtime to complete this detail. Additionally, Investigative Services Unit was allotted \$50,000.00 or 794 hours for their commitment to this project.

Focused patrol operations were directed by the RWC Area manager/sergeant, working in concert with EPAPD command staff. Officers executed proactive patrol within specific geographical areas to maximize their visible presence and enforcement based upon crime trends and incidents. A Sergeant actively led and oversaw all patrol operations ensuring the mission of maximum enforcement was maintained while maintaining the safety of their staff.

During patrol, CHP personnel were asked to and did take advantage of any opportunity to greet citizens and discuss crime/traffic issues within their community. While proactive enforcement was a component of the deployments, building community trust through positive, professional interaction with citizens was also a top priority.

Three monthly reports were completed during this operation. During the first month (March 7,

Safety, Service, and Security

080

9, 10, 21, 22, 23, 24), officers made 14 in-custody arrests including eight for DUI. Officers also issued 181 citations, impounded 42 vehicles, gave 78 verbal warnings and assisted East Palo Alto Police on 92 enforcement stops. Officers drove 2,876 miles and expended 628 hours of overtime. Officers did not use any regular time during this deployment period. No CHP personnel were injured and no damage was done to any CHP equipment. There were no citizen complaints arising during this deployment period.

During the second month of deployment covering the period of April 4, 5, 6, 7, 18, 19, 21, officers made one felony arrest, seven DUI arrests and four other misdemeanor arrests. Eighteen vehicles were impounded, 133 citations issued, 50 verbal warnings given and 55 East Palo Alto police assists were completed. Additionally, one firearm was confiscated. Officers drove 2,917 miles and expended 517 hours of overtime. Officers did expend 33 hours of regular time during this deployment period. No CHP personnel were injured and no damage was done to any CHP equipment. There were no citizen complaints arising during this deployment period.

During the final month of deployment (May 2, 3, 4, 16, 17, 18, 19), officers made 1 felony arrest, 2 DUI arrests and 1 other misdemeanor arrest. Officers also issued 181 citations, impounded 22 vehicles, gave 41 verbal warnings and assisted East Palo Alto police on 46 occasions. Officer drove 2,737 miles and expended 539.5 hours of overtime. Officers also used 19 hours of regular time during this deployment period. No CHP personnel were injured and no damage was done to any CHP equipment. There were no citizen complaints arising during this deployment period.

Reviewing the cumulative totals for all work conducted assisting the city of East Palo Alto, CHP personnel provided outstanding efforts in enforcement, service and assistance. As shown in the table below, the CHP made a concerted effort toward making East Palo Alto safe.

Enforcement Activity	Total
Felony Arrests	2
DUI Arrests	15
Other Misdemeanor Arrests	13
Citations	495
Vehicle Impounds	82
Verbal Warnings	169
Police Assists	193

Redwood City Area expended a total of 1540 hours, while Investigative Services personnel used 166 hours during Operation Impact in East Palo Alto.

Overall, violence within the city was reduced by 79% according to Chief Ron Davis of East Palo Alto Police. Firearm assaults dropped from 56 in January to 13 in May, but moreover, there were no homicides committed during the entire deployment period. As shown in the chart below, the efforts of Operation Impact must be viewed as positive to the overall safety of the community.

	Homicide	Rape	Robbery	Assault	Burglary	Theft	Vehicle Theft	Total
January	3	3	8	35	24	26	17	116
February	0	2	2	23	18	16	21	82
March	0	2	9	29	12	22	18	92
April	0	1	4	24	23	24	16	92
May	0	3	4	27	37	26	12	109
	3	11	27	138	114	114	84	491

Overall, Operation Impact was viewed by the community of East Palo Alto including city leaders, business owners and homeowners, as well as by the San Mateo County Board of Supervisors as a highly successful program. Chief Ron Davis further praised the work of the California Highway Patrol indicating on several occasions that his department could not have done their work without the assistance of the CHP. Attached to this report is a copy of a press release written by Chief Davis on May 18, 2007. It praises the work of various law enforcement agencies including the CHP for their commitment to the safety of the people of East Palo Alto.

B. T. LOTT, Captain
Commander

M e m o r a n d u m

Date: June 20, 2008

To: Golden Gate Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Redwood City Area

File No.: 330.10899.114968.08-151

Subject: OPERATION IMPACT 2008 – EAST PALO ALTO – AFTER ACTION
REPORT

The California Highway Patrol's Redwood City Area recently completed a successful commitment to the city of East Palo Alto through its Operation Impact deployment.

The City of East Palo Alto had experienced a significant increase in criminal activity and more specifically a severe increase in shootings over the course of the last year. This rise in illegal conduct has included homicide, robbery, random gunfire, and assault related crimes. Additionally, stolen vehicles were commonly used to facilitate many of these offenses. Consequently, at the formal request of East Palo Alto Police Chief Ron Davis, Golden Gate Division and the Redwood City (RWC) Area were directed through channels to conduct proactive traffic enforcement deployments in the city of East Palo Alto.

The Golden Gate Division, Redwood City Area and EPAPD Chief Davis approved a jointly developed plan to deploy a patrol squad of four (4) officers (two officer units) and one (1) sergeant, on specific dates during the months of April, May, and June 2008. The patrol squad worked shifts of 1600 to 0000 hours on Friday, Saturday, and Sunday. The Redwood City Area was provided with approximately \$73,000.00 of overtime to complete this detail.

Focused patrol operations were directed by the RWC Area manager/sergeant, working in concert with EPAPD command staff. Officers executed proactive patrol within specific geographical areas to maximize their visible presence and enforcement based upon crime trends and incidents. A Sergeant actively oversaw all patrol operations ensuring the mission of maximum enforcement was maintained while maintaining the safety of their staff.

During patrol, CHP personnel were asked to and did take advantage of any opportunity to greet citizens and discuss crime/traffic issues within their community. While proactive enforcement was a component of the deployments, building community trust through positive, professional interaction with citizens was also a top priority.

During the first month deployment, reports were submitted after each week of deployment. Accumulation totals covering the month of April (April 25, 26, 27) were: Officers made 54 enforcement stops, arrested one DUI suspect, issued 40 citations, impounded 24 vehicles, issued 15 verbal warning, made one felony arrest, two felony drug arrests, one other in custody misdemeanor arrest, and assisted East Palo Alto Police on 13 occasions. Officers expended 96 hours of overtime. Officers did not use any regular time during this deployment period. No CHP personnel were injured and there was no damage to any CHP equipment. There were no citizen complaints arising during this deployment period.

During the second month of deployment covering the period of (May 02, 03, 04, 09, 10, 11, 16, 17, 18, 23, 24, 25, 30, 31) Officers made 224 enforcement stops, arrested five DUI suspect, issued 107 citations, impounded 24 vehicles, issued 88 verbal warning, two felony arrest, three felony drug arrests and assisted East Palo Alto Police on 40 occasions. Officers expended 376 hours of overtime. No CHP personnel were injured and there was no damage to any CHP equipment. There were no citizen complaints arising during this deployment period.

During the final month of deployment covering the period of (June 01, 06, 07, 08), officers made 67 enforcement stops, arrested five DUI suspect, issued 37 citations, impounded 8 vehicles, removed one gun from the road, issued 32 verbal warning, made one felony drug arrest, one 10851 arrest, two other in custody misdemeanor arrests, and assisted East Palo Alto Police on 15 occasions. Officer's expended 192 hours of overtime. No CHP personnel were injured and there was no damage to any CHP equipment. There were no citizen complaints arising during this deployment period.

Reviewing the cumulative totals for all work conducted assisting the city of East Palo Alto; CHP personnel provided outstanding efforts in enforcement, service and assistance. As shown in the table below, the CHP made a concerted effort toward making East Palo Alto safe.

Enforcement Activity	Total
Traffic Stops	345
DUI Arrests	11
Citations Total	184
Vehicle Impounds	39
Guns Removed	1
Verbal Warnings	135
Other In Custody Arrests	3
10851 Arrests	1
Felony Drug Arrests	6
Other Felony Arrests	3
PD Assists	68

Redwood City Area expended a total of 833 hours during Operation Impact in East Palo Alto. Officers were deployed for a total of 664 hours and Sergeant were deployed for a total of 169 hours.

Overall, Operation Impact was viewed by the community of East Palo Alto including city leaders, business owners and homeowners, as well as by the San Mateo County Board of Supervisors as a highly successful program. Chief Ron Davis further praised the work of the California Highway Patrol indicating his department was more effective and better served the community with the assistance of the CHP.

B. T. LOTT, Captain
Commander

JOURNAL

— Official Publication Of The —
**SAN FRANCISCO
POLICE OFFICERS ASSOCIATION**

VOLUME 39, NUMBER 9

SAN FRANCISCO, SEPTEMBER 2007

www.sfpoa.org

11,000 Vacant Police Jobs In California

From The San Jose Mercury News,
August 22

Since East Palo Alto Police Chief Ron Davis took over the force two years ago, 10 officers have left, including two who took jobs with Menlo Park police.

Two others, both detectives, are in the background-check phase with Menlo Park police, Davis said.

Davis doesn't take it personally. He knows one of the main reasons his officers are leaving is because their salaries are the lowest in San Mateo County and possibly among the lowest in the state.

And he isn't shy about saying so, even though the city and police union are set to begin negotiating a new contract to replace the one that expired in June.

"Obviously, having the lowest pay and benefits exacerbates the challenge," Davis said. "We need to take these challenges and start working with the union to put the current industry situation into proper perspective."

A top-tier officer in East Palo Alto earns \$6,163 per month, compared to \$8,138 for a similar officer in Redwood City, \$7,052 in Atherton, \$6,900 in Menlo Park and \$6,749 in San Mateo, according to a salary comparison memo Davis gave City Manager Alvin James on Monday.

And East Palo Alto lags in retirement benefits as well. Although the majority of police departments in the county give officers 3 percent of their salary per year of service if they retire at 50, East Palo Alto gives 2 percent if they retire at 55, according to the memo.

"Those are strangulating factors

for a police chief," said Bob Stresak, spokesman for the California Commission on Police Officer Standards and Training. He said there are 11,000 vacant police jobs statewide.

James said the attrition is painful, but there is very little room to maneuver in the city's \$14.5 million budget.

The best hope for future salary increases, City Attorney Michael Lawson said, is a boost in sales, property or hotel occupancy taxes.

Even in cities where police officers are better paid, retaining them can be a challenge. In Menlo Park, which is siphoning police from East Palo Alto, 22 officers have left the force since January 2006, said Chief Bruce Goitia, who took over the department last May.

Pay, benefits and commute times for officers who bought homes in the Central Valley were among the reasons given for leaving, Goitia said. Three former officers also have filed a discrimination lawsuit against the city and police Sgt. Ron Prickett, who they allege racially harassed them. Goitia said he is confident the suit is not affecting department morale.

The department is also struggling to fill four emergency dispatch positions.

"We've lost them to the sheriff's office, San Ramon, San Carlos, Redwood City, you name it," Goitia said.

Goitia said he is working on a retention package with City Manager Glen Rojas, and hopes to present it to the city council in September.

The challenge in East Palo Alto isn't just money. Officers also face a dangerous environment, which can see POLICE JOBS, page 8

President's Message

Justice Delayed is Justice Denied

By Gary Delagnes,
SFPOA President

On December 6, 2005 we were witness to the so-called "Vid-eogate scandal" that resulted in the immediate suspension of 26 members of our Department. The ensuing weeks were obviously very stressful for the officers involved in what could, at best, be described as a well-intentioned overture to honor a former Captain and, at worst, just a bad idea.

The courts subsequently determined that the Chief of Police had overstepped her bounds by suspending the involved officers for a minor offense that was originally tagged as a crime of moral-turpitude. What hue and cry was raised to have those officers who were involved removed from their regular beats and tossed behind a desk? There was none. There was no organized effort to have the officers involved in the skits removed from their regular assignments.

But the Chief and the Mayor backed themselves into a political corner, so they had to do something. They said that the investigation into this matter would be placed on the fast track. At that time, Police Commissioner Theresa Sparks agreed. She made a public statement the following day — as printed in the *San Francisco Chronicle* — that this case needed to be adjudicated quickly in order to instill confidence in the oversight process. Yet, despite all the rhetoric, these cases have languished, and now all confidence in the oversight process has eroded away.

Last summer, the POA convened a "Police Practices" summit hosted by the University of San Francisco. Testimony from a police psychologist reiterated that police officers are no different than soldiers when it comes to being disciplined. We accept the consequences of our actions, but the process can only work when the appropriate discipline is issued "fairly and in a timely manner." At some point the Police Commission needs to stop blaming the problem on time constraints and tardy investigations and figure out a way to expedite these cases. Everyone involved in the process, whether it be the officer, the POA, the Department, or the Commission must have confidence that the discipline process will be done in a "timely manner" recognizing that a failure to do so only breeds more distrust and contempt for the entire process.

So where do we go from here? Very simple.

1) The Commission has to relinquish their total control over every minor disciplinary matter and give the Chief the right to suspend, by charter amendment, for up to 45 days.

2) The Commissioners should take turns conducting surprise audits of OCC complaints. (The names of the officers/complainants can be redacted but someone has to see what's going on in that office.) It's the only way they are going to see how the OCC fails to accomplish its mission statement by investigating matters that should be otherwise relegated as training and policy issues.

3) Hold the OCC and the Department to strict time lines as far as investigating personnel matters. There is no reason why the OCC should wait before they get around to interviewing police officers who were named in a complaint filed nine months prior — it's a tactic they routinely use and it's getting real old.

4) The OCC must use the mediation process as often as possible in order to expedite the resolution of the hundreds of "he said, I said" cases that cross that agency's counter each year. Dozens, if not scores of minor complaints and other policy failure situations could easily be resolved in this manner.

Just these four small steps would go a long way toward alleviating the backlog and promoting a more timely process that would allow officers the opportunity to do their job in a more efficient manner.

Until the Department and the Commission find a better way to expedite and refine this laborious process it will continue to promote a sense of distrust and bitterness from all those affected.

Six involved officers remain in assignments at the Hall of Justice who are the pawns of an unfair process — unfair because it's laboriously overloaded with politics — and all of these officers and their families deserve more respect and a better system than the one they currently endure.

The old adage has never been more applicable than in this case: Justice delayed, is justice denied.



Gary Delagnes

POA Mourns Loss of Promising Young Officer

The members of the San Francisco Police Officers Association extend condolences to the family and friends of Officer James Gustafson Jr. who died in an accidental shooting on August 11, 2007. Officer Gustafson had been with the SFPD for one year. He was 23. The shooting occurred at the officer's home while he was off-duty.

Officer Gustafson was recently assigned to Central Station after completing FTO training at Mission Station.

POA Mourns Death of CHP Officer

Yet another officer with the California Highway Patrol has been killed in the line of duty. The men and women of the San Francisco Police Officers Association extend their deepest sorrow and most sincere sympathy to the family, friends, and coworkers of Officer Douglas Russell, 46. Officer Russell — a 22-year veteran of the patrol — was struck and killed as he attempted to deploy a spike strip across Highway 50 in the path of a speeding vehicle. The driver of that vehicle was being pursued by Sacramento County sheriffs.

Join SAFE at our Annual Gala Event & Fundraiser:

One City, Many SAFE Neighborhoods!
Honoring Neighborhood Watch and Business Watch groups that make our City safer!

SAFE (Safety Awareness for Everyone) greatly appreciates our partnership with the San Francisco Police Department! With your assistance, SAFE has been able to form and facilitate over 60 Neighborhood Watch and Business Watch groups each year. As a result, residents and merchants are more like to observe and report suspicious and criminal activities to the police, and more likely to be the eyes and ears of the community. Watch groups are also better educated on crime prevention and how to make their neighborhoods safer. Thank you to everyone in the Department that has attended Neighborhood and Business Watch group meetings!

Perfect Timing! SAFE will be celebrating October's National Crime Prevention Month, *and* the successful partnerships of Neighborhood and Business Watch groups, on Thursday, October 11, 2007, 6:00 p.m., at our annual fundraising event: *One City, Many SAFE Neighborhoods*. This

event will recognize and honor active and leading Neighborhood Watch and Business Watch Groups that have worked tirelessly to organize their communities, learn about crime prevention, enhance relationships with the police department, and ultimately to make their neighborhoods safer. Please join us on October 11th at the Green Room at the San Francisco War Memorial & Performing Arts Center. Celebrate with a Reception at 6:00 p.m., followed by Dinner, Success Film, and Raffle/Silent Auction! Thank you to our Sponsors: AAA of Northern California, North Point Investors, Corporate Security Service Inc., Allied Barton Security Services, Sonitrol, PG&E, Taste Catering, and RedBricks Media. For more information, sponsorships or donations, contact Cindy Brandon at (415) 553-1981 or cindy@sfsafe.org. You can also visit our website for further details, www.sfsafe.org.



Police Jobs

continued from page 1

affect how long they stick around, Davis said. After officer Richard May was shot to death by an alleged gang member in January 2006, about six officers left the department in as many months, Davis said.

Davis said he has hired nine officers in the past two years, but had to let four go after they failed the department's in-house training. Two are still in training and three are in the field. The department has eight vacancies and three officers on paid administrative leave.

The department has a budget for 43 sworn officers, nine of whom are supervisors.

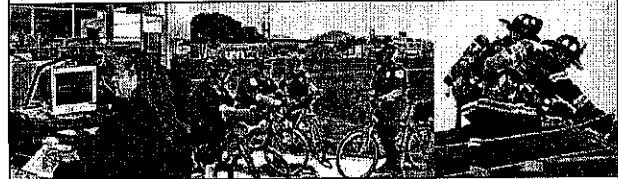
Because of the intense experience, Davis said it's common for rookies to work in East Palo Alto for a few years and move on. Training a replacement costs about \$100,000.

Another major challenge is the hiring process, said Stresak of the California Commission on Police Officer Standards and Training.

To find 100 qualified officers, for example, an agency might need to screen 1,500 candidates, he said. And after that, it's normal to lose about 20 during training, he added.

"You come out with about 80 individuals who begin the journey as peace officers," Stresak said.

San Francisco Public Safety Career Expo



Free Admission

Saturday, September 8, 2007

9:00 a.m. – 4:00 p.m.

Treasure Island, Bldg. #1

Join the SFPD at our San Francisco Public Safety Career Exposition. You will have the opportunity to meet with California's premiere Public Safety and Law Enforcement agencies to discuss your employment options.

For more information, please contact the SFPD Recruitment Unit at 415-401-4690/91

Muni will provide transportation from the Transbay Terminal to Treasure Island

FREE Family and community activities

Present will be over 30 organizations who are seeking qualified employees to fill existing vacancies. We are looking for individuals for Police Officers, Deputy Sheriffs, Fire Fighters, EMT/Paramedics, Adult Probation Officers, Juvenile Probation Officers, Juvenile Counselors, Dispatchers, MTA Proof of Payment Officers and various human resource support positions. In addition, there will be public safety community organizations, Police, Fire and Sheriff demonstrations scheduled.

Stop by and meet our recruiters and start your future today.
Hope to see you there!

www.sfgov.org/police

City of East Palo Alto

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Police Officer - Lateral

Please submit your application at City Hall - 2415 University Avenue.

Post Date: 10-Mar-2008
Salary Range: \$5,577-\$7,288 Monthly
Job Type: Regular
Closing Date: Continuous
Department: Police
Division: Police
Location: East Palo Alto Police Department
How Many: -

The Position: This Classification is eligible to participate in the East Palo Alto Police Officer Association (P.O.A.) bargaining unit. Under the general supervision of a Police Sergeant, Police Officers perform law enforcement and crime prevention work by utilizing community policing and problem oriented strategies including controlling traffic flow; enforcing state and local regulations; performing investigative work; participating in, and providing support and assistance to special departmental crime prevention and enforcement programs.

Examples of Duties: See below:

Requirements: Has knowledge of methods and techniques related to basic law enforcement, including current trends and issues; appropriate use and handling of approved weapons, including firearms and batons; basic report writing; and basic principles, practices and procedures of personal ethics. Is skilled in memory, and observation to detail; preparing clear and concise reports and other written materials; applying logical thinking to solve problems and accomplish tasks; communicating clearly and effectively, both orally and in writing; organizing work and setting priorities; and using tact, discretion, and independent judgment within the established guidelines. Bilingual skills are highly desirable. Has the ability to establish and maintain effective working relationships with a variety of individuals; take direct orders and comply with all laws and regulations; define problems, collect data, establish facts, and draw valid conclusions; respond to emergencies at any time of day or night; and pass a comprehensive background investigation, and psychological examination, DOJ/FBI fingerprint clearance, and P.O.S.T. standards for physical and drug screening examinations.

Qualifications: A High School Diploma or GED is required. An Associates and/or Bachelor's Degree in Public Administration, Criminal Justice, Police Administration or related field of study is desirable. One or more years of experience and successful completion of a probationary period with another police department is required.

Application Procedure: Application screening will be part of the selection process. Based on the application screening, those candidates with the most relevant qualifications will be invited to an oral interview, which may include a written exam and/or practical exam.

Additional Information:

For more information you can download the brochure:
Police Officer - Lateral (pdf, 698k)

License and /or Certifications:

- P.O.S.T. Academy Graduate Certificate (Issued within the past 3 years)
- Valid California Class C Driver's License or higher and a good driving record at the time of appointment.
- CPR Certificate (within 6 months of appointment)

To be considered in this outstanding position, please, submit a City application, resume and a copy of your P.O.S.T. Basic, Intermediate or Advanced Certificate. Candidates meeting the minimum qualifications will be invited to participate in written and oral board examinations.

Submit documents to:

Mr. M L Gordon, Assistant City Manager
City of East Palo Alto
EPA Government Center
Human Resources Department
2415 University Avenue
East Palo Alto, CA 94303
Attn: Police Officer Lateral

The City provides Equal Employment Opportunity to all applicants regardless of sex, race, color, marital status, religion, ancestry, national origin, medical condition, disability, age, sexual orientation, or other non-merit related reasons.

Females and all Individuals with Bilingual skills are encouraged to participate in the recruitment process.

COMPENSATION AND BENEFITS:

- Retirement: CalPERS retirement 2% @ 55 (3% @ 55 effective June 30, 2008)
- Insurance: Medical (City pays up to 80% of the Family Premium)
- Dental (City pays full cost for employee only)
- Life Insurance
- State Disability Insurance (Paid by employee)
- 125 Flex Plan with Supplemental Benefits
- Holidays: 12 paid holidays
- Other Earned Leave: Vacation, Sick Leave
- Other Benefits: Long Term Disability (fully paid by City) 457 Plan

Call (650) 853-3100 for additional Information or, visit our website at: www.ci.east-palo-alto.ca.us

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Police Officer Trainee, Lateral - Palo Alto, CA

Position Type

Police Officer

Position Title

Police Officer Trainee, Lateral

Requirements/Overview

The Palo Alto Police Department has multiple positions available for both Police Officer - Trainee and Police Officer - Lateral.

Police Officer - Trainee

Under close supervision, this position attends a Peace Officer Standards and Training (P.O.S.T.) certified police academy, participating in and passing all required classes for a period of approximately 18-22 weeks. Upon successful completion of academy, incumbent becomes a probationary Police Officer.

Police Officer - Lateral

To preserve public peace, protect life and property, prevent crime, enforce all laws and ordinances of which the Department takes cognizance. To be involved in community relations and specialized work.

The Police Officer - Lateral position is distinguished from the Police Officer Trainee position by one of the following: 1) Completion of a Police Officer Standards and Training (P.O.S.T.) certified police academy (Regular Basic Course) within the past 3 years; or 2) Completion of a POST certified police academy Regular Basic Course and have service as a police officer in a California Police agency within the past 3 years.

To be considered for either of these jobs, the following requirements must be met:

- Must be at least 21 years of age at time of application
- Must either be a U.S. Citizen or have applied for citizenship within the past year.
- Must possess a California Driver's License.
- Must not have any felony convictions.

Special Requirements:

- Pre-employment: ability to pass drug and alcohol test.
- Weight in proportion to height.
- Visual rating correctable to 20/30 in both eyes. Possess normal color vision.
- If military veteran, discharges other than honorable will be evaluated on an individual basis.
- Satisfactory results on appropriate written, medical, background and psychiatric examinations.

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Additional Information

To Apply

Applications are accepted on a continual basis, and the application process is conducted in a personalized, one-on-one fashion. Please go to our website to begin the application process, or contact our Personnel and Training Unit at 650-329-2601 for an application packet.

The selection process includes:

- POST reading comprehension exam.
- Writing skills test.
- Staff Interview with a panel of police managers.
- Background investigation (Includes polygraph and drug and alcohol screening).
- Interview with Police Chief.
- Psychological examination and medical examination.

The Palo Alto Police Department offers the following benefits:

- Rotating 4/11 work schedule while in patrol (4 days on, 4 days off; 11 hour shifts).
- 5% additional pay for each of the following: night differential pay, Field Training Officer pay (while training) and Bilingual Incentive pay.
- Incentive pay at 5% for Intermediate POST and 7.5% for Advanced POST certificates (depends on time in position, but obtained faster with bachelor's degree and/or master's degree).
- Tuition reimbursement program of \$1000 per year.
- Top-quality health care plan for you and your dependents, including: medical, dental, vision and basic life insurance. All are fully paid by the City of Palo Alto.
- 3% at 50 retirement plan.
- Uniform and equipment fully paid, including dry cleaning.
- If you choose, ability to remain involved in your investigations from time of initial crime report to time of criminal filing and ultimate arrest of suspect.
- Full complement of specialty positions available.

New! Lateral Officer Hiring Incentive

Qualified lateral officers may receive a \$10,000 hiring incentive to be paid according to the following schedule: \$5,000 upon completion of the first year of employment, \$2,500 upon completion of the second year of employment, and \$2,500 upon completion of the third year of employment.

Salary

\$ 33.49/hr. Trainee in Academy; \$40.55 - \$48.22/hr. Lateral Officer range.

Posting Date

2008-02-27

Closing Date

Open Until Filled

Job Last Updated

2008-02-27

Job Announcement/More Information Web Site

<http://www.cityofpaloalto.org/depts/pol/recruiting.asp>

Department/County Web Site

<http://www.cityofpaloalto.org/depts/pol/default.asp>

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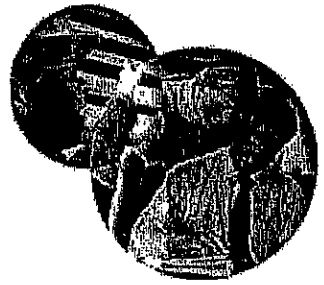
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Lateral Police Officer - Law Enforcement

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[City of Menlo Park Info](#)

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Close Date: Continuous

Salary: \$6,515.15 - \$7,919.20 Monthly

Job Announcement:

Menlo Park Police Department
We are currently accepting applications for police officers that are motivated, well-trained professionals who can meet the challenge of a fast paced multi-tasking environment.

\$6,515-\$7,919 per month
The Menlo Park Police department is an operation in which the line patrol officers enjoy communicating and building relationships with individuals within the community. We embrace a true community connection and commitment with participants on all sides. Rather than designating certain officers to focus on solving community problems, Menlo Park will charge all police personnel with proactive community policing responsibilities. We ask our officers to seek innovative solutions to local problems, respond to citizen complaints of violations and provide excellent customer service. Additionally, major thoroughfares coursing through our fully developed community make traffic management a vital duty of all patrol officers. Overall, the department has strong opportunities for specialty assignments, including: K9, investigations, narcotics enforcement, and SWAT / HNT. Patrol teams enjoy a rotating 4/11 plan or a fixed 4/10 schedule in specialty assignments. A small agency, such as the Menlo Park Police Department, will enable you to attain a breadth of experience and exposure through which to advance your career in numerous ways. We are seeking individuals who are enticed by our vision and will bring high energy, innovation, self-motivation and passion to their chosen profession.
The City of Menlo Park recognizes the value of continuing education and increased knowledge acquired through personal and professional development of its' workforce and allow employees to further their education goals. Accordingly, the City is committed to providing support for learning opportunities by offering tuition reimbursement that directly and indirectly assist employees in achieving their personal and professional learning goals.

The City realizes the diversity of the community and therefore upon approval, the City pays officers a bilingual stipend. Our officers continually strive to be the best and achieve the highest standards, they receive a 5% incentive for achieving their Intermediate POST certificate and 7.5% incentive for achieving their advanced certificate
The City has new desktop and laptop computers in place for employees. The city already has Crime Analysis and Traffic Analysis software systems in place. A new handheld citations system for traffic has recently been launched. The City recently implemented a citywide GIS system, document imaging system, and Intranet, which are available to all staff members. Additionally, we have placed laptops in all patrol cars in order to facilitate timely report writing and response to calls for service.
We are seeking experienced California peace officers. Preference will be given to those who are enthusiastic, community-oriented team players with the skills and ability to interact and deal effectively with a population that is both culturally and socio-economically diverse. We pride ourselves in our staff, individuals who exhibit excellent interpersonal skills and sincere desire to make a difference. Come discover why so many officers develop their careers here and retire from our department. Review this information and join us!
Applicants who are currently sworn peace officers with a California public law enforcement agency who have passed the agency's probation period will be considered lateral candidates. A copy of your most recent POST certificate must be submitted with your application to be considered for Lateral openings.

Salary: \$6,515.15 - \$7,919.20 Monthly

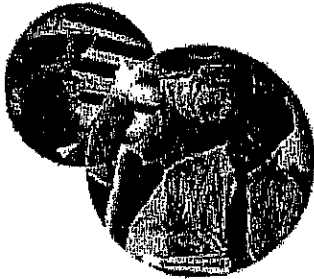
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Police Officer-Lateral/Academy Grad/Enrollee - Law Enforcement

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City of Mountain View Info

Close Date: Until Filled

Salary: \$84,348.00 - \$102,428.00 Annually

Job Announcement:
(Plus a comprehensive benefits package. Salary includes employee's 9 percent PERS contribution—3 percent @ 50, with no social security deductions.)

THE POSITION

The City of Mountain View Police Department is currently recruiting highly motivated professionals to fill the position of Police Officer—Lateral and Academy Grad/ Enrollee. This recruitment will establish an eligibility list for current and future positions.

The Police Officer's primary responsibility is to promote community order and protect life and property through the preservation of the public peace, prevention of crime and enforcement of laws. His/her duties may include patrolling assigned areas, responding to calls, making arrests, investigating crimes and accidents, enforcing vehicle codes and traffic laws, canine handling, criminal prosecution and community relations.

MINIMUM QUALIFICATIONS

All Police Officer candidates must meet the following criteria:

- Possession of a valid California driver's license.
- Vision and hearing capability consistent with guidelines by California POST and/or the City of Mountain View.
- Must be a U.S. citizen or permanent resident in the process of obtaining U.S. citizenship.
- Computer keyboarding skills required.

In addition:

The Police Officer—Lateral:

- Must have been employed as a law enforcement officer in good standing in the State of California within the last three years.
- Completion of 60 semester units or 90 quarter units from an accredited college. (Units must be completed by time of application).
- Possession of a California POST Basic Certificate.

Police Officer—Academy Graduate:

- Completion of 60 semester units or 90 quarter units from an accredited college. (College units must be completed by the time of application).
- Completion of a California Basic Police Academy with a current certification.

Police Officer—Academy Enrollee:

- Completion of 40 semester units or 60 quarter units from an accredited college at time of application.
- Proof of current enrollment at a California POST Basic Police Academy.

WORKING CONDITIONS

The position requires working outdoors in situations which may be hazardous and life-threatening. Police Officers will be required to work various shifts, overtime and on-call as assigned.

TO APPLY

Applicants must complete a City of Mountain View application. Application materials must be submitted in the Employee Services Department, 500 Castro Street, Mountain View,

California, 94041, (650) 903 6310, or you can apply on line at www.mountainview.gov.
Application materials will be accepted on an open/continuous basis.

SELECTION PROCESS

Application screening will be part of the examination process. Based on the application screening, those candidates with the most relevant qualifications will be invited to a Police Chief's Interview (weighted 100 percent). Depending on the number of applications, the above process may be altered. Finalists placed on an eligibility list will be required to successfully pass an extensive background investigation (including polygraph), medical examination and psychological screening prior to a final employment offer.

Candidates with a disability which may require special assistance in any phase of the application or testing process should advise the Employee Services Department upon submittal of application. The City of Mountain View is an Equal Opportunity Employer (EOE).

Salary: \$84,348.00 - \$102,428.00 Annually

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The Mercury News

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Officials say shootings not connected to staffing

By Joshua Melvin
DAILY News staff writer

Posted: 12/12/2008 11:29:45 PM PST
East Palo Alto police officials said Friday that a decision to end a contract with the San Mateo County Sheriff's Office for extra police help has little to do with the recent spate of five shootings that have left nine wounded.

Police Chief Ronald Davis said the city actually could have had more officers on the street had it not been for the contract, which ended this year. That's because the hiring of seven police officers had to be postponed to pay for the five sheriff's deputies contracted to the city.

As long as those deputies were on the city payroll, the police department could never close the staffing gaps the deputies were contracted to fill over the contract's 12-year period, Davis said.

Though the city has roughly the same number of officers as it did when the deputies were on duty, Davis said aggressive recruitment could have the department fully staffed in six months.

But there are some obstacles to overcome. Davis said the department has long been understaffed — something he blamed on poor pay and benefits. Until the city council voted to increase salaries and improve benefits last year, East Palo Alto police were on the lower end of the payscale compared to those in nearby cities. Davis said officers were making 20 percent less on average than other officers in the county and their retirement plan entitled them to a third less.

And even though salaries and benefits have improved, the department is still suffering from that reputation.

The hiring process is also difficult, Davis said, noting that up to 80 percent of candidates are rejected. Also, the battery of background checks and testing required before an officer hits the streets can take too long in East Palo Alto. He said the city needs to speed up the process to be able to quickly hire candidates being considered by other departments.

The department is dealing with the staffing shortage by having officers do double duty, picking up shifts as school resource officers and doing traffic enforcement in addition to regular assignments. But, Davis said, the officers won't be able to keep this up forever.

He said a 90-day deployment of six California Highway Patrol officers in the city — part of his response to the recent shootings — will take some pressure off city police.

And if the department is stretched too thin, Davis said he will resume the contract with the sheriff's department. But that would be an emergency measure he wants to avoid.

While staffing is a problem, the blame for the shootings lies elsewhere, said Capt. Carl Estelle.

Noting that there has been a spike in violence in East Palo Alto at the end of the last three years, Estelle said one reason is that people locked up in the county jail for the maximum county sentence of one year tend to be released then and commit more crimes.

Another possible reason is that the San Mateo County Gang Task Force ends its full-time

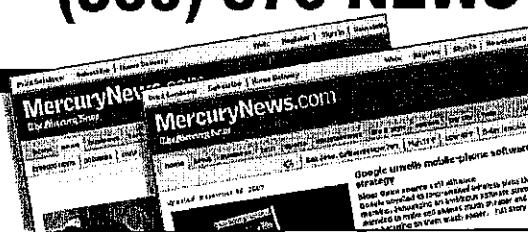
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deployment in September, Estelle said. The task force operates less frequently after that, which may take some of the pressure off of gang members. But these explanations are just theories, Estelle said.

In the meantime the community is doing what it can to deal with the violence. A group of people gathered at an East Palo Alto nonprofit on Friday for a 24-hour prayer vigil. With heads bowed and eyes closed they prayed aloud, asking for help, seeking answers.

"We are all sinking," said an unidentified man. "Jesus ... help us."

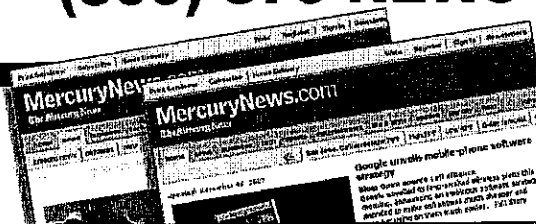
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East Palo Alto police chief details response to shootings

By Joshua Melvin
DAILY News staff writer

Posted: 12/11/2008 12:25:59 AM PST

At a community meeting Wednesday night East Palo Alto Police Chief Ronald Davis promised swift action in response to the recent spate of shootings that have left nine people wounded, one of whom is still hospitalized in critical condition.

The chief told the standing room only crowd that a two-pronged approach will be used — enforcement as well as prevention.

On the enforcement side, additional California Highway Patrol officers will be assigned to the city for a 90-day period. Starting today, the San Mateo County Gang Task force will begin targeting people wanted for warrants as well as those on parole or probation who are believed to be involved in criminal activity.

And extra officers will be added to "Operation 4th Quarter." The operation targets street gangs, parole violators and graffiti during the last three months of the year.

"That is the hammer," he said. "That is the enforcement component."

Since at least 2006, violence has erupted in the city at the end of each year. Although theories abound no one has been able to explain the yearly spike in violence, Davis said.

Davis also released some additional information on the string of recent shootings throughout the city. While he did not give details, he said there was another shooting on Tuesday night in which no one was hurt. Additionally he said some of the shootings may involve gangs and could be related. One of the shootings appears to involve a shooter that targeted a family member, Davis said.

The chief went on to say that enforcement is not enough to curb the violence. One prevention effort will include enlisting parolee residents to reach out to young gang members.

Before turning the meeting over to local religious and social leaders, Davis said parolees have the credibility needed to access gang members and "show them another way."

Pastor Andre Harris, who is part of East Palo Alto's parolee reentry program, explained the effort.

"What's been missing is all the daddies," he said, receiving nods and voiced agreement from the audience. "We need to go and encourage them to make a change."

Another effort — which already exists in the city — is called the Live in Peace movement. Executive Director Faye McNair-Knox told the audience that the anti-violence message needs to be clear in the community. Adding to these words Heather Starnes, director of the For Youth By Youth organization, said the message needs to come from parents, teachers and friends. Other community leaders suggested offering counseling to children and teens who have witnessed or been victims of violence.

Funding for these initiatives and increased enforcement will be requested in a motion at the next city council meeting, said Mayor Ruben Abrica.

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He said the money can be accessed through Measure C.

Seeking to bolster a city that has been battered by the recent violence the chief reminded everyone that East Palo Alto has had four homicides in 2008 — the lowest number in nine years. He added that the majority of the crime in the city was likely the work of five to 10 individuals.

"How can five to 10 people terrorize 35,000?" he asked.

E-mail Joshua Melvin at jmelvin@dailynewsgroup.com

A string of injury shootings since last Thursday has rattled East Palo Alto. Here's a breakdown:
THURSDAY, DEC. 4, 7:11 p.m. "" A 23-year-old woman and her 6-year-old niece are shot by an unknown gunman while waiting in a car at the intersection of Bell Street and University Avenue. The shooter was on foot.

FRIDAY, 8:30 p.m. "" Gunmen in a van open fire on a 36-year-old woman, 37-year-old man and 45-year-old man walking near the intersection of Euclid Avenue and East Bayshore Road.

SATURDAY, shortly after midnight "" A woman is shot by a group of four people dressed all in black near the intersection of Jervis Avenue and Newbridge Street.

MONDAY, 5:13 p.m. and 8:50 p.m. "" A 21-year-old man and a 19-year-old man are shot by gunmen driving a red Ford sport utility vehicle near the intersection of Bell Street and Cooley Avenue. One of the men is hospitalized in critical condition. A few hours later, a 43-year-old man is shot on the 2800 block of Illinois Street by a man on foot. Police have identified a subject in the incident but haven't released the suspected shooter's name.

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E. Palo Alto's Measure C moves forward

By Banks Albach / Daily News Staff Writer

With cash already flowing into East Palo Alto from a citywide parcel tax passed by voters in 2006, the city council set its first milestone Tuesday night toward putting the crime-fighting measure into place.

The city is seeking 12 candidates to serve on an advisory committee that will be tasked with recommending what kinds of programs Measure C funding should support. San Mateo County has already collected \$351,937 for the city since last summer.

Originally estimated to bring in \$1.5 million per year, which will be allocated between the police department and local nonprofits and faith-based groups, city staff now calculates that the 10-year tax will yield less than half the original number, or around \$700,000 per year.

City Manager Alvin James said his initial estimates were based on a past parcel tax, which was scrapped after a legal challenge, and misrepresented the total amount of property tax in East Palo Alto.

The city council will approve a final draft of the committee applications on Feb. 19, collect them until March 19 and hopefully select its members on April 15. About 20 residents attended the special meeting Tuesday where the council drafted the rough timeline. Council Members Peter Evans and David Woods were absent.

Council members and city staff soundly admitted they are behind schedule.

"We should have started this selection process a long time ago," Mayor Patricia Foster said. "A lot of residents expected us to be completely finished with this a month ago."

In coming months, the council will also choose members for the long-term Measure C oversight committee, which will handle, regulate and oversee how the money is spent. Under the ordinance, each council member is allowed to appoint three members, who will likely serve either one- or two-year terms.

Residents said both committees should have proportional ethnic representation, meaning fair numbers of African Americans, Hispanics, Pacific Islanders and whites, and equal numbers of women and men, including youth. They also said the process should be open to anyone, regardless of criminal history.

Some specific targets for Measure C included working directly with the roughly 200 youths on probation each year in the city; running blight abatement and graffiti cleanup programs; and not only working toward giving youth a place to congregate and thrive, but develop a program for parents to learn parenting.

"I raised six kids - a single mom," said Luella Parker. "None of them went to jail. Parents need to get involved."

Police Chief Ron Davis also outlined his agenda under Measure C. It ranged from gang prevention and parolee services to installing better lighting and trimming bushes. He

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2/12/2008

said a major crime prevention tactic is enforcing local codes against negligent property owners.

Passed by almost two-thirds of the city voters, Measure C has faced its share of snags over the last 12 months, of which the \$800,000 fiscal miscalculation is the latest.

The county originally refused to collect the tax, claiming some wording in the ordinance violated California law. That issue was resolved with some minor language tweaks last summer.

That settlement, however, prompted the landowners group Citizens Against Irresponsible Taxation to threaten a lawsuit last June against the city over the tax. The group's Davis-based attorney, Tony Tanke, could not be reached by press time to verify if he has filed suit.

E-mail Banks Albach at balbach@dailynewsgroup.com.

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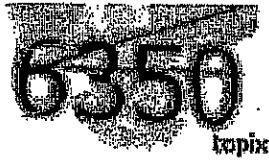
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March 6, 2008

Mayor Patricia Foster
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Re: Maintenance of the Public Rights-of-Way

Dear Mayor Foster:

The purpose of this letter is to inform you of our concerns regarding the existing needs and deficiencies within the public rights-of-way surrounding properties owned or managed by Page Mill or affiliated entities in East Palo Alto. We understand the City recently took responsibility from San Mateo County for the Lighting and Drainage Districts, and we look forward to the timely maintenance and improvement of these public facilities.

There are several items that should be addressed within the public rights-of-way concerning maintenance or lack thereof, which include general maintenance such as garbage and weeds, maintenance of the pavement, storm drainage system, curbs, gutters and sidewalks (where they exist), street trees, landscaping and street lighting. A physical assessment of the public rights-of-way surrounding our properties revealed inadequate street lighting, large pot holes, cracks and poor pavement condition. Some of these streets are very narrow with failing pavement edges that are a public hazard, and many streets lack curbs, gutters and sidewalks. In addition, localized drainage induces flooding in the streets making them unsafe to drive and jeopardizing private property.

Perhaps even more serious is the condition of the trees along public streets, which are in need of trimming and in some cases removal because they are split, overgrown, diseased or dead. Trees with significant structural damage, poor health, and weak points due to tree topping carry a high risk of injuring pedestrians and damaging power and phone lines, buildings and cars. Excessive weight on branches or high winds may result in branch failure, which could lead to damage and injury.

The condition of the public rights-of-way impacts all properties and all residents in our neighborhood, not just the properties managed by us, and we are concerned about public safety and liability. As a private property owner, we do not have the authority or the responsibility to maintain the public rights-of-way. Thus, we are notifying you of these issues out of concern for public safety so that you can properly address these issues through the City's own departments and resources.

460 Cowper Street, 2nd Floor • Palo Alto, CA 94301
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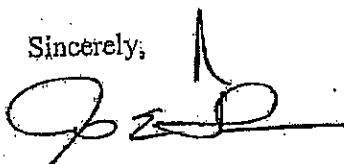
In a recent article in the San Mateo County Times (enclosed), Assistant City Manager M.L. Gordon said that through a combination of minimal staffing, a surprising boost in property taxes and carryover funds from last fiscal year, the City is running an \$874,000 budget surplus. We also understand that the City is forming an Ad Hoc Advisory Committee to make recommendations related to Measure C funding expenditures. May we suggest that a portion of these funds be used to make the much needed repairs and improvements that we have identified herein and also communicated to you in our previous letters dated February 6, February 14, and February 29, 2008?

As you know, the City's Fiscal Year 2007/2008 Adopted Operating Budget identifies several City Council Focus Areas with Infrastructure and Public Safety duly topping the list. The Focus Area on Infrastructure recognized the need for enhancing maintenance and improvements of City infrastructure including: sidewalks, roadways, storm drains and parks, while the Focus Area on Public Safety emphasized initiatives that enhance public safety, including: Code enforcement, staffing, and Police Department upgrades. Likewise, the City Manager's Office prioritized the City's goals as follows: 1) To ensure that the City's infrastructure is maintained which includes streets, sidewalks, parks, street lights, and storm drains, and 2) To ensure the safety of the public by meeting the resource needs of the Police and other departments. The City's budget organization and priorities should therefore reflect these objectives.

I want to reiterate Page Mill Properties' offer to collaborate with the City on issues relating to infrastructure improvements such as sidewalks and street lighting, trail improvements, and public safety and code enforcement issues. We are committed to trying to eliminate the blight that exists in our neighborhood, but a commitment is needed from the City to allocate the financial and human resources required to maintain and improve the public rights-of-way within its City limits.

We would like to meet with you and your staff to discuss this further. Please call me at 650.833.3850 or email me at jthompson@pagemill.com at your earliest convenience so that we can arrange a meeting. Thank you for your consideration.

Sincerely,



James E. Thompson
Director of Development

cc: Alvin James, City Manager
Anthony Docto, Director of Public Works

The Mercury News

MercuryNews.com

East Palo Alto council OKs street repair plans

By Banks Albach
Bay Area News Group

Article Launched: 04/30/2008 12:11:23 PM PDT
Many of the bumpiest roads in East Palo Alto should get a smooth makeover this year with the city council's approval Tuesday night of a pavement resurfacing plan.

City staff has stretched out slightly more than \$1 million to repair 18 streets this year, using a 50-50 split of state and local funds from Proposition 1B and San Mateo County's Measure A funds. Staff has also secured the same funding to repair an additional 17 streets next year. That plan must pass the council in 2009.

Overall, 47.5 percent of East Palo Alto's 38 miles of roads are in good condition, ranked between 70 and 100; almost 30 percent are in very poor shape, ranked somewhere below the 25 mark; and the rest are either in fair or poor condition. The average is 54 and the rankings are based on a pavement quality index.

Many of the roads were designed and built by San Mateo County before East Palo Alto incorporated in 1983 and when the area was less populated. Since then, the city has conducted patchwork repairs, but dozens of deteriorating streets lack adequate drainage and sidewalks.

"I live on one off the worst streets in the city, as you all know," Norm Picker said, describing his section of Bell Street. "And it's second on (staff's) list. I'm looking forward to a new street."

At the top of the city's two-year list which several residents complained about Tuesday are Ralmar, Poplar and Dumbarton Avenues and Bell Street. Some are lined with potholes, some flood excessively in the rainy season, and others were only paved in the middle, leaving two gravel or dirt gaps in front of property lines.

"They're not actually streets," Councilman David Woods said, referring to a few roads in particular. "They're trails."

With the 4-1 vote, the council allocated the money and gave City Manager Alvin James the ability to launch a request for proposal process as soon as possible. Project Engineer Kamal Fallaha also told the council that the state recently approved \$806,000 in Safe Routes to School funding, which could be used to build sidewalks.

But as staff repeatedly pointed out, amid concerns from residents and Council Member Peter Evans, it's a balancing act. Evans, who cast the dissenting vote, questioned why the focus of the repairs was not on the worst of the worst roads in East Palo Alto.

James and Fallaha responded that the city will save money in the next several years by preventing the city's good streets from deteriorating further, rather than throwing all of the money at completely overhauling the city's worst road, which ranks under 10 on the index. So the plan includes both repairs and preventive maintenance, Fallaha said.

Some preventive measures can extend a road's life by up to 12 years, while the most decrepit roads will require a complete asphalt overlays, which cost about \$8,50 per square yard. To bring East Palo Alto's entire road system up to an 85 ranking, for example, would cost about \$44 million.

Mayor Patricia Foster said she understands the

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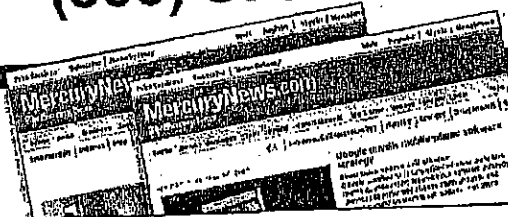
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public's frustrations.

"But we're not going to have a solution tonight for everyone's street," she said before the 4-1 vote.

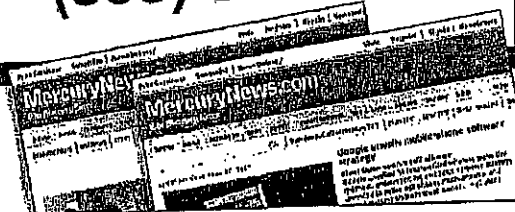
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1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

TO: City Officials
FROM: Chris McKenzie, Executive Director
RE: Sample Resolution RE: Litigation Over Unconstitutional Diversion of
Local Share of Motor Fuel (Gas) Tax
DATE: Friday, June 12, 2009

Background. In his final revised May Revision, the Governor proposed the seizure of almost \$1 billion in city and county shares of revenues in the Highway Users Tax Account (HUTA) from the motor fuel tax (or gallonage gas tax) to fund past and future highway bond debt service payments out of the general fund. Yesterday the Joint Budget Conference Committee endorsed this recommendation on a party line vote. It is clear to attorneys employed and retained by the League that this recommendation, if enacted into law, would be unconstitutional. In fact, in both 1974 and 1998 voters enacted limitations on the power of the legislature to seize and use HUTA gas tax funds, allowing only loans to the general fund on a limited basis. The attached legal opinion from the Sacramento law firm of Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, sets forth the legal analysis and conclusion that the Governor's proposal would violate Article XIX of the California Constitution.

Resolution. The League has developed the attached sample resolution for cities that wish to direct their city attorney to cooperate with the League, other cities and counties in planning litigation challenging the constitutionality of the proposed theft of city and county funds. It does not commit the city to filing litigation, but it directs the city attorney to cooperate and work with the League and other local governments to advance the litigation. If litigation proves necessary in the next month or so, we anticipate there will be some lead cities and counties, along with the League. It may eventually prove desirable to have every interested city named in the litigation. As a result, asking your city attorney to get engaged and cooperate in the planning of this possible next step is appropriate and to send the message you will not take this lying down.

Your City's Gas Tax Loss. For your city's projected 2009-10 motor vehicle fuel tax revenue loss see <http://www.californiacityfinance.com/HUTAprjFY10.pdf> The total amount of loss for each city is in the far right column. Under the Governor's proposal, approved by the Budget Conference committee, your city would lose this entire amount. In the next year, the loss would be about 75% of this amount.

Where to Send Copies. The draft resolution directs the city clerk to send copies to your legislators, the Governor, the League, and various community groups that care about traffic safety in your city. We would appreciate you faxing copies to both your League Regional Public Affairs Manager and the League's Sacramento Office (Fax 916-658-8240).

Questions. If you have any questions or need any information please contact your League Regional Public Affairs Manager. City attorneys should contact Patrick Whitnell, League General Counsel, at pwhitnell@cacities.org.

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO COOPERATE WITH THE LEAGUE OF CALIFORNIA CITIES, OTHER CITIES AND COUNTIES IN LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET MAINTENANCE FUNDS

WHEREAS, the current economic crisis has placed cities under incredible financial pressure and caused them to make painful budget cuts, including layoffs and furloughs of city workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues; and

WHEREAS, since the early 1990s the state government of California has seized over **\$10 billion** of city property tax revenues statewide, now amounting to over \$900 million each year, to fund the state budget even after deducting public safety program payments to cities by the state; and

WHEREAS, in his proposed FY 2009-10 budget the Governor has proposed transferring \$1 billion of local gas taxes and weight fees to the state general fund to balance the state budget, and over \$700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain the City's streets, bridges, traffic signals, streetlights, sidewalks and related traffic safety facilities for the use of the motoring public; and

WHEREAS, the loss of almost all of the City's gas tax funds will seriously compromise the City's ability to perform critical traffic safety related street maintenance, including, but not limited to, drastically curtailing patching, resurfacing, street lighting/traffic signal maintenance, payment of electricity costs for street lights and signals, bridge maintenance and repair, sidewalk and curb ramp maintenance and repair, and more; and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use city general funds for basic street repair and maintenance. Furthermore, cities expect that liability damage awards will mount as basic maintenance is ignored and traffic accidents, injuries and deaths increase; and

WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our state overwhelmingly imposed restriction on the state's ability to do what the Governor has proposed, and any effort to permanently divert the local share of the gas tax would violate the state constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the state road network while the state directly maintains just 8%; and

WHEREAS, ongoing street maintenance is a significant public safety concern. A city's failure to maintain its street pavement (potholes filling, sealing, overlays, etc.), traffic signals, signs, and street lights has a direct correlation to traffic accidents, injuries and deaths; and

WHEREAS, according to a recent statewide needs assessment¹ on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or "at risk." Local streets and roads will fall to "poor" condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF _____ hereby directs the City Attorney to take all necessary steps to cooperate with the League of California Cities, other cities and counties in supporting litigation against the state of California if the legislature enacts and the governor signs into law legislation that unconstitutionally diverts the City's share of funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the state general fund; and

RESOLVED FURTHER, that the city manager or clerk shall send this resolution with an accompanying letter from the mayor to the Governor and each legislator, informing them in the clearest of terms of the City's adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 5 (1974) and Proposition 8 (1998) concerning the proper use and allocation of the gas tax; and

RESOLVED FURTHER, that a copy of this Resolution shall be sent by the city manager or clerk to the League of California Cities, the local chamber of commerce, and other community groups whose members are affected by this proposal to create unsafe conditions on the streets of our City for pedestrians, bicyclists and motorists.

ADOPTED this _____ day of _____, 2009.

¹ *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.



February 14, 2008

Mayor Patricia Foster
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Re: City Street Lighting west of U.S. Hwy 101

Dear Mayor Foster:

As you are aware, over the past year and a half Page Mill Properties has implemented a property improvement program to address life safety, code, and security issues for our properties. We also completed an assessment of the public right-of-way encompassing our properties to identify any hazards or deficiencies. In doing so, we discovered that within the right-of-way surrounding our properties current lighting levels do not meet minimum safety street lighting levels.

In April 2007, we received the existing City Lighting Plan from the City Engineer and began an evaluation of existing street lighting conditions. We developed a work plan with measures to improve the lighting, which included calling PG&E to replace lighting that had been burned out for years, reviewing the existing City Lighting Plan and preparing Conceptual Street Lighting Plans for the City's roadways west of U.S. Highway 101 located both north of University Avenue and south of University Avenue. We also met with the Police Department to discuss the lighting deficiencies, presented the Conceptual Street Lighting Plans and offered to assist in preparing a Grant Application request to improve the lighting, referred to as the "Safe Streets Grant".

In early September 2007, we hired an electrical engineering firm to prepare preliminary Electrical Street Lighting Plans and preliminary photometric lighting level calculations to check the existing and improved street lighting levels. Copies of the preliminary plans dated 10/04/07 were submitted to PG&E Senior Business Representative Lori Rusca and a PG&E Inspector at a field meeting held on October 18, 2007 that we attended with our electrical engineering consultant. The purpose of this coordination meeting with PG&E was to discuss design criteria and to begin the engineering and planning for these improvements, since PG&E owns the existing poles within the right-of-way. At this meeting, we were advised that the City had recently taken over the ownership and maintenance of the existing street lights from the County and that we would therefore need the City's review and approval before PG&E could begin engineering drawings for the improved street lighting. We also discussed the potential for huge cost savings by utilizing the existing poles for mounting new luminaires and possibly an accelerated schedule to have engineering drawings prepared and construction completed in approximately three months.

480 Cowper Street, 2nd Floor • Palo Alto, CA 94301
Tel 650.833.3800 • Fax 650.688.6820

On October 23, 2007, Page Mill Properties met with City staff at the City Manager's Office to introduce ourselves and to discuss ongoing and potential collaboration with the City on issues regarding public safety within the neighborhood west of the freeway. Redevelopment Director Carlos Martinez called to suggest the meeting, for which he prepared an agenda. One of the safety initiatives discussed at this meeting was City street lighting, and we presented a Conceptual Street Lighting Plan to improve street lighting within Beat Four of the City. We also discussed and reviewed the fact sheet with him, which we later discussed with you. At this meeting, copies of the preliminary Electrical Street Lighting Plans and preliminary photometric lighting level calculations were provided to City Manager Alvin James and Jay Farr in the Department of Public Works. They both indicated that we needed to follow up with the Director of Public Works Anthony Docto.

In early November 2007, we called Mr. Docto to discuss the existing street lighting system and our proposed street lighting plans. We were anxious to get their feedback on the preliminary plans we had submitted in October so that we could meet, obtain comments to the program, and move forward with the street lighting improvements. We tried to schedule multiple meetings with Anthony and it took one month for us to get a meeting with him. We were finally able to meet with Anthony and our electrical engineering consultant on December 4, 2007 where we submitted the preliminary Electrical Street Lighting Plans dated 11/02/07 for the proposed street lighting upgrades and an order of magnitude estimate to improve the lighting in all of City's Beat Four area which is approximately \$300,000 to \$500,000 for design and construction. We also provided a work plan for the Capital Expenditure Street Lighting Improvement Program to Anthony so that the process could be replicated in other areas of the City. More than two months have now passed and we have not received any comments from the Department of Public Works on the street lighting plans we submitted. We have also followed up and have yet to receive a response.

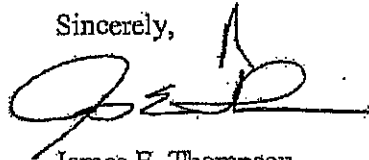
These safety issues still exist and little or no progress has been made. There are limited lighting levels and lack of lighting uniformity which creates safety problems for vehicles and pedestrians. Additionally, with limited lighting levels and dark zones, illicit activities continue to be prevalent. Additional lighting has in fact been installed on private properties to try to compensate for this condition, but it does not negate the need for improved safety lighting within the public right-of-way. We have had to overcompensate with new lights on our properties to mitigate some of the worst areas. The condition of the City street lighting system impacts all properties and all residents in the neighborhood not just the properties managed by us, and we are concerned about public safety and liability.

We are requesting a meeting with Mr. Docto to get comments on the preliminary street lighting plans we submitted (plans enclosed) and to obtain an encroachment permit and authorization to move forward with PG&E to construct the street lighting improvements. All of this is at no cost to the City, as Page Mill Properties is proposing to finance these improvements. However, the funding window to pay for the construction of these improvements is going to expire in June 2008, so time is of the essence. We also need a commitment from the City that it will allocate the appropriate personnel necessary to implement this safety lighting program.

February 14, 2008
Page 3 of 3

We hope we can work collaboratively on this very important issue and appreciate your timely assistance in this matter. If you have any questions or would care to discuss this matter further, please call me at 650,833,3850 or email me at jthompson@pagemill.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Thompson', with a stylized flourish at the end.

James E. Thompson
Director of Development

cc: Alvin James
Anthony Docto
Salani Wendt

Uploaded: Wednesday, December 10, 2008, 12:08 AM

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The Almanac

Menlo council signs off on Willows study

by Sean Howell
Almanac Staff

The Menlo Park City Council approved a plan for a Willows traffic study at its Tuesday meeting, though not without reservations.

Several council members asked whether the city can still afford the \$120,000, consultant-led study – the substance of which they had already signed off on. They said they hoped the city is not headed for a repeat of the project it conducted in the early 1990s, when the city implemented traffic circles and other calming devices that were later removed when residents protested.

"The concept of spending \$120,000 without a clear understanding of what really went on in '93, what lessons were learned ... is one of my major concerns about this," Councilman Andy Cohen said.

Councilman John Boyle was the lone dissenter in the vote. He questioned the inclusion of "extreme" measures, such as closing streets, as an option in the study, arguing that those measures should only be available if overriding safety concerns emerge.

"We're talking about a lot of money that will potentially get spent exploring things that will generally be difficult to win long-term approval for," Mr. Boyle said. As part of the study in the early 1990s, the City Council unanimously rejected city staff's initial recommendation to install barricades on five streets near the East Palo Alto border.

The council also decided not to include the amelioration of crime as a goal in the study, something that several residents (and transportation commissioners) had pushed for.

"I'm struggling with the separation of crime and traffic," said Councilwoman Kelly Fergusson, asking whether the study could address the issue of drive-by shootings.

Police Chief Bruce Goitia said that the correlation between crime and traffic patterns is nebulous.

"We don't look at crime trends by vehicle, because most crimes involve a vehicle of some sort. Common sense says, you have to get there some way," Mr. Goitia said. "The mere fact that there's the use of a vehicle in a crime does not immediately stand out."

Mr. Goitia said that responding to crime via traffic-control measures would dictate an extreme response, such as enclosing a neighborhood completely.

Mr. Cohen also raised the issue of potential development in a section of East Palo Alto contiguous with the Menlo Park Willows that could affect traffic patterns. Page Mill Properties owns much of the property in that area, he said, and he believes the group has plans to develop it – a circumstance that might render the traffic study obsolete.

Still, Mr. Cohen agreed with the council majority that the city should go ahead with the study – though all of the council members seemed to be in agreement that it has to proceed with caution.

"We need to go in with our eyes wide open, to be very realistic about the challenges," Mayor Heyward Robinson said, referring to the divide between Willows residents that emerged during the early 1990s traffic mitigation project. "This needs to be handled with a lot of delicacy."

Find this article at:
http://www.AlmanacNews.com/news/story.php?story_id=2957

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3 A Professional Corporation
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4 San Francisco, California 94108
Telephone: (415) 777-2727
5 Facsimile: (415) 495-7587

6 Attorneys for Petitioners and Plaintiffs
Woodland Park Management, LLC, 5 Newell,
7 LLC and 15 Newell, LLC

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SAN MATEO COUNTY
JAN 20, 2009
Clerk of the Superior Court
By U. FINAU
DEPUTY CLERK

8
9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SAN MATEO

11
12 Woodland Park Management, LLC, 5
Newell, LLC, and 15 Newell, LLC
13
14 Petitioners and Plaintiffs,
15 v.
16 City of East Palo Alto Rent Stabilization
Board, City of East Palo Alto and City
17 Council of the City of East Palo Alto
18 Respondents and Defendants.

Case No. **CIV 480456**
**PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF (Violations of Government
Code Section 54950 et seq.)**

19
20 **INTRODUCTION**

21 1. Petitioners and Plaintiffs own and operate rental property in East Palo Alto. Some of
22 Petitioners' units are subject to the City's Rent Stabilization Ordinance. Over the past year, the
23 City and Petitioners have been engaged in ongoing disputes over some of the key provisions of
24 the Rent Stabilization Ordinance and are actively involved in litigation over those disputes.

25 2. As tensions have risen between the two parties, Petitioners and the City have
26 repeatedly clashed over the availability of public records and information and the nature and
27 conduct of City proceedings.

28 3. Despite Petitioners' requests for notice and information, the City has repeatedly failed

1 to give proper notice of its actions. Petitioners' interests in the proceedings are well known to
2 City staff and officials and Petitioners have requested to be notified of all public meetings. Since
3 mid-2007, Petitioners have actively participated in virtually every City proceeding of which they
4 were aware relating in any way to rent control, including Rent Stabilization Board and City
5 Council meetings. Petitioners have attended public meetings, spoken at public meetings and
6 submitted written comments.

7 4. Petitioners herein challenge specific actions by the City through its Rent Board and
8 City Council as violations of the Brown Act. In addition, Petitioners challenge the City's pattern
9 and practice of violating the Brown Act resulting in Petitioners as well as other members of the
10 public being excluded from public participation. The City has repeatedly failed to provide
11 adequate legal notice of public meetings as required by the Brown Act.

12 5. Petitioners have been harmed by the City's failure to comply with the Brown Act by
13 being excluded from full public participation. Petitioners herein seek to invalidate action taken in
14 contravention of the Brown Act and seek an order of the court requiring future compliance with
15 the Brown Act.

16 FACTS AND BACKGROUND

17 6. Petitioners and Plaintiffs Woodland Park Management, LLC, 5 Newell, LLC, and 15
18 Newell, LLC ("Housing Providers") own and/or manage rental housing in East Palo Alto. Some
19 of these rental housing units are subject to the City of East Palo Alto Rent Stabilization
20 Ordinance ("RSO").

21 7. The voter-adopted RSO is implemented and administered by a seven-member board
22 called the Rent Stabilization Board ("Rent Board"). The RSO directs that the Rent Board be
23 comprised of seven regular members and three alternates. (Section 6A.) Two of the seven
24 regular members and one of the alternates must be landlords who live in East Palo Alto. (RSO
25 Section 6A.)

26 8. Throughout 2008 and for part of 2007, the two regular landlord positions and one
27 alternate landlord position on the Rent Board have been vacant.

28 9. Since January 2008, Housing Providers (and other property owners) have been

1 engaged in a series of lawsuits against the City regarding the City's unlawful implementation and
2 administration of, and amendments to, the RSO. By way of example:

3 a. In January 2008, Respondent City Council adopted an Urgency Ordinance
4 freezing rents in the City and mandating that future rent increases be calculated
5 based on prior actual rents, rather than the City-certified maximum legal rents.
6 Housing Providers filed suit and this Court, the Honorable Beth Labson Freeman
7 presiding, ordered the issuance of a Writ of Mandate in March 2008 commanding
8 the City to set aside the Urgency Ordinance. (Case No. CIV 469315.) The Court
9 found that the Urgency Ordinance unlawfully amended the voter-adopted RSO
10 and was in violation several state laws including specifically Elections Code
11 Section 9217, the Petris Act (Civil Code Section 1947.8), and the Costa Hawkins
12 Rental Housing Act (Civil Code Section 1954.50 *et seq.*).

13 b. A few months later, the Rent Board attempted to make many of the same policy
14 changes this Court rejected in its order vacating the Urgency Ordinance. On July
15 9, 2008, the Rent Board purported to amend the Rules and Regulations that
16 implement the RSO. Again, Housing Providers filed suit and again, Judge
17 Freeman of this Court granted a Writ of Mandate in November 2008 commanding
18 the Rent Board to set aside its amended rules. (Case No. CIV 474682,
19 consolidated with Case No. CIV 469315.) The Court found that the amended
20 rules violated the RSO and several state laws.

21 c. Also in the summer of 2008, the Rent Board through its staff refused to accept and
22 process Housing Providers' annual registration statements and fees. Housing
23 Providers filed suit, and this Court, the Honorable Quentin Kopp presiding,
24 granted a Writ of Mandate in September 2008 commanding the Rent Board to
25 accept Housing Providers' registration materials. (Case No. CIV 474521.)

26 10. During the same period, the City has also instigated litigation against Housing
27 Providers, unsuccessfully alleging violations of the RSO. After losing its motions for a
28 temporary restraining order and a preliminary injunction (San Mateo County Superior Court Case

1 No. CIV 475139), the City dismissed its case with prejudice in November 2008.

2 11. Furthermore, the City has recently fought and lost a suit under the California Public
3 Records Act (Government Code Section 6250 *et seq.*) filed by an individual in which this Court,
4 the Honorable John Grandsaert presiding, granted a writ of mandate in November 2008 ordering
5 the City and its component Rent Board to produce to Housing Providers a series of rent control
6 documents for inspection and copying (Case No. CIV 476233).

7 **Brown Act Violations**

8 12. Even while the litigation described above made its way through the judicial system
9 shining a spotlight on the RSO and activities within East Palo Alto, the City undertook the
10 following actions, which Housing Providers allege were in violation of the Brown Act
11 (Government Code Section 54950 *et seq.*)

12 **Brown Act Violation Regarding December 16, 2007 Appointments to Rent Board**

13 13. On information and belief, at a meeting on December 16, 2008, the City (through its
14 City Council) appointed two new members to the Rent Board purportedly to fill the vacant
15 landlord positions. The “amended” agenda notice for the meeting (“December 16 Agenda”)
16 posted on December 15 said:

17 “V. Discussion – Advisory Bodies – Minette Warren, Deputy City Clerk

18 A. Selection of Advisory Bodies Members”

19 14. Housing Providers have not been able to obtain a copy of the original agenda notice
20 for the December 16 meeting.

21 15. Housing Providers did not have actual notice at least 72 hours prior to the December
22 16 meeting that the City Council would appoint new Rent Board members at its December 16
23 meeting.

24 16. In accordance with Government Code Section 54960.1(b), on January 5, 2009,
25 counsel for Housing Providers sent a letter to the City complaining that the December 16 Agenda
26 and the City Council’s actions on December 16 in appointing two new Rent Board members did
27 not comply with the Brown Act. The letter requested that the City Council cure or correct the
28 Brown Act violations.

1 17. The City Attorney responded by letter on January 5, 2009, denying that the City
2 Council's December 16, 2008 action violated the Brown Act, and rejecting the request that the
3 City cure or correct the violation. The letter concluded: "There is nothing for the City Council to
4 'cure or correct' because it did not violate Government Code Section 54954.2 and you know, or
5 should know, that."

6 18. The December 16, 2008 agenda notice contrasts sharply with earlier City Council
7 agenda descriptions of similar actions that were intended to and did provide adequate public
8 notice of the action to be taken. For example, the agenda for the October 21, 2008 meeting
9 specifically provided:

10 "4. Advisory Bodies –Minette Warren, Deputy City Clerk

11 a. 1). Accept Resignation of Recently (9/23/08 Special City Council Meeting) Re-
12 appointed Rent Stabilization Board Member Stanley K. Yim; 2). Consideration of
13 Request to Appoint Mr. William B. Webster (Homeowner Alternate Seat) to the Vacated
14 (by Mr. Yim), Homeowner Regular Seat; and 3.) Re-appoint Mr. Bernardo Huerta to the
15 Regular Full Term Seat on the Planning Commission.

16 ...

17 "**Recommendation:** That the Advisory Body Resignation Be Accepted; the Advisory Body
18 Re-appointments and City Council/RDA Minutes be Approved By Motion"

19 19. In contrast to the December 16 Agenda which appears designed to obfuscate the
20 intended action, the October 21, 2008 agenda description provides the information required by
21 the Brown Act to give interested parties notice that a subject of interest would be discussed and
22 action would be taken.

23 20. Housing Providers were prejudiced by the City Council's action on December 16 in
24 appointing two new members to the Rent Board without proper notice and therefore without the
25 opportunity to participate in discussion.

26 21. Housing Providers' preceding allegations regarding exactly what occurred at the
27 December 16 meeting are made on information and belief because the City – in violation of
28 Section 54957.5 of the Brown Act – has failed to provide to Housing Providers documents

1 related to the December 16 meeting. On December 22, 2008 Housing Providers, through their
2 counsel, requested certain public records regarding the December 16, 2008 City Council meeting,
3 including specifically, the audio tape of the meeting, the documents provided to the City Council
4 in preparation for the meeting, copies of applications from the public received since August 1,
5 2008 for the vacant Rent Board seats, and a copy of the agenda before it was amended on
6 December 15, 2008. Having heard no response within the 10 days provided for a response,
7 Housing Providers reiterated their request on January 6, 2009. The City Clerk replied that the
8 request would be processed starting on January 7, 2009. As of January 20, 2009, the City Clerk
9 has still not provided the documents. Consequently, Housing Providers do not know exactly
10 what happened at the December 16, 2008 meeting.

11 **Pattern and Practice of Brown Act Violations**

12 22. In addition to the particular Brown Act Violation relating to the December 16, 2008
13 meeting, the City's proceedings since at least 2007 demonstrate a pattern and practice of Brown
14 Act Violations.

15 23. On information and belief, the Rent Board subcommittee on Rules and Regulations
16 met on October 27, 2007 without notifying the public of the meeting, in violation of the Brown
17 Act. On information and belief, the subcommittee had invited a tenant representative to attend
18 without inviting other members of the public or other stakeholders. In response to Housing
19 Providers' request for a copy of the audio recording of the meeting, the City provided a cassette
20 tape, the bulk of which is blank. The public was not only prevented from participating in the
21 meeting by lack of notice, but also prevented from knowing what business had been conducted at
22 the meeting.

23 24. On information and belief, the Rent Board's subcommittees regularly met throughout
24 2008 and prior without agendas or otherwise publicizing their meetings. For example, on
25 information and belief, on April 9, 2008, Rent Board member Robert Allen (also known as
26 Robert Fisk) referred to there having been a meeting of the Rules and Regulations subcommittee
27 earlier that day. No notice was provided, in violation of the Brown Act.

28 25. On information and belief, more than a quorum of the Rent Board met together in City

1 Hall Conference Room 2E after the conclusion of the August 27, 2008 Rent Board meeting,
2 outside of the presence of the public, without notifying the public via agenda, and without
3 inviting the public – in violation of the Brown Act.

4 26. On October 7, 2008, Housing Providers' counsel requested of the City Clerk that they
5 receive notice of upcoming City Council meetings. The City Clerk never responded and has
6 never provided any notice of any City Council meetings, in violation of Government Code
7 Section 54954.1.

8 27. On December 10, 2008, the Rent Board's Outreach and Education Subcommittee
9 agendized a meeting for 6:00 p.m. in the first floor of the East Palo Alto City Hall in the City
10 Council chambers. At 5:50 p.m., one of Housing Providers' representatives saw the Assistant
11 City Attorney and Director of Housing Services upstairs, so the representative went upstairs. She
12 asked where the meeting would be held, and was directed downstairs to the City Council
13 chambers. When the Subcommittee members had not arrived in City Council chambers by 6:30
14 p.m., Housing Providers' representative discovered that the Subcommittee was meeting upstairs,
15 away from the location specified on the agenda and away from the location to which Housing
16 Providers' representative had been specifically directed by the Director of Housing Services, who
17 was in attendance at the Subcommittee meeting. This deprived the public, including Housing
18 Providers, of the ability to participate in more than half of the Subcommittee meeting, in
19 violation of the Brown Act (Government Code Sections 54950, 54953(a), and 54954.2(a)(1)).

20 28. As alleged in more detail above, on information and belief, the City Council
21 appointed two new members to the Rent Board at a meeting on December 16, 2008, but the
22 agenda for the meeting was inadequate (and violated the Brown Act) to inform the public that the
23 Council would take such action.

24 29. On information and belief, on January 6, 2009 the City Council met in one or two
25 closed sessions to discuss several ongoing lawsuits. Its agenda failed to make clear how the
26 meeting would proceed and when the closed session(s) would occur. On information and belief,
27 the City Council met in closed session(s) to discuss ongoing litigation without reporting back out
28 of the closed session(s) at the same meeting. The Brown Act requires that when a legislative

1 body meets in closed session, it report out of closed session as to what actions were taken during
2 the same meeting. The agenda specified that the report out of closed session would occur before
3 the second closed session. It was therefore impossible for there to be a report out of the second
4 closed session.

5 30. On information and belief, on January 14, 2009 at 5:30 p.m., a group of City Council
6 and Rent Board members led by Councilmember Carlos Romero and Rent Board Chair Lee
7 Harrison met to discuss future modifications to the rent control program, including, broadly, the
8 type and scope of rent stabilization program that is desired in East Palo Alto. The meeting was
9 attended by a quorum of Rent Board members. According to a voicemail message left by
10 Councilmember Romero for an employee of Petitioner Woodland Park Management,
11 Councilmember Romero had been charged by Mayor Ruben Abrica to lead a revision proposal to
12 revise the RSO and to report back to the City Council. The City did not provide timely notice as
13 required by the Brown Act. At 1:36 p.m. on January 14, 2009, the City Attorney notified
14 Housing Providers via electronic mail that there would be a "public meeting" that evening. The
15 only other notice that Housing Providers received was via voicemail to one of its employees,
16 which was left on the afternoon of January 14, 2009.

17 31. Given the litigation history described previously, and the volume of activity at the
18 City related to the RSO (as evidenced by the facts described above), it is critical that Housing
19 Providers and other members of the public have adequate notice of pending City actions
20 regarding the RSO. Only with adequate notice can the public and Housing Providers participate
21 in and influence City's actions. Without notice, Housing Providers are prevented from (i)
22 commenting on the legality of City actions as is required to exhaust remedies in some
23 circumstances and (ii) establishing a record upon which the public and/or Housing Providers later
24 can rely if a legal challenge becomes necessary. Without adequate notice, the City puts itself in a
25 better position – vis a vis defending against future challenges to future illegal acts the City may
26 take – to argue that Housing Providers or other litigants failed to exhaust administrative
27 remedies, waived rights, are estopped, are barred by statutes of limitations (if the City's actions
28 go unnoticed for the limitations period), etc.

1 32. Many of the actions complained of herein do not directly or individually lend
2 themselves to separate legal challenges because taken independently, they may be without
3 adequate remedy or of relatively minor impact. For example, once the City has met without
4 proper notice, it cannot "unmeet." The City, however, should not be permitted to avoid
5 compliance simply because enforcement is not practical and remedies are limited. Moreover,
6 collective momentum can build over a series of improperly noticed meetings, culminating in a
7 formal action that by that time was preordained.

8 33. Without a court order requiring the City, its bodies and staff to comply with the
9 Brown Act, future violations of the Brown Act similar to the examples in the preceding
10 paragraphs will continue. Housing Providers thus seek declaratory relief that the City's pattern
11 and practice is in violation of the Brown Act and an injunction and/or writ of mandate directing
12 the City to comply with the Brown Act in all future actions, including in specified ways as
13 detailed in our Prayer for relief.

14 GENERAL ALLEGATIONS

15 34. Petitioner and Plaintiff Woodland Park Management, LLC is, and at all relevant times
16 was, a Delaware limited liability company duly registered to do business in California and whose
17 principal place of business is California. It is engaged in the business of operating and managing
18 residential rental properties, including rental properties in East Palo Alto subject to the RSO.

19 35. 5 Newell, LLC is and at all relevant times was, a Delaware limited liability company
20 duly registered to do business in California and whose principal place of business is California.
21 It is engaged in the business of owning residential rental property, including rental property
22 located at 5 Newell Rd., East Palo Alto.

23 36. 15 Newell, LLC is and at all relevant times was, a Delaware limited liability company
24 duly registered to do business in California and whose principal place of business is California.
25 It is engaged in the business of owning residential rental property, including rental property
26 located at 15 Newell Rd., East Palo Alto.

27 37. Respondent and Defendant City of East Palo Alto is, and at all relevant times was, a
28 general law city located in San Mateo County, California.

1 38. Respondent and Defendant City of East Palo Alto City Council is the governing,
2 elected body of the City of East Palo Alto.

3 39. Respondent and Defendant East Palo Alto Rent Stabilization Board is a board
4 appointed by the City Council of the City East Palo Alto, whose powers and duties include
5 administering and implementing the RSO, including (a) establishing the maximum legal rent that
6 landlords may charge for rental units subject to the RSO, (b) hearing appeals of decisions by a
7 hearing examiner regarding the validity of City-issued certificates that set the maximum legal
8 rent, and (c) issuing rules and regulations to implement the RSO. The Rent Board is an internal
9 department of the City, whose members are appointed by the City Council.

10 40. The San Mateo County Superior Court has initial jurisdiction over the matters alleged
11 herein pursuant to Code of Civil Procedure Sections 1085, 1094.5, 1094.6 and 1095-1097, Civil
12 Code Section 3420 and Government Code Sections 54960 and 54960.1.

13 41. Venue is proper within Superior Court for the San Mateo County pursuant to Code of
14 Civil Procedure Sections 392 and 394 because the actions complained of occurred in the County
15 of San Mateo, California.

16 42. Housing Providers have standing to assert the claims raised in this Petition and
17 Complaint. Pursuant to Code of Civil Procedure Section 1086 and Government Code Sections
18 54960 and 54960.1, Housing Providers are beneficially interested in this matter as owners and
19 operators of rental housing affected by the City's decisions. Housing Providers have a
20 substantial, direct, and immediate interest in assuring that the City fulfills its duties to comply
21 with the Brown Act .

22 43. Housing Providers have performed any and all conditions precedent to filing of this
23 Petition and Complaint.

24 44. This suit is timely filed in all respects, including because it is filed within 15 days of
25 receipt by Housing Providers of the City Attorney's January 5, 2009, letter that conveyed the
26 City's decision not to cure or correct the City Council's December 16, 2008, violation of the
27 Brown Act. (Government Code Section 54960.1(c))

28 45. The City has a mandatory duty to comply with the Brown Act.

1 46. Housing Providers have no plain, speedy, or adequate remedy in the ordinary course
2 of law to challenge the past and future actions by the City complained of herein unless this Court
3 grants the requested writ of mandate and injunctive and declaratory relief to require the City to
4 comply with the Brown Act.

5 47. There is a current controversy regarding the City's past practices in violation of the
6 Brown Act that demonstrates that such practices will continue.

7 **FIRST CAUSE OF ACTION**
8 (Appointment of Rent Board Members in Violation of Brown Act)

9 48. Housing Providers reallege and incorporate herein by reference each and every
10 allegation set forth above in Paragraphs 1 through 47.

11 49. The December 16 Agenda violated Government Code Section 54954.2 the Ralph M.
12 Brown Act (Government Code Sections 54950 *et seq.*). Section 54954.2(a)(1) requires that
13 agendas contain "a brief general description of each item of business to be transacted or
14 discussed at the meeting...." Section 54954.2(a)(2) specifies that "No action or discussion shall
15 be undertaken on any item not appearing on the posted agenda...."

16 50. The December 16 Agenda violated the "brief general description" requirement in that
17 it did not provide adequate notice to the public (including Housing Providers) that (a) anything
18 other than "**Discussion**" would occur (*i.e.*, the notice was inadequate to convey that any
19 affirmative action to make appointments would be made) and (b) the agenda item involved the
20 Rent Board (because it did not mention the Rent Board and, independently, because the Rent
21 Board is not an Advisory Body). No reasonable person would have read the agenda and
22 concluded that the City Council would be appointing new Rent Board members at its December
23 16 meeting.

24 51. The City Council violated Section 54954.2(a)(2) by taking action at its December 16
25 meeting to appoint Rent Board members when such item did not appear on the agenda.

26 52. The violations of Government Code Section 54954.2(a) described in the preceding
27 three paragraphs are not in substantial compliance with Section 54954.2(a).

28 53. Housing Providers were prejudiced by the City's failure to give proper notice

1 54. Housing Providers objected to the lack of notice but the City refused to cure.

2 55. Wherefore, Housing Providers pray for relief as hereinafter set forth.

3 **SECOND CAUSE OF ACTION**
4 (Pattern and Practices in Violation of Brown Act)

5 56. Housing Providers reallege and incorporate herein by reference each and every
6 allegation set forth above in Paragraphs 1 through 55.

7 57. The City has engaged in a pattern and practice of violating the Brown Act, as
8 exemplified by the violations described above in Paragraphs 23 through 30. These past
9 violations demonstrate a pattern and practice of Brown Act violations that are likely to continue
10 absent court intervention in the form of a writ of mandate and/or injunctive relief, which is
11 authorized under Government Code Section 54960(a) and Civil Code Section 3420.

12 58. The City's refusal to cure and concurrent denial of wrong-doing further demonstrate
13 that violations will continue in the absence of court intervention,

14 59. Wherefore, Housing Providers pray for relief as hereinafter set forth.

15 **THIRD CAUSE OF ACTION**
16 (Writ of Mandate)

17 60. Housing Providers reallege and incorporate herein by reference each and every
18 allegation set forth above in Paragraphs 1 through 59.

19 61. The City has a mandatory duty to comply with all requirements of the Brown Act,
20 including posting meeting agendas that adequately inform the public of items to be discussed and
21 business to be transacted at public meetings.

22 62. The December 16 Agenda violated the City's mandatory duty under Government
23 Code Section 54954.2(a)(1) to post agendas that adequately inform the public of items to be
24 discussed and business to be transacted at public meetings, in that the Agenda did not adequately
25 inform the public that the City Council might appoint two new Rent Board members at the
26 December 16 meeting.

27 63. The City Council's action on December 16, 2008, in appointing two new Rent Board
28 members violated the City Council's mandatory duty under Government Code Section

1 54954.2(a)(2) not to take an action on any item not appearing on the relevant posted agenda.

2 64. Wherefore, Housing Providers pray for relief as hereinafter set forth.

3 **FOURTH CAUSE OF ACTION**
4 (Declaratory Judgment)

5 65. Housing Providers reallege and incorporate herein by reference each and every
6 allegation set forth above in Paragraphs 1 through 64.

7 66. An actual controversy has arisen and now exists between Housing Providers and the
8 City concerning the City's pattern and practice of violating the Brown Act. Housing Providers
9 contend that City habitually violates the Brown Act; the City contends the contrary.

10 67. Housing Providers seek a judicial determination that the City's pattern and practice
11 with respect to agendas and public meetings violates the Brown Act.

12 68. Housing Providers seek a judicial determination that the Rent Board could not
13 lawfully act with the participation of the improperly appointed landlord representatives.

14 69. A judicial declaration is necessary and appropriate at this time.

15 70. Wherefore, Housing Providers pray for relief as hereinafter set forth.

16 **FIFTH CAUSE OF ACTION**
17 (Injunctive Relief)

18 71. Housing Providers reallege and incorporate herein by reference each and every
19 allegation set forth above in Paragraphs 1 through 70.

20 72. As relates to the City's violation of the Brown Act in posting the December 16
21 Agenda and in appointing two members to the Rent Board at the December 16 City Council
22 meeting, mandatory injunctive relief is proper under Government Code Section 54960.1(a) to
23 direct the City and City Council to void the December 16 appointments and to prevent the Rent
24 Board from taking any formal or informal action until such appointments are voided.

25 73. As relates to the City's pattern and practice of violating the Brown Act, preventive
26 injunctive relief pursuant to Civil Code Section 3420 and Government Code Section 54960(a) is
27 necessary and proper to prevent continued violations.

28 74. Pecuniary compensation will not afford adequate relief. There is no adequate remedy

1 to undo violations that deny the public an opportunity to know about and participate in the
2 conduct of the people's business.

3 75. Wherefore, Housing Providers pray for relief as hereinafter set forth.

4 **PRAYER**

5 WHEREFORE, Housing Providers pray for relief as set forth below:

6 1. A peremptory writ of mandate and/or mandatory injunction (i) ordering the City to
7 rescind, set aside, annul, and/or void the City Council's action on December 16, 2008 in
8 appointing two new members to the Rent Board (pursuant to Government Code Section
9 54960.1); (ii) ordering that the Rent Board and all its standing and ad hoc subcommittees take no
10 official or unofficial action, including holding any meetings, until the City Council's December
11 16, 2008 action in appointing two new members to the Rent Board has been rescinded, set aside,
12 annulled and/or voided; (iii) ordering the City to rescind, set aside, annul, and/or void any and all
13 actions taken by the Rent Board in which the two improperly appointed landlord representatives
14 participated.

15 2. A judicial declaration that the City's pattern and practice in posting agenda notices
16 for public meetings and holding public meetings violates the Brown Act.

17 3. A peremptory writ of mandate and/or mandatory injunction commanding that the
18 City comply with all Brown Act requirements in the future in all activities and all respects,
19 including but not limited to the following:

20 a. Specifying in all future City Council agendas whether the City Council intends to
21 discuss or take any action regarding the Rent Board (including any previous or
22 pending Rent Board action, Rent Board composition, and rules, policies and
23 ordinances governing the Rent Board) by specifically including the words "Rent
24 Board" in the agenda rather than or in addition to words such as "advisory
25 bodies".

26 b. Specifying in all future City Council agendas whether the City Council intends to
27 discuss or take any action regarding the RSO by specifically including the words
28 "rent control ordinance" or "rent stabilization ordinance" in the agenda rather than

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or in addition to words such as "city ordinances".

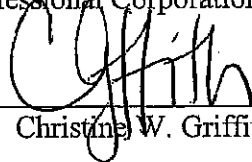
- c. Creating and posting agendas 72 hours prior to all meetings of the City Council, Rent Board, and their subcommittees – unless the Brown Act specifically authorizes a shorter agenda/notice period.
- d. Creating and posting agendas 72 hours prior to all meetings of advisory committees, including but not limited to the advisory committee created to review and possibly revise the RSO – unless the Brown Act specifically authorizes a shorter agenda/notice period.
- e. Hold all future City Council, Rent Board, subcommittee, and advisory committee meetings in the location and at the time specified on the agenda.
- f. Report out of all future closed session City Council, Rent Board, subcommittee, and advisory committee meetings in the regular session of the same meeting.
- g. Provide notice of all regular meetings of legislative bodies upon written request.
- h. Make available for public review agendas and all other writings distributed at public meetings pursuant to Government Code Section 54957.5.

4. Reasonable costs, disbursements and attorneys fees (authorized by Government Code Section 54960.5), together with interest thereon at the legal rate until the date judgment is satisfied.

5. For such further relief as the Court deems proper.

DATED: January 20, 2009

ELLMAN, BURKE, HOFFMAN & JOHNSON
A Professional Corporation



Christine W. Griffith

Attorneys For Petitioners and Plaintiffs
Woodland Park Management, LLC, 5 Newell, LLC,
and 15 Newell, LLC

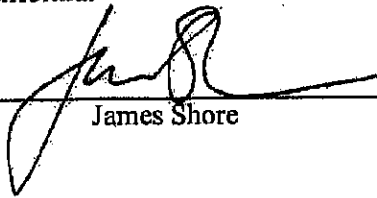
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VERIFICATION

I, JAMES SHORE, declare that I have read the foregoing PETITION AND COMPLAINT and know its contents. I am the General Counsel for Woodland Park Management, LLC, a Delaware Limited Liability Company and a party to this action. I am authorized to make this verification for and on its behalf. The matters stated in the Petition and Complaint are true of my own knowledge except those matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 20, 2009 at Palo Alto, California.



James Shore



City of East Palo Alto **AMENDED AGENDA**

DATE RE-POSTED: Monday, December 15, 2008 Time: 11:30a.m.
By: **Minette Warren**

REGULAR JOINT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

TUESDAY, December 16, 2008

Regular Joint Closed Session: 6:30p.m.

Regular Meeting - 7:30p.m.

2415 UNIVERSITY AVENUE

Council Chamber

6:30 P.M

Regular Joint Closed Session

Regular Joint Closed Session Call to Order and Roll Call

- I. Approval of Joint Closed Session Agenda**
- II. Joint Closed Session Community Forum**
- III. CLOSED SESSION**
 - A. Personnel Matters Pursuant to Government Code Section 54957**
 - 1. Permanent City Attorney Recruitment**

Adjournment

Joint Call to Order and Roll Call

I. APPROVAL OF AGENDA

II. CONSENT CALENDAR

A. City Council/Redevelopment Agency Ordinances, Resolutions/
Informational Reports/Approval Actions and Motions

Items listed here may be spoken on if a request is given to the City Clerk to pull a particular item before approval of the Consent Calendar; and at the discretion of Council

1. **November 4, 2008 Election Official Results** - Minette Warren, Deputy City Clerk
Acceptance of the San Mateo County Elections Office Certified Final Results of the November 4, 2008 East Palo Alto Consolidated General Municipal
2. **Request for Proposal – Dumbarton Rail** – Carlos Martinez, RDA Director
Authorization to Release a Request for Proposals (RFP) to identify a qualified consultant to produce an East Palo Alto Dumbarton Rail Station Area Specific Plan
3. **Contract - Retail Center Maintenance-** Carlos Martinez, RDA Director
Reauthorize Selection of a single property management firm for the Gateway 101 Retail Center and, authorize Agency Executive Director to execute a Management Agreement with the property management firm for an amount not to exceed \$5,050, the Agency's pro rata share of maintenance costs as a property owner at the Retail Center
4. **Contract – Water Master Plan** - Anthony Docto, Public Works, Director
Authorize City Manager to Enter into an Agreement with Integrated Resource Management, LLC., for Professional Consulting Services in an amount not to exceed \$192,909 to Develop a Citywide Water Master Plan to be Funded from a US Environmental Protection Agency \$106,100 Grant and a Required Local Match of \$86,809 from the City's Water Fund
5. **Contract – Police Athletic League** - Ronald Davis, Chief of Police
 - a. Authorize City Manager to Enter Into a Contract with the East Palo Alto Boxing Club in an Amount Not to Exceed \$35,000 to Provide a Boxing Program for the Police Activities League (PAL).

- b. Authorize City Manager to Enter Into a Contract with the East Palo Alto Greyhounds in an Amount Not to Exceed \$23,600 to Provide a Track and Field Program for the Police Activities League (PAL).

6. **Contracts**

Authorize Expenditure of Measure C funds for the Police Department in an amount not to exceed \$350,000 to respond to increasing violence and enhance overall public safety and:

- a. That the City Council authorize the City Manager to enter into a 6 month Agreement with the California Highway Patrol in an amount not to exceed \$62,400 to provide overtime-officers for supplemental law enforcement services.
- b. That the City Council authorize the City Manager to enter into a 6 month agreement with the San Mateo County Sheriff's Office in an amount not to exceed \$130,000 to provide overtime deputies for supplemental law enforcement services
- c. That Measure C funds be authorized for use in hiring 4 part-time investigators in an amount not-to-exceed \$86,
- d. That the City Council authorize the City Manager to identify and enter in to a contract with an outside recruitment firm in an amount not-to-exceed \$50,000 to assist the Human Resources Department in expediting the recruiting and hiring of police officers
- e. That Measure C funds be authorized for obtaining various equipment to support the public safety initiatives described in this report in an amount not to exceed \$13,700

7. Resolution calling on CALPERS and county, state and federal authorities to exercise their political, economic, an ethical influence to help our community stop Page Mill Properties predatory real estate practices which result in pain and hardship to our residents – Mayor Ruben Abrica

8. **Claim(s)** - Assistant City Attorney Rafael Alvarado

- a. Robert L. Porter (will recommend rejection)
- b. Newell, LLC (will recommend settlement)

9. **Minutes** - Minette Warren, Deputy city Clerk

- a. 11/05/08 Regular CC RDA Meeting
- b. 11/18/08 Regular CC RDA Meeting

Recommendation: That Council adopt the resolutions; and Reject the Claim Item 8a by motion; and Approve the Claim Item 8b and the Minutes by motion Report

Items IV, V and VI may be addressed during Community Forum only, unless otherwise approved by Council

IV. Written Communications:

V. Discussion - Advisory Bodies - Minette Warren, Deputy City Clerk

- A. Selection of Advisory Bodies Members

VI. Oral Reports

- A. Reports Out of Closed Session

- B. Oral Staff Reports

- C. Advisory Bodies: None

D. City Council/Redevelopment Agency Reports

1. City Council & Planning Commission Sub Committee Status Report regarding: Long Range Planning Blueprint Plan for the Ravenswood Area – Mayor Ruben Abrica and Councilmember Peter Evans
2. Discussion Regarding Council Committee Assignments and January Meeting Schedule – Mayor Ruben Abrica
3. Mayor's Report
4. Reports from Other Councilmembers

VII. Community Forum

VIII. Hearing - Bradley Tarr, Planning Division Manager

- A. Categorical Exemption (CE 07-22) Determination and Appeal of Planning Commission denial of Tentative Tract Map (S 07-10) Seeking Subdivision of Tenant Spaces for Sale and Conversion of Palo Mobile Estates to a Resident-Owned Park at 1885 E. Bayshore Road.
- B. Categorical Exemption (CE 08-18) Determination and Zone Text Amendment (ZTA 08-26) & to Amend the Zoning Ordinance Definitions and the M-1 Zoning Classification of the Zoning Regulations to Permit Medical Office Use With a Use Permit.

IX. Policy and Action Items

A. City Council Resolutions/Ordinance-First Reading/Informational Reports/ Approval Actions

- 1. South Bayside Waste Management Authority - Anthony Docto, PWKS
Director**

Recommendation: Consider Approving a Proposal by the South Bayside Waste Management Authority (SBWMA) to Authorize that Agency to Issue Debt Through the Sale of Bonds, In the Amount of \$65,455,000 To Fund the Shoreway Transfer Facility Master Plan Improvements

X. Adjournment

601 CALIFORNIA STREET
NINETEENTH FLOOR
SAN FRANCISCO, CA 94108
415.777.2727
WWW.ELLMAN-BURKE.COM

CHRISTINE W. GRIFFITH
415.296.1750 DIRECT FAX
CGRIFFITH@ELLMAN-BURKE.COM

January 5, 2009

VIA ELECTRONIC & U.S. MAIL

City Council
City of East Palo Alto
East Palo Alto City Hall
2415 University Avenue, CA 94303

Re: December 16, 2008 Appointments to Rent Stabilization Board

Dear City Council Members:

As you know, we represent landlords in the City of East Palo Alto. We have become aware that on December 16, 2008, you considered the appointment, and actually appointed two members to the Rent Stabilization Board to sit as landlord representatives. You did this without providing proper notice to the public that such an action would be considered and acted upon at that meeting.

Section 54954.2 of the Brown Act (California Govt. Code §§ 54950 *et seq.*) requires that

[a]t least 72 hours before a regular meeting, the legislative body of the local agency ... shall post an agenda containing a brief general description of each item of business to be transacted at the meeting.... No action or discussion shall be undertaken on any item not appearing on the posted agenda.

The Amended Agenda (attached) for the December 16, 2008 City Council meeting stated:

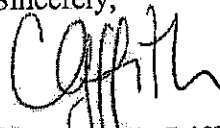
- V. Discussion – Advisory Bodies – Minette Warren, Deputy City Clerk
 - A. Selection of Advisory Bodies Members

This notice was improper and insufficient under the Brown Act in that it provided no clue to the public and interested parties that the City Council would be discussing appointments to the Rent Stabilization Board in particular, nor that the City Council would take any *affirmative action* on that discussion. The agenda merely had the vaguely worded item listed for discussion, not for action. Furthermore, the Rent Stabilization Board is not an “Advisory Body” to the City Council, and so the description was in fact misleading and inaccurate.

January 5, 2009
Page 2

Per Government Code section 54960.1, we hereby request that the City Council cure or correct its action taken in violation of Government Code section 54954.2.

Sincerely,



Christine W. Griffith

CWG/eap

cc: Valerie Armento, City Attorney
Rafael Alvarado, Deputy City Attorney
Rent Stabilization Board

The Mercury News

MercuryNews.com

East Palo Alto grocers accuse city of Brown Act violation

By Jessica Bernstein-Wax
Daily News Staff Writer

Posted: 06/11/2009 11:00:00 PM PDT

Updated: 06/12/2009 05:56:47 AM PDT

Lawyers for a group of East Palo Alto grocers have sent a letter to the city accusing officials of improperly moving a planning commission hearing on the city's first full-scale supermarket to this evening — charges planning commissioners and a city council member deny.

In a letter dated Monday, the East Palo Alto Merchants Association alleges Council Member Carlos Romero approached planning commissioners during a May 26 meeting and asked them to hold the hearing involving San Jose-based Mi Pueblo Food Center today instead of July 13. Earlier in the meeting, the commission decided to delay voting on a liquor license and building permits for the supermarket until its July 13 meeting.

More than 100 residents wearing white T-shirts bearing the slogan "Stop Mi Pueblo Market" protested the proposed supermarket outside City Hall that night and attended the meeting.

During more than two hours of public comment, about 14 people, many of them small grocers who said their businesses would be ruined, spoke against the supermarket. Others supported Mi Pueblo, which got approval to move into the Ravenswood 101 Retail Center off Highway 101 and University Avenue earlier this year.

Almost everyone left at about 9:30 p.m. after the planning commission decided to delay its vote.

"Before the planning commission could adjourn its May 26 meeting, but after everyone involved in the Mi Pueblo issued (sic) had already left, Mr. Romero approached the planning commission regarding Mi Pueblo, which, in turn, reopened the item for discussion," the letter says.

The commission's actions potentially violate the Ralph M. Brown Act, which requires local government meetings to be public and open, said Ron Chauvel, an attorney for the merchants association.

"The Brown Act violation in my mind was reopening the agenda item after an action had been taken, and the item had been closed and everyone had left," Chauvel said.

City Attorney Vince Ewing called Chauvel's letter a misinterpretation of the Brown Act and said his office sent the association a written response Thursday.

"The Brown Act has nothing to do with scheduling meetings," Ewing said. "The way that government business is done is you schedule a meeting and give your notice. You don't hold a public meeting to schedule a meeting."

Romero said Thursday he learned of the commission's decision to postpone voting on the Mi Pueblo applications while at a city council meeting next door. Because the council adjourns in August, Romero said he became concerned that council members wouldn't be able to hear appeals on the matter until September, possibly chilling public input.

Romero said he spoke with planning commission

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The Mercury News

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Chairman Court Skinner and Vice Chairman Robert Sherrard after the meeting and explained the problem, suggesting they consider holding a special meeting at an earlier date.

"The meeting had actually been gavelled to a close completely," said Romero, adding, "The letter is factually incorrect and kind of on its face statutorily misinterprets (the Brown Act)."

Skinner confirmed Romero's account and said he later sent an e-mail to city staff about possible dates to hold a special meeting.

"Essentially every day except tomorrow was occupied already until almost the middle of July," Skinner said Thursday.

Audio tapes from the May 26 meeting show Romero indeed spoke with commissioners after the session adjourned. Only the first few words of that conversation made it onto the recording, however.

Rafik Shuman, owner of the Pal Market on University Avenue and a member of the merchants association, said the Friday night meeting time made it difficult for residents to attend, in part because many children are graduating from school this weekend.

"They know Friday nights are the busiest times for the stores," he added.

The meeting will take place today at 7 p.m. at East Palo Alto City Hall, 2415 University Ave.

E-mail Jessica Bernstein-Wax at jbernstein@dailynewsgroup.com.

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March 31, 2008

James E. Thompson
Page Mill Properties, LLC
480 Cowper Street, 2nd Floor
Palo Alto, CA 94301

Re: Page Mill Properties, LLC
Safety and Security Programs and Property Improvements

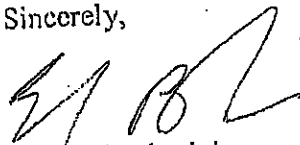
Dear Jim:

I am writing to this letter to let you know it has been a pleasure working with you over the last year and half and to inform you that this is officially my last day working in the city of East Palo Alto.

You and your company have provided us with great assistance and cooperation which have made our job easier and more effective. Your company has shown it is committed to eliminating blight, improving the quality of life, and property conditions. Since your company has purchased the properties there has been a major change in the condition of the properties. The new lighting and security gates make it much easier to patrol. Hosting the Beat meeting for Beat 4 has helped with the community policing aspects and communication with our residents as well.

In closing I want to thank you again for you and your company's cooperation and assistance and I look forward to working with you in the future.

Sincerely,



Sgt. Ed Barberini
San Mateo County Sheriff's Office

1 ANDREW M. ZACKS (CA# 147794)
2 JAMES B. KRAUS (CA# 184118)
3 ZACKS UTRECHT & LEADBETTER, P.C.
4 235 Montgomery Street, Suite 400
5 San Francisco, CA 94104
6 (415) 956-8100

ENDORSED FILED
SAN MATEO COUNTY

SEP 10 2008

Clerk of the Superior Court
By J. J. Obaob
DEPUTY CLERK

5 Attorneys for petitioner Woodland Park Management, LLC

6 SUPERIOR COURT - STATE OF CALIFORNIA

7 COUNTY OF SAN MATEO - UNLIMITED CIVIL JURISDICTION

9 WOODLAND PARK)
10 MANAGEMENT, LLC,)
11)
12)
13)
14)
15)
16)

Petitioner,

v.

13 CITY OF EAST PALO ALTO RENT)
14 STABILIZATION BOARD, CITY OF)
15 EAST PALO ALTO,)
16 Respondents.)

CASE NO. CIV 474521

WRIT OF MANDATE

17 To City of East Palo Alto Rent Stabilization Board, City of East Palo
18 Alto, Respondents:

20 WHEREAS Petitioner served and filed its duly verified petition for writ
21 of mandate and hearing was held on August 29, 2008;

22 WHEREAS it appears to this Court that Petitioner has no other plain,
23 speedy, and adequate remedy in the ordinary course of law;

25 WHEREAS it appears to this Court that ~~you~~ Respondents have failed to
26 comply with your ministerial duty by failing to mail the annual registration billings
27 by June 1, 2008;

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WHEREAS Petitioner attempted to register prior to July 1, 2008;

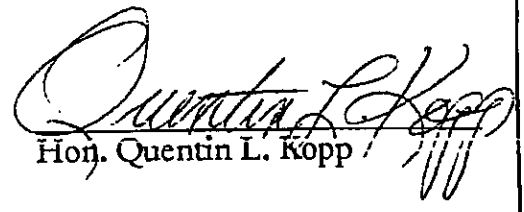
WHEREAS the Rent Board refused to accept such registration without payment of the increased fee voted on on June 18, 2008, after the billings were due to be mailed;

~~WHEREAS the Rent Board was not duly constituted on June 18, 2008 when it voted to increase the billings;~~

THEREFORE, ~~the~~ Respondents are hereby commanded immediately after receipt of this writ to process Petitioner's registrations at the amount in force on June 1, 2008, ~~and to process registrations retroactive to June 30, 2008.~~

Witness the Honorable Quentin L. Kopp, Judge of the Superior Court.

Attest my hand and the seal of this Court this 10th day of September, 2008.


Hon. Quentin L. Kopp


Clerk of the Court

The Mercury News

MercuryNews.com

Council condemns property company

By Joshua Melvin
DAILY News staff writer

Article Launched: 12/17/2008 12:44:50 AM PST
East Palo Alto opened a new front Tuesday in its ongoing battle against the city's largest landlord.

The city council approved a resolution that calls on the California Public Employee Retirement System to withdraw its \$100 million investment in Page Mill Properties. The city's fight with the company stems from a spate of rent increases — some as high as 38 percent — it began instituting earlier this year. Page Mill Properties has raised rents on roughly 1,000 of the 1,700 housing units it has acquired in the city since 2006.

The resolution calls on the pension fund as well as state and federal officials to "exercise their political, economic and ethical influence to help our community stop Page Mill Properties' predatory real estate practices." This move follows the city's withdrawal in November of a request for a permanent injunction against the company's rent increases.

"It's a statement of the feelings of the city council," said Mayor Ruben Abrica. "It's a protest."

The passage of the resolution came a day after Abrica, accompanied by housing advocates, presented the city's case against Page Mill Properties to the pension fund's board of directors.

CalPERS spokesman Brad Pacheco said the fund's leadership was disturbed by the group's presentation. He said CalPERS staff will investigate

the charges, but it is too early to say whether the fund will consider reducing its investment because of the alleged predatory practices.

"We have been working with Page Mill folks to resolve these issues and I think there is still work that need to be done," Pacheco said.

Several community members spoke in favor of the resolution at Tuesday's city council meeting.

Matthew Fremont said the resolution should have been passed earlier. He recently went door-to-door to speak with Page Mill Properties residents and many told him they felt abandoned by the city. Based on data he collected, Fremont estimated 1,500 renters had been displaced by the hikes.

Russell Schaadt, a director of operations with Page Mill Properties, rebutted criticisms by saying the company has made security and aesthetic improvements to the properties. Outside of the council meeting, Schaadt said the company has spent \$11 million on upgrades, including new appliances and safety lighting. He said Page Mill Properties should be allowed to make a return on its investment.

Not every council member supported the resolution. Peter Evans voted against the measure, saying it would do nothing to address the pain of evicted residents. He said the city needed to update its rules in order to prevent future major rent hikes.

Under city rules, landlords are allowed to raise rents by a certain percentage each year. Some owners of properties acquired by Page Mill Properties did not raise rents by the maximum allowable percentage. When the company bought those properties, it boosted rents to their maximum, taking into account unused increases from past years.

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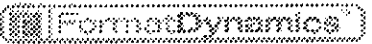
The Mercury News

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"The city council is the devil here, not CalPERS,"
Evans said.

E-mail Joshua Melvin at jmelvin@dailynewsgroup.com.

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FACSIMILE
(650) 321-5639

E-MAIL: garrett@hanvan.com

May 19, 2009

HAND DELIVERED TO CITY COUNCIL MEMBERS

City Council
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Re: May 19, 2009 Joint City Council and Redevelopment Agency
Public Hearing—Agenda Item No. 8.A: Proposed Plan Amendments for
Fiscal Merger of the Gateway 101, University Circle and Ravenswood
Industrial Redevelopment Project Areas

Dear City Council Members:

I represent Woodland Park Management, LLC (including property owners of certain East Palo Alto property, "Woodland"). Item No. 8.A on your Agenda for this evening's joint meeting is a public hearing concerning the proposed redevelopment plan amendments pertaining to the proposed fiscal merger of the already merged Gateway 101/University Circle areas and the Ravenswood Industrial area. On behalf of Woodland, objection is hereby made to the proposed fiscal merger (the "Fiscal Merger"), including but not limited to (a) the proposed plan amendments; (b) the extension of the duration of plan activities, the collection of tax increment, and the repayment of debt in the Ravenswood area by 10 years; (c) the extension of the potential to use eminent domain in the Ravenswood Area for an additional 7 years; and (d) the Implementation Plan amendments, as follows:

1. Woodland objects to the propriety of the City's claimed CEQA exemption. The City's statement accompanying the Notice of Exemption (which is found at Appendix F of the Keyser Marston Associates Report to the City Council dated March 23, 2009) indicates that City believes that the proposed redevelopment plan amendments do not qualify as a project requiring review under the California Environmental Quality Act pursuant to several provisions of the CEQA Guidelines. The City first cites CEQA Guideline 15378(b)(4), which excludes from CEQA's impact review requirement "the creation of government funding mechanisms or other government fiscal activities *which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment*". (Emphasis added.) The City also relies on CEQA Guideline 15378(b)(5), which excludes from CEQA impact review requirements "organizational or administrative activities of government *that will not*

result in direct or indirect physical changes in the environment". (Emphasis added.) The City also relies upon the provisions of Guideline 15061(b)(3), the definition of a "project" which requires some level of CEQA review, and the provision of that Guideline indicating that "where it can be seen with certainty that there is no possibility that the activity in question may have significant effect in the environment, the activity is not subject to CEQA". Finally, the City relies on CEQA Guideline 15320, the categorical exemption for changes in the organization or reorganization of local governmental agencies.

It is plain from the City's documents that none of these provisions apply, and the proposed action is not properly characterized as exempt from CEQA, or as not constituting a "project" requiring CEQA review.

a. Guideline 15378(b)(4) by its specific terms does not apply to government funding mechanisms that involve a commitment to a specific project. The City documents relating to the proposed redevelopment plan establish that the City is committing itself to specific projects, and funding for specific projects. The February 3, 2009 staff report included as Exhibit "C" to the proposed Amended and Restated Redevelopment Plan for the Ravenswood Industrial Area Redevelopment Project a listing of proposed public improvements and facilities, including a number of substantial roadway improvements. Among these roadway improvements are the construction of Bay Road improvements, improvements which were discussed in the March 17, 2009 memorandum regarding the draft engineering plan for the Ravenswood Business District. That staff memorandum notes that the City began working on an environmental impact report in 2000 for the Bay Road project, and that "an administrative draft EIR was completed in 2005." The City's own documents thus establish that the City is proposing redevelopment plan amendments, as part of the Fiscal Merger, which are tied to specific improvements, improvements for which the City has already determined that an EIR must be prepared. Also, by the City's own documents, an administrative draft EIR has been prepared, but a final EIR following a public review process must be completed before the City makes a commitment to approve specific projects or funding arrangements for specific projects. This was recently confirmed by the California Supreme Court in the decision of *Save Tara v City of West Hollywood* (2008) 45 Cal.4th 116. Documents such as the draft engineering plan establish that the City is committed to a definite course of action in connection with the proposed projects to be funded pursuant to the redevelopment plan amendments.

b. Similarly, Guideline 15378(b)(5) excludes organizational or administrative activities, but only if those activities "will not result in direct or indirect physical changes in the environment." The documents cited above establish that the funding to be provided pursuant to the Fiscal Merger will cause indirect physical changes in the environment, including but not necessarily limited to the construction of the proposed road improvements, including the Bay Road improvements for which the City has already initiated an administrative draft EIR process.

c. Guideline 15061(b)(3) sets forth the general rule that CEQA does not apply to activities where it can be seen "with certainty that there is no possibility" that the activity will have a significant effect on the environment. The City cannot decide that an EIR is

required for improvements, on the one hand, and on the other hand, state that it can be “seen with certainty” that funding arrangements to facilitate those improvements will not have a significant effect on the environment. The City’s documents establish that this provision does not apply.

d. Guideline 15320 exempts changes in the organization of local agencies. This categorical exemption includes as examples of such organizational activities, the establishment of a subsidiary district, the consolidation of two or more districts having identical powers, and the merger of a city with a district lying entirely within the boundaries of the city. There is no case law interpreting this exemption, but the courts have held that categorical exemptions may not be used when there is a possibility of a significant effect due to an unusual circumstance, and that the categorical exemptions are inappropriate where projects require mitigation measures such as those that would be evaluated in an EIR or a negative declaration. (*Azusa Land Reclamation Co. v Main San Gabriel Basin Water Master* (1997) 52 Cal.App.4th 1165 (significant effects defeating use of categorical exemption); *Sandman Protection & Watershed Network v County of Marin* (2004) 125 Cal.App.4th 1098 (need for mitigation defeating use of categorical exemption).) Here, the City has already determined that environmental impacts and mitigation measures must be evaluated for the Bay Road project that is among the projects to be funded through the proposed plan amendments. Also, several decisions confirm that categorical exemptions are narrowly construed, and may not be unreasonably expanded. (*Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190; *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136.) Here, the City is seeking to expand the application of the exemption beyond mere organizational actions to include actions that facilitate funding for specific projects.

2. Woodland also objects to the City’s purported posting of the Notice of Exemption. Here, the Keyser Marston Associates report dated March 23, 2009, at page 120, states that the City Council of East Palo Alto, as lead agency, transmitted a Notice of Exemption to the Office of Planning and Research on January 19, 2009. A review of the Office of Planning and Research website for postings on January 19, 2009, and for any postings related to the City of East Palo Alto during the year 2009, showed no reference to the posting of a Notice of Exemption. Notably, the Keyser Marston report, as well as the City’s staff report, also state that “once the proposed redevelopment plan amendments are adopted by the agency, then City staff will file a Notice of Exemption with the San Mateo County clerk.” The CEQA Guidelines authorize the preparation of a Notice of Exemption prior to project approval but indicate that the notice should not be filed or posted with the Office of Planning and Research or the County clerk until the project has been approved. (CEQA Guideline §15061(d).)

3. Woodland objects to the Fiscal Merger to the extent, if any, the City has not complied with the requirements of Health & Safety Code section 33080.1 with respect to each project area.


4. Woodland further objects to the Fiscal Merger to the extent it is inconsistent with the East Palo Alto Redevelopment Agency 5 Year Implementation Plan dated October 16, 2007 (the “5 Year Implementation Plan”). At a minimum, the projects in a given project area should be completed first before funds designated for that project area are used in another project area. Transportation projects, for example, are proposed within a given project area to improve

circulation. Road, traffic signalization, public access, pedestrian trail, and public transportation improvements all serve to mitigate traffic circulation problems. A couple of major projects that still need to be completed in the University Circle Project Area are the completion of Phase II of the 101/University overpass and off-ramp improvements, and the completion of pedestrian and bicycle improvements to the Highway 101 overpass. Both of these projects are among the Infrastructure and Circulation projects listed on Table 4 – Projected Economic Revitalization Activities- University Circle Project Area- Program Activities Description- 2007-2012 of the 5 Year Implementation Plan. A \$2 Million grant for pedestrian improvements to the University Overpass has been obtained but it is unclear when these pedestrian improvements and the Phase II 101/University overpass and off-ramp improvements will be completed or whether these projects will be superseded and/or their respective priorities usurped by the list of projects for the Ravenswood Industrial Area (Exhibit “C” to the proposed Amended and Restated Redevelopment Plan for the Ravenswood Industrial Area Redevelopment Project, included with the February 3, 2009 staff report).

Similarly, one goal of the 5 Year Implementation Plan is to assist in site assemblage and demolition for the development of the Manhattan Project. The parcels comprising this project included a triplex located at 1995 Manhattan, a grocery at 530 O’Connor and Laundromat at 1997 Manhattan. The triplex had to be demolished due to criminal activity and blighted conditions and to this day, activities affecting the health, safety and welfare of the surrounding general population still exist at the Laundromat. A stated purpose of the Fiscal Merger is to eliminate blight conditions but no mention is made with respect to eliminating blight at this location within the University Circle area.

It is unclear whether and when these and other projects set forth in the existing 5 Year Implementation Plan will be funded and implemented in light of the projects listed in Exhibit “C” and the City’s plan to use funds generated in the merged Gateway 101/University Circle project area for projects in the Ravenswood Industrial Area. Woodland submits that before any tax increment dollars collected in one redevelopment area are utilized in a different project area for some other stated purpose, the projects and goals for the merged Gateway 101/University Circle area should first be completed/implemented.

Very truly yours,



William R. Garrett

cc: Mr. David Taran
Jim Shore, Esq.
John Paul Hanna, Esq.