

CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting November 16, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:03 P.M.

Present: Berman arrived at 5:41 P.M., Burt, DuBois, Filseth, Holman,

Kniss, Scharff, Schmid, Wolbach

Absent:

Closed Session

Mayor Holman: We will now consider going into Closed Session regarding CAO compensation, unrepresented employees, City Manager, City Attorney, City Auditor and City Clerk.

Council Member Wolbach: So moved.

Council Member Burt: Second.

Mayor Holman: We have a Motion by Council Member Wolbach, second by Council Member Burt to go into Closed Session.

MOTION: Council Member Wolbach moved, seconded by Council Member Burt to go into Closed Session.

Mayor Holman: I see no lights or hands, so vote on the board please. That passes on a soon to be 8-0 vote with Council Member Berman absent. Thank you all.

MOTION PASSED: 8-0 Berman absent

Council went into Closed Session at 5:05 P.M.

CONFERENCE WITH LABOR NEGOTIATORS

Agency Negotiators: Mayor, CAO Chair or Other Council Members Unrepresented Employees: City Manager, City Attorney, City Auditor, City Clerk

Authority: Government Code Section 54957.6(a).

Council returned from Closed Session at 6:05 P.M.

Mayor Holman: We'll call the meeting to order in the chambers. We just concluded our Closed Session about labor negotiations, and there is no reportable action.

Study Session

2. Potential List of Topics for the Study Session With Senator Jerry Hill.

Mayor Holman: Our next item on the agenda is Item Number 2 which is a Study Session with Senator Jerry Hill. Welcome, Senator.

Jerry Hill, California State Senator: Thank you very much, Madam Mayor.

Mayor Holman: Do you have some opening comments you'd like to make?

Senator Hill: I don't have anything prepared, but I'm always happy to say a couple of words. One, it's wonderful to be here.

Council Member Kniss: Have you ever been stuck or ...

Senator Hill: No, I've never been stuck, lately anyway especially. It is great to be here, and the opportunity, I think, is so important with the wonderful Council that we have in Palo Alto. To me, the important thing are the very thoughtful questions that have been provided by the Council that I've looked at, thought about and will be happy to respond to as we move through the evening. For me, it's important to understand the issues and more importantly the direction you would like to see us go and me, especially and particularly, in Sacramento as we begin the next year of our second legislative session. Madam Mayor, thank you.

Mayor Holman: Thank you. As you noted, we do have a list of questions that have been submitted ahead of time to give you kind of a heads up of the things we would like to discuss. Would you care to tackle any of those in the order that you might?

Senator Hill: Whatever you would prefer. We can start from the top and work down or however you're comfortable with.

Mayor Holman: If you would do that please. I think the transportation items you'll find are in the top section there. Some questions submitted by Council Member Burt. High Speed Rail and ...

Senator Hill: Certainly. We may as well start with High Speed Rail. I think that's a very good place to start. First, I want to just let you know how

much I appreciate the leadership that Palo Alto has taken, is continuing to take, with regards to High Speed Rail and the electrification of Caltrain and how it will be implemented in the future and that kind of integration between Caltrain and High Speed Rail at some point in time. It's critical. As, I think, Council Member Burt may have mentioned, we met together a couple of weeks ago with the President and the Chair of the High Speed Rail Authority to look at a number of the issues that Council Member Burt had and the City of Palo Alto had. They're similar to the issues that I've been feeling related to grade separations. I think I came away with—what my feeling and sense is related to High Speed Rail is that it's—you know I used to be a pilot and fly. When I did that, there was one little saying that always stuck in my head and still does. In God we trust and everything else we check. That, I think, is the one that applies to High Speed Rail as well. I think we've been told a number of things, whether it comes to grade separations. I know San Mateo is working right now and they're funding a grade separation, that they're looking for about \$80 million, I believe, from High Speed Rail to fund part of that. They will be funding it almost in equal part; they are providing some funding for grade separations. Palo Alto is very similar to San Mateo and a couple of other communities where it's critical that we have those grade separations I came away from the conversation that it will be something that they will look at and, if possible, there are ways to implement grade separations and that the conversation is ongoing related to it. I've also looked at the issue of trenching. I think the trenching especially for San Mateo and Palo Alto could be ideal and sell the air rights above. It doesn't have to be covered completely. Even though the diesel is there, I don't know what the percentage is, but almost two-thirds could be covered and have development at those locations, which is an opportunity to provide some of the funding. It does allow some changes there that I think would I'm going to be someone who—as you know I've been following it from the beginning, was able to get the \$600 million help with the electrification. We were able to codify in statute the blended system so that there will not be, cannot be a change in that as we move forward. I will continue to be your representative on that issue as time goes on. When issues come up, I know I will hear and we will work together to make sure that we're represented. It's a trust issue to some extent. As I mentioned, it only goes as far as you can verify it, and that's where I will continue to work on that. If we're looking at the Santa Clara transit tax issue, I am fully supportive of Palo Alto's position. The 15 percent issue, I think, is appropriate. I couldn't determine whether that number is correct, but I will be happy to work with you to make sure that that measure, at least before it will get support from me, will have to meet the needs of this community. We certainly don't want the money to go—BART's wonderful, but we have other needs in this county that have to be provided for, especially in north county. That's my priority, so I will be there during that whole conversation

with you. Just let me know how I can help, whether in Sacramento or here or as it moves forward. The cap and trade funding, that's an interesting—I was just looking at some of that. As you know the cap and trade funds have increased considerably. I think we're at \$1 billion now and that will be going up as time moves on. I had some issues, and we had legislation last year that I've been trying to get. As the cap and trade numbers come together, there's 60 percent that is funds allocated according to the statutory formula, 25 percent High Speed Rail, 20 percent housing and sustainable communities, 10 percent transit and rail, 5 percent transit and bus, and the 40 percent left for the legislature to kind of decide how they want that What I've been trying to do is increase the funding for regional rail. The legislation that I—my push in the cap and trade legislation that still hasn't been completed from last year, that's still an ongoing discussion because there's so many people that want a piece of that and want to make sure that it continues. Where I see the success of where I want to go is we're not alone in northern California. Southern California has the same needs with regional rail and transit that we have. I can and have made the case and the argument that we need to add at least double the amount that is allocated for regional rail and transportation here. That's the goal that I'm working on and will be advocating for when we get back in January. Pat, I think those are your questions. The merger of ABAG and MTC, Madam Mayor, I know that's a question that you had here. There's legislation, as you know, by Assembly Member Levine that he introduced that would kind of throw everything out and start over again with a new agency that would be independently elected. I don't know if there's a value in that, in going to that extent, because it almost will then become like the BART Board, which is not necessarily the best represented. The aspect of having one agency, I think, is important, but I like the fact that they're taking a few steps back and doing a thorough analysis of where they can bring the two together or at least provide for the implementation and the programs that each one uses in a way that could be thoughtful and representative. The challenges, I think, we all face is in regional bodies. We all sit on them and have in the past. I think the challenge is who's actually making the decision and do they really have a stake in the outcome. When I was a Council Member or County Supervisor, you go and sit on ABAG or MTC or the Air District Board and you make decisions, but there's no one really to hold you accountable because there's no one right in front of you as you have here every week. That isn't the best—I think there's some problems with that. I don't know if by having one large body elected—in fact this issue came up. That was Willie Brown's suggestion 15 years ago, I think about 15, when I was a City Council Member in San Mateo. His suggestion was one regional body that would make the decisions, and it wasn't received very favorably by anyone at the time. It may be the time now. I just think it needs further analysis and further review. I definitely will be looking for

something that will meet the needs of the communities that I represent. In saying that, I want to make sure that the housing issues that we've all been struggling with, the RHNA number and the transportation funding, the allowances and the allocations of that funding, is done in a way that supports us. I mean, that's my priority and that's the goal that I have. I haven't seen that we have not been fairly allocated in this county historically. I think they have—I differ with Assembly Member Levine who has looked at a couple of transportation problems. I think his concern is, as we all do, why haven't they been fixed and why do we have the congestion, and so we're not looking at it. I think they have been focusing and as I've seen needs in particular areas they have addressed and directed the funds That's really what we can—all we can expect is a prioritization there when we have limited resources. That's what I think we've been doing. I think this is a conversation that is going to go on for the next year. We need to be very careful with the outcome. If you want to jump in with thoughts or questions, please do and follow-ups too, Pat. I'll stop there for the time being.

Mayor Holman: Maybe it would be good to like see if there are follow-up questions to this point, then we can go ahead and get you ...

Senator Hill: That sounds great.

Mayor Holman: Just making sure that we get to Council Member Wolbach's points. I don't know if your intention—Val Fong who is the Utilities Director is here. I've written out some comments that maybe you'd like to address the Senator directly if you'd like too, when we get towards the end of this. Pat, did you want to do some follow-up to the Senator's comments having to do with transportation?

Council Member Burt: I want to thank Senator Hill for facilitating this meeting that he and Dan Richard and I had. What I pushed was the issues that we as a Council had addressed, both the grade separations and then the process by which this would go forward and trying to understand why the urgency on the environmental clearance for this section when it wasn't anticipated and whether they were going to insist upon that. We received some, I'd say, constructive responses that asserted that they wouldn't rush the environmental clearance process. If it took longer, they would do so. They would be open to a discussion on CSS but not a commitment that they would provide what we believed we had as an agreement under the prior High Speed Rail plan. Mr. Richard not only acknowledged the need for grade separations while not offering that the High Speed Rail Authority has funding to make significant contributions to those. We both agreed that even if High Speed Rail did not come to the Peninsula, the eventuality with additional use

of Caltrain will really drive that anyway. All that's kind of a preface to that Dan Richard agreed to have a meeting convened with our City representatives to discuss the process going forward on this. That was a good take away.

Senator Hill: I think the other part that I was pleased with was his willingness to continue and have an ongoing conversation with you and, I think, with Palo Alto over the concerns that are raised. At any point in time, we can together make our claim and statements to him.

Mayor Holman: Council Member Scharff.

Council Member Scharff: Thank you. I also wanted to thank Senator Hill for joining us and actually for all your help on the carbon neutral portfolio issues that we were having. That was very important to us, and you did a great job in helping us on that.

Senator Hill: Thank you.

Council Member Scharff: That's a little hard to (inaudible) like this. A couple of things. I did want to emphasize that I agree. I think the grade separation issue is probably the existential issue for Palo Alto and probably more important frankly than most of this other stuff. However, on the ABAG-MTC thing, I just wanted to weigh in a little bit. You're right it's a governance issue. What they agreed upon, as far as I understand it, is that if they don't have an agreement to merge by June, it reverts back to MTC's proposal that MTC takes all of the ABAG planners over and puts them in when they do the One Bay Area plan, which basically means that ABAG really has a gun to its head. It becomes a governance issue. ABAG as you know—I don't know if you served on ABAG ...

Senator Hill: MTC as an alternate.

Council Member Scharff: It's large. There's lots of individual Council Members from a wide variety of cities, from small places like Clayton all the way up to Supervisors from San Francisco. MTC, as you know, is much smaller and is really dominated by San Francisco, Oakland, San Jose. Very few Council Members from individual cities on it. In that merger, I think the concern is that Peninsula cities, for instance, and the smaller cities throughout the Bay Area will lose their voice. I think that's the likely outcome of this merger of the way that happens. It becomes much more dominated totally by frankly San Francisco, San Jose and Oakland, which have the dominant position on MTC. Anyway, that I think is something to think about given that it's really not going to be a year's conversation, but it's a six-month conversation with a gun to ABAG's head.

Senator Hill: I think you raise an excellent point that I think we need to watch. If that's the—I wasn't aware of that; I hadn't gotten into that detail. I didn't know of that arrangement. I think the Legislature—in fact the Bay Area legislative caucus, this has been a very strong conversation and right in the forefront of looking at and a way in and to see where and how it's going to play out. If it's going in a way that does what you're saying and we lose representation around that, there will be a lot of voices (crosstalk).

Council Member Scharff: Thank you.

Mayor Holman: Council Member DuBois, on the topics we've covered so far.

Council Member DuBois: Yep. Hi, Jerry. Great to see you. Thanks for coming.

Senator Hill: Thank you.

Council Member DuBois: I've personally been very interested in trenching and seeing if we could really do something in really both parts—a connecting trench in both Santa Clara and San Mateo County. I'm glad to hear you're interested in that idea. I think it could really reshape Silicon Valley, the Mid-Peninsula region. Like you said, you could potentially use those air rights. I think the issue's just much bigger than just Palo Alto, and we need to look at it that way and ideally tap into not just local funds but State and maybe even Federal funds. I'd be really interested in talking to you about how you get a huge project like that accomplished. It really is something that, I think, you need to look at in like a 50-year, even 100-year kind of timeframe. I appreciate your support on the Santa Clara County sales tax. We'll see where that ends up. I actually just had one quick comment on something you hadn't mentioned; it's not on your list. We're starting to see a little bit of movement on the aircraft noise issue. Again, I know that's a federal, FAA thing, but any support you can give us there as we kind of work that issue would be appreciated.

Senator Hill: Have you been subject to the noise? I know Atherton with the Surf Air issue, are those aircraft flying over Palo Alto as well?

Council Member DuBois: Yeah, a ...

Senator Hill: We had a meeting last week with their CEO and representatives of San Mateo County, because Atherton was such a—it was at San Carlos Airport. I think their goal is to work with the FAA and the controllers at SFO, well, in the Bay Area. Because of the flight path and the GPS that they have to—they claim they have to fly a straight approach every time, and they can't deviate; whereas, everyone else seems to be able to

deviate as they see fit. They're going to go together with everyone. They've been told that they couldn't, but everyone's going to work to try and get some changes with that so that it could improve that as well some other issues. I will work whatever I can. I kind of understand the system a little bit, how to see if I could help in some way. Thank you. Tom.

Mayor Holman: Council Member DuBois, maybe you want to clarify one thing. In relation to the sales tax measure, you made mention to the Senator's support for that. I think you need to clarify maybe what support you intended by that comment.

Council Member DuBois: He covered like allocating a percentage to grade separations and not just to BART. That's what I was referring to.

Mayor Holman: Okay, good.

Senator Hill: I certainly support that.

Mayor Holman: Council Member Kniss.

Council Member Kniss: Senator Hill, thank you for coming. It's always good to see you.

Senator Hill: Always great to see you too, Liz.

Council Member Kniss: I thought Greg would bring this up, but I don't think you really addressed it, Greg, is MTC-ABAG. I'd like to weave the Air Board in there as well. I don't know if the entire Council is aware, but there is a plan to move that entire organization into one building, which is on Main Street and fairly close to the train in fact. I think there's a sense that MTC is kind of that giant sucking sound, as it pulls ABAG perhaps in. I'm not sure that Air Board isn't uneasy as well, which seems kind of interesting. Between the three, the transportation and the RHNA numbers that have come out of ABAG and what goes with Air Board, I think there's some real uneasiness. You served on Air Board for a long time; you may have also been on MTC; I don't recall. Talk a little about that and also about where that would leave the RHNA number if indeed there is a merger.

Senator Hill: I don't know on the RHNA numbers if there were a merger. I don't think there would be in a merger with the Air Board with the other two, but there certainly should be a closer relationship between the three that could work, especially related to air quality and transportation and housing, as you know it by your tenure on the Air Board. My reason for saying I don't think there would be a merger of the three including the Air Board is because of the unique regulatory authority of the Air Board. They're not the

funding and the transportation, but they actually do the—they regulate and quite extensively. I think that would prevent the other two. I think what we need in the RHNA numbers, and we've all been on the same page, is the issue of reality checks. That's not what we've seen, is the reality of what's expected and what's real. We need more of that. Now, we have to look at whether whatever arrangement comes together at the end, if that will get us to something that's a little more reasonable and real. I don't know if we'll see that from them. That's the challenge.

Council Member Kniss: Thanks for that answer. I think it's all pretty complicated, though. I think putting everyone in the same building is going to be a real challenge. There are already a number of interesting conversations that have gone on. The chance that ABAG may be in with MTC makes me somewhat uneasy.

Senator Hill. Yeah. It may be. I just think it's depending on what they develop in the next few months, depending on how they plan to implement it and what their end goals are in terms of the plans, I think that's really what we have to look at and carefully and to see what the make-up will be. That's where I will count on your help to advise me, because I think legislatively something will have to be done. That will be very helpful. Thank you, Liz.

Council Member Kniss: Good. Thanks.

Mayor Holman: Thank you for those responses and upload of information. The technology question and then housing supply as well. Small topics.

Senator Hill: Why don't we skip that one. Thank you, Cory, for the question on privacy and technology. I had legislation this past year that somebody's really raised for me a concern and that's how we balance our civil liberties with the need to know, especially in light of what occurred over the weekend, or Friday, in Paris. How do you balance that need? One of the issues that has been troubling for me is the use of license plate readers by private entities as well as law enforcement and public safety. Then as we saw the use of cellular intercept technology and how that has kind of mushroomed in California with very little or any public discussion and the implementation of it with no policies or privacy policies in place for any of The legislation I had and the Governor signed in both accounts, whether it's cellular intercept technology, which as you know is a little suitcase device that you can put in this room and all of our cells will go to that, cell signals will go there rather than to the tower or someplace else. That could intercept and take whatever information off of that as necessary. It bothered me. The license plate readers, how is the information used?

How long is kept? Under what policies is it used? Who can access it? A lot of questions came up. We established some policies for both the use of those and when it's used in California. The troubling part for me is, that we're going to look at next year, to see if there is an over-because it's almost impossible to anticipate the next piece of technology and then have to write new legislation every time there's new technology. What we're going to look at is if a kind of overarching policy based on all of this technology that we can adopt and move towards. In one of the cities that I represent in the north, south San Francisco, they looked at last week interestingly an ordinance requiring businesses, requiring businesses, to install video cameras on the outside of their buildings that they can access the video information. That I found troubling. I talked to the mayor and sent a letter thinking that maybe there should be some use policies in place. I think we need certain things as protection. That's what I've been looking at in trying to make sure that we have some efforts in place to help and assist local governments with some policies in place to protect the liberties and kind of the rights of citizens and to make sure that they're used in an appropriate manner. They haven't been in some places in this country, but we want to make sure in California they are. In many cases, that cellular technology was used. Eleven jurisdictions in California have it, and they adopted it and purchased it and are using it without any public hearing by an elected body in a public setting. That's troubling to me. Housing ideas, State support, local possibilities. It's an embarrassment; it really is, on what we've done since redevelopment has been eliminated which was, as you know, providing 20 percent of those dollars for affordable housing. When we lost that, there have been attempts, as you know. Special interests have—in the case of the California Association of Realtors, this is the \$75. There was a bill by Toni Atkins, Mark De Saulnier before and Speaker Atkins, to apply a \$75 recordation fee to documents filed with the County Clerks that would generate about \$1/2 billion per year. That money would be directed specifically to affordable housing. That has not passed the Legislature because the interests have been strongly opposing that. That was in last year's bill and the year before, which was a real challenge and a problem. The other aspect that we have a problem is—it's almost unique to this area. I don't get a lot of sympathy in Sacramento from my colleagues, because they say, "You're from Silicon Valley. You've got a housing problem? Oh." Frankly, I was very dismayed. I was at the opening of the new regional patent office and trade office, and one of the speakers that evening—the question was what are we going to do about affordable housing for our The answer was we'll pay our employees more. That's not an answer that's sustainable. We need to be able to provide funds, but here again this is almost a regional problem. Bakersfield doesn't have this problem. Fresno doesn't have the problem. Sacramento doesn't have the problem. No one else but this area really has that problem today. To get an

understanding and appreciation for that is very difficult. The challenge I have was to try—I mean, the poverty level where we live is certainly not as great and the unemployment is minimal if you compare it to Fresno or Bakersfield—I'm just picking on them—other areas in the Central Valley or the interior of California. There's not a lot of understanding or need or willingness to really provide a lot of help for that. The good thing is in affordable housing that is something, because of the lack of redevelopment, that there is some efforts to do. I frankly think the issue is we need to be able to provide—the State needs to work on and we've tried every year some form of tax increment financing opportunities for local government after the elimination of redevelopment. That has not been successful. The Governor is very much opposed from what he has shared with any idea or the ability to have tax increment financing that would take away from cities, counties, school districts or special districts as redevelopment did. The only way you can kind of allocate those funds—it has to come from somewhere, that then you could bond for housing. I would hope that these—my sense is these have to be done regionally, whether it's done within—a city can't do it alone; whether it's defined out-some of the tenant protection and preservations. One city can tackle it and look at it. If you have a region that's looking at that, either in Santa Clara County, in San Mateo County, I think that's really where we have to do it. The interest here on those issues, as you know, are very strong and have a lot of impact on legislation.

Mayor Holman: Why don't we stop there? Council Member Wolbach turned his light on. Maybe at the end of your question you might clarify your other question which was climate change and sea level rise. That's a huge topic; maybe you'd like to hone that in a little bit.

Senator Hill: Cory.

Council Member Wolbach: I also want to say thank you very much for coming. It's always good to see you.

Senator Hill: Thank you, Assembly Member--did I give you a proMotion—Council Member Wolbach.

Council Member Wolbach: Very nice to see you. Also I wanted to say hello to one of my former colleagues, Lisa Chung, of your staff who I know from firsthand experience for a couple of years does fantastic work in your district office in San Mateo. I just wanted to check. Your current liaison to Palo Alto is now Lisa, as I thought. She does a great job for everyone else on Council, on Staff and the community who needs to get in touch with you. I know we can look to her. First, I wanted to say thank you for being a leader on the privacy-civil liberty-technology question in Sacramento. We've not seen that

kind of leadership in Washington, DC. Quite the opposite at times. If you have any other thoughts about things we can do at the local level that would be helpful, I've been in some discussions with some people in the local area about whether to explore something perhaps here addressing an overarching policy in the manner you described. Also on the housing issue, if you have any other thoughts on—it's really a collective action problem. We have this jobs-housing imbalance in the region that goes back from decades that I think we all recognize now of promoting economic development and promoting job growth which is great in a lot of ways but now has resulted in this backlog where our transportation, our housing hasn't kept up. I know we're not alone in this. As you said, it's a regional issue. A lot of other cities are struggling with those questions and exploring some of the same things we're exploring. We're looking at maybe changing our rules around accessory dwelling units. I know some other cities in your district are going through that same discussion. We're trying to talk about ways to try and prevent displacement of people at particularly Buena Vista Mobile Home I know other cities in your district are dealing with other ways to prevent displacement of longtime residents. Either tonight or in the future, any other ideas that you have about how we can emulate what's been done successfully in other cities in your district or ways we can work with our neighbors, we'd definitely welcome those suggestions. Regarding sea level rise, I've spoken about this with you in the past. I think that the four biggest challenges that we really need to tackle right now, the next five, ten years in our region, are transportation which we talked about, housing costs we've talked about a little bit, income inequality which you mentioned, and also sea level rise. Of course, all of those four issues intertwine. The threat to not only Palo Alto but a number of other communities in your district from sea level and other risks from climate changes such as water insecurity, fire risk, etc., are guite severe. If we don't tackle them and get them right now, we're going to be in a lot of trouble in 30 to 50 years, to put it mildly. If you have any thoughts that you'd like to add to the discussion about how we can prepare for what is already an inevitable change from climate change.

Senator Hill: I think the best thing that we can do on the issue of—Assembly Member Gordon's legislation, I think, will go along a way in allowing for and requiring a database, the collection of data so that we can understand what the problem is throughout the state. Once we understand the extent of the problem, the potential of the problem, then we can work to try and find the solutions. Our area could be devastated economically from this. It will be a major problem that we have to really tackle. It has to be brought up as a priority, that it's not today as much. I think people are becoming—because it's such a long term, 30 or 40 years, that's a long time, but it's not. It'll be here quickly. We have to really make it a priority. Every decision needs to be based on that, every aspect of it. I know BCDC

is looking at it carefully and closely, now obviously more than they had before, to see if we can get some Bay strategy in place for that. It's going to cost a lot, and that's really going to be, I think, one of the major challenges, where those funds are coming from. It's certainly obvious it's something that we need. For us and for me, the realization of the tremendous economic impact it would have on all of us.

Mayor Holman: Vice Mayor Schmid, questions for the Senator.

Vice Mayor Schmid: It's a pleasure to have the opportunity to grapple a little bit with the local and state issues together. We focus so much on the local. I'd like to bring up property tax. Property tax is the local tax ...

Mayor Holman: Vice Mayor, I think what we're going to do is ask questions of the things the Senator's addressed, and then we'll come back to the property tax. If you have something for housing that we've already discussed or sea level change, excuse me, for climate change.

Vice Mayor Schmid: If we'll have an opportunity ...

Mayor Holman: Yes.

Vice Mayor Schmid: ... I do want to tie it into housing and other elements we've talked about.

Mayor Holman: If you want to tie it in, go right ahead.

Vice Mayor Schmid: The key thing about property tax is it accounts for 25 percent—business accounts for 25 percent of our property roll. That's been going down since 1979, continues to go down even though we are building more commercial office space than we are housing. That sets up a unique disparity between local governments and State governments. The fact that we're tied to property taxes where the business is spending less and less. The State getting its revenue from income and capital gains does much better with the growth in business. The discussion we had about the MTC and the ABAG and local governments is important. That can be seen as an allocation of funding, that the MTC has the funding that they give to ABAG and thus controls a lot of the decisions. That's why the influence and power within those organizations are with the flow of funds rather than local needs. It comes down to the Legislature came close this year to getting passed a reform, a (inaudible) roll on the property tax. The Governor didn't agree. That would certainly change the balance of funding that comes in, if we could deal with it in getting to the housing issue. The solutions are regional, but the funding source, if local government had more housing funding that they could utilize effectively, they could take the place of redevelopment and

form the basis for the ABAG allocation supplies and funding source for it. For High Speed Rail, they could provide more of the funding source. This disparity of tax-based income could be balanced a little bit through the property tax reform. You could talk about High Speed Rail. You could talk about the MTC-ABAG issue. You could talk about housing. More of that funding could be locally based, going to these issues which are so critical. I see a lot of the reform basis of government and the levels could be tied to what happens to the property tax.

Senator Hill: That may be why the Governor is not so excited about it. You're right. We did have an opportunity this year to look at that carefully. It's true. Today, 72 percent of property taxes are from commercial side and 28 are from residential. When Prop 13 passed in '78, it was about 50/50. That's a big difference and quite a disparity that we're seeing. unfortunate part is that without the—I doubt it would get the two-thirds vote to start with in the Legislature. That's really, I think, the reason we're seeing so many initiatives coming our way next year, because it's been difficult to get a two-thirds vote for anything in the last couple of years in A couple of reasons for that. One, the Legislature is becoming a more moderate body, so some of these actions. I think there's a stronger business influence that we're seeing in the Legislature. Those interests who would be paying the price of this are very strong. That's a real challenge. On top of that, the Governor has a lot of cachet still and could move something if he were so inclined. With his negative reaction to this, it'll be very difficult to see some. I keep thinking that there's an opportunity to at least change the—Tom Ammiano, we didn't always agree on things. When he was an Assembly Member from San Francisco, the issue of taking the corporate ownership of property when a corporation changes hands, the stock ownership changes, that owns property, it's not reassessed today. That goes on for years and decades without any reassessment. That would be an easy—I don't think that was intended, from what I understand, from when Prop 13 was approved. I think there are ways around it, but we're not going to have success there.

Mayor Holman: Council Member Berman.

Council Member Berman: Thank you. Thank you, Senator Hill, for joining us. I wanted to actually go back to one of the earlier topics that I didn't pipe up quickly enough to ask a question about, which is a combination of High Speed Rail, Caltrain electrification and modernization, and grade separations. Caltrain modification and electrification is receiving—I can't remember if it's \$800 million or \$1 billion from the High Speed Rail bonds.

Senator Hill: I think it's 600 to 700 million.

Council Member Berman: I just saw an editorial—there's an editorial in the *LA Times*. We can have a go and then follow it up by one in the *Mercury News*, talking about how a report came out. This also goes to the trust factor, that the High Speed Rail Authority had received a memo from one of their consultants saying that expectations are that even just that initial leg of the High Speed Rail is expected to be upwards of 30 percent over budget at \$40 billion, which (a) makes me skeptical that there will be any funding for anything else, whether it's grade separations or anything out of the High Speed Rail funds. I also wonder, one of your last points to Council Member Schmid, I just wonder how long this project will last once Governor Brown is no longer in office and, depending on who replaces him, given how much he's been an advocate of it. My concern and question is are you concerned at all with—I can't remember the timeline for Caltrain modification—what happens to that money if the High Speed Rail project kind of goes sideways.

Senator Hill: My goal is hopefully if it does die at some point in time it's after the Caltrain modification and modernization. 2019 is my understanding of the electrification conclusion.

Council Member Berman: It should be completed? That's probably not much of a concern.

Senator Hill: It should be completed by then. That's right after the Governor would be termed out, so that should fit in. That money would be spent well before that. I was as concerned as you were about that report. I know that Council Member Burt and I raised that issue or he did with Mr. Richard. My understanding is—in fact I saw him making the same claim on television the other day that it was a draft report that was not official, it was not accurate and all of these reasons. The bottom line in the grade separations that was a take-away for me was that if this is what it's going to cost, this is what it's going to cost if we have to do that. That's where I think, frankly, if we can keep the—because this is a very important leg to High Speed Rail. This is the final leg into San Francisco. I think it's important that we make sure that we're on top of it, that we're watching it, that we're monitoring it, and that we're advocating for the things that will make this community and this right-of-way work best for these communities. I think that's the critical part. That's why being vocal and active in it is so critical and important for us.

Council Member Berman: Thank you.

Senator Hill: Thank you.

Mayor Holman: One question and then a request. As we all know, social services funding was significantly cut back several decades ago. It really for

the most part has not been replenished. This wasn't on the list, so I'm sorry I'm throwing you a curve here a little bit.

Senator Hill: That's all right.

Mayor Holman: Do you see any strong advocate for any inroads that we might be advocating for to get some social services funding reestablished? The reason for that is because of homeless situations that we have, and a lot of people who are homeless need assistance that we can't provide at the local level and certainly need some State support for that. Do you have any thoughts, comments or any news on that front?

Senator Hill: This kind of goes hand-in-hand with a number of issues and social service issues in California that have been neglected for many years, especially since the cuts that we made in 2008 when the recession hit. We had to make very major cost reductions, expenditure reductions in a matter of two months, three months. They were made, but they haven't—a lot of it goes to a couple of things. One, this past year as you know, we ended the fiscal year with probably \$5 billion more than we had anticipated. There were a lot of opportunities there to do something with it. Because of Prop 98 in education and the maintenance of effort and the money that we took. almost all of that went to K through 14 education, which is a good thing. I think we can all be pleased with that. We tried in the Senate especially—the Assembly wasn't guite as supportive. We tried internally to work and we were able to provide about \$300 million for early childhood education and daycare, child care, money for that. The Assembly wasn't excited about We were able to get that part of it. The issue with the developmentally disabled and the other issues in human services, the problem that we've run up against is that the Governor has not been receptive to any longer term programmatic increases that would have to be sustained down the road. He's very fearful of a number of things, and that's why I think he's so popular. He's fearful that, one, when the tax increase that we all voted for and supported expires in a few years, if it is not renewed especially where the proposal now is to maintain the high-end earner tax, that would be before the voters next year probably. If those expire, we will see a \$5 billion annual hole in the budget. He doesn't want to have to be looking at that without some changes. As you know and mentioned, the State budget is based on and the revenue stream is strongly dependent upon those capital gains, personal and corporate income taxes. Basically this part of California is sustaining California and, I think, the nation today because of that. We're not seeing that in other parts of the state, but this is where the money is. Even the resources that the budget in the last few months, we're already \$1/2 billion increase in the first three months of what was projected in revenue this year. That's another good

thing. The problem that we're finding is there's no willingness that I've seen on the part of the Governor or some parts of the Legislature for a long-term, sustained program implementation increase. That doesn't solve the problem; I know.

Mayor Holman: If you can identify any ways that we might help advocate for some relief in that regard, especially given that homeless situations actually cost more money than it would be to house people. If you can find some avenue for that.

Senator Hill: We will continue to look at that especially this year, because we will not have—if the revenue enhancements that we've had and the increases to revenue this year, we should not have the same Prop 98 educational requirements at the end. We would have resources that we can apply more on a one-time basis than on a sustained basis.

Mayor Holman: Thank you for that. Before we go to Director Fong who has some comments to make, and we have one member of the public who wants to speak, some of us haven't seen you since yesterday. Nice to see you again.

Senator Hill: It's good to see you too. Thank you.

Mayor Holman: Nice to see you again. I'd be loathe if I didn't give you a couple of minutes to talk about some of the things that you've accomplished in the nearer term. I know you've been very active in dealing with antibiotics. We had a conversation what—gosh, it's been closer to a year ago now—about antibiotics and cattle. Maybe you'd like to just recap a little bit of the accomplishments that you've achieved this last year.

Senator Hill: That's nice. Thank you very much. It was a very good year for me. We had 20 bills that were passed through the Legislature and 18 of them were signed by the Governor. They were in a number of areas. A couple of those that were most important. One is the use of biosimilars. We talk about antibiotics. Right now the issue of biologics—there has been the development of biosimilars which are similar to generics only there are no such things as generics for biologics. They are close to but never the same. That's why they're similars. In California you could not prescribe a—a pharmacist could not substitute a biosimilar for a biologic at a lower cost, because the law would not allow it. The bill that I had will now allow for the substitution of biosimilars in healthcare. The antibiotic-resistant—I followed for the last few years this very serious issue that 70 percent of all antibiotics in the country are used in farm animals and agriculture. They purchase them at a feed store without a prescription. They can apply it in water and in feed. It's been used as growth stimulating. They use it as preventative

and prophylactic for animals. Rather than to treat a disease or a bacterial infection, they use it for prophylactic methods. That has been why one of the reasons has determined why we're getting so many antibiotic-resistant bacteria that have killed about 23,000 every year and have injured and people suffer, about 2 million. We were able to work this year with the agriculture community and with environmental community and had legislation that now will become law January 1st which will require a prescription for every use by a veterinarian. No longer can they purchase it in a feed store. No longer can they administer it for prophylactic use unless it's for a specific reason that has been identified by a veterinarian, so his license or her license is now responsible for the prescribing of antibiotics in agriculture. Hopefully we'll see a change with that. I've also had, because of this issue, a stewardship program adopted that went into effect last year that in every hospital in California there has to be an antibiotic stewardship program to manage the use and the prescribing of antibiotics to make sure that they are done in a way that's important. Another just a couple of little bills. One of the reasons that you never see many AEDs, automatic external defibrillators, in office buildings—you see very few of them. You'll see them in city halls and around there, but you won't see them in office buildings. The reason for that is that the liability for the building owner and the business owner was extreme, and there was so many conditions and requirements on the placement of those. They had to be tested weekly or monthly, had to have someone trained in the building. A physician had to be on—I mean it was quite a bit. Working with El Camino Hospital, very closely with them, we were able to get legislation passed this year that made that much easier, and the business owners. We'll see many more of those in place. One bill that I was kind of proud of, that we fought hard on, is made in USA, the ability for products that are made in the USA or made in California. If you are a California manufacturer, right now that product has to be 100 percent made in the USA in order for it to be claimed made in USA, which makes good sense. You would think 100 percent made. There are certain products that are not available in the United States, certain things. There was a small young fellow who manufactured a product that was a light bar on off-road vehicles. He could not get one product-one diode was made elsewhere. He could not claim that. Every other state in the Union uses the Federal standard which is based on where it can come from. It really put California businesses at a competitive disadvantage when we weren't able to use the same standard; we used our own unique Now, you have to have 95 percent or 90 percent if it's not available in California and you can claim it's made in the USA after that. That will be, I think, helpful to businesses in California. Those are just a few of the bills. One that did not get signed and it gets to the utilities is a dig-in bill that we had. You probably saw the news over the weekend in Bakersfield, where a large backhoe near Highway 99, the fellow dug into the

ground and ruptured a very high concentration, 39-inch diameter gas line. That killed the operator instantly. There was a home near there; the family ran out. The parents were injured. The baby was saved. Someone either didn't call to find out where it was or they called and it was mismarked. We don't know that yet. That goes on every—we had someone in March of this year—in April, I'm sorry—in Fresno, the same accident where they dug in and killed someone. It goes all around the state because there's no set right now requirement or process of how you adjudicate that violation. At the end of the line, we've worked hard all year, had legislation and the Governor vetoed it. We're going to work with him to see if there's a way that we can—I think there is. He wants the jurisdictional authority to be with the Public Utilities Commission. No one has confidence in the Public Utilities Commission. That has been the problem with the contractors and the utilities and the telecoms in their dealings. They don't want to have to deal with the PUC. We had it tied to a new board within the contractors' license board that everyone agreed to. We'll have to work to continue that conversation. This is something that needs to be resolved, because people are dying because of that. That will be continued. Thank you for that opportunity.

Mayor Holman: You're very welcome. Thank you for all the effort that you make on our behalf. I think the antibiotics one and cattle is just a huge one that affects all of our health every day. I really appreciate that and all your other efforts. Director Fong, we've had the privilege of having Val working here in the City of Palo Alto for a number of years now. I apologize; I don't know how many years. We are sadly losing Val to retirement—nine years—in just a little bit. Val had some comments; Director Fong had some comments to make, Senator Hill.

Valerie Fong, Utilities Director: Thank you very much, Mayor Holman. I just channel City Manager Keene next to me, and I echo Council Member Scharff's thanks to you for all of your efforts over the past legislative session, in particular your support of our commitment to a carbon neutral portfolio. You know well it could have had some unintended cost impacts, because the State imposed a 50 percent renewable portfolio standard when we are already 50 percent large hydro in a wet year. Resulted in language in Senate Bill 350 that, one, encourages continued early action on the part of the City and, two, provides protection from runaway costs where the City is taking all the right steps to ensure a carbon neutral portfolio that is 50 percent or more eligible renewable. We look forward to working with you again next year on some cleanup language in Senate Bill 350 around integrated resource plan requirements that have some erroneous references and further efforts to give full RPS credit to distributed generation. We want to assure you that we'll continue to take the lead on environmental solutions

that show the value of early action and environmental stewardship. I think City Manager Keene has a comment or two.

James Keene, City Manager: Thank you. Madam Mayor, with your indulgence on this. Senator Hill, we want to thank you and recognize your efforts on behalf of our Utility and utilities in general just on utility safety As you well know, our Utility puts the highest priority on those issues. I think you're aware that we're currently in a relationship challenge with PG&E right now related to some of their work related to their transmission pipelines and the impact it has on trees in Palo Alto, to the point where I think initially we were hearing about 600-plus trees, most of them on private property, needing to be removed as part of their sort of safety issue. It's now down to under 300, I think, private trees and about 56 City trees. We've had a disagreement with them about the approach that they've used about the public outreach and actually have been advising some folks not to proceed with them at this point. We scheduled a special community meeting December 2nd with PG&E and our folks. We wanted to bring it to your attention and certainly hope we could rely on you and your staff as much as possible given your background in this event. If you had any observations or comments, not to put you on the spot right now, but happy to hear from you.

Senator Hill: If I could just respond. You're absolutely correct, and I've been following it in the press. I do want to work with you on the issue. The concern I have is it's hard to argue when they're doing something for safety when we were, certainly I was, very critical of their actions in the past when they were not concerned about safety. I think there is also the fear of an overreaction that may not be necessary under the circumstances. I think we have to look at what's the best practices, what are the historic practices elsewhere. I mean, this is not a unique problem or situation. I think what we need to do is look at and work together on this, if we can in the City, to see how it's been done elsewhere. We can talk about that. maybe do a little outreach elsewhere in the country to see how they've been able to maintain what's the threat, the risk analysis that's been done on that Just a compliment to Val and your Utility. I use it and bring it up constantly as a model for how I think all utilities in California, all utility and electric and gas service, should be provided to our citizens. It's the exact same way that Palo Alto has been doing it for many years. It's safe. It's reliable. It's inexpensive compared to what I'm paying where I live through PG&E. It's a much better model when that profit is not tied to the end of the day. We've seen the effects of that in drastic form. Thank you for the great work that you've done for the residents and the citizens of Palo Alto and for the Council who have led that charge.

Mayor Holman: Val, if you can get your head through the door when you're leaving here, have a good rest of your evening. We do have one member of the public who'd care to speak to this item, Sea Reddy. You'll have three minutes.

Senator Hill: Just to tell Val, if I could while the gentleman is coming up. We'll work on the next year and the 350 amendments and changes. Let me know and we'll talk about that. Thank you. Lisa's there, and we'll work with Sacramento.

Sea Reddy: Thank you, Senator, for being here. You're a great asset to us. Karen, thanks for letting me speak for a minute or two. First things first. I think it was totally cowardly to have people killed, innocent people killed, in the other part of the world. I think you'll agree with us that that is very sad, very sorrow. We are going to remember it for a long time. I think we need to do what we need to do to help them heal as well as heal ourselves. On that tone, I do want to ask you. I work in southern California, national assets by the beach communities here. In the '50s and '60s and '70s, we had the conflict with Russia and all that. We were being watched as to how to protect our assets. Now, we have national assets here in the Bay Area for all the IP work we do. I hope you have some influence in preparing us for anything that we don't want to hear, of course. I hope you get people ready for things we need to do to prevent any of these things. I hope you have that in mind. I don't really need you to help me to elaborate all that. That's one thing I wanted to ask you. The second thing is more important, High Speed Rail. Who really needs High Speed Rail? Many of us, we don't want it. We don't want every 20 minutes to be woken up by a big bullet train. We especially don't want anybody to come here from LA in three hours. We want them to come as slowly as possible, if they want to come here. There are airplanes; there are other things. We'll have a beautiful Caltrain. How do we sabotage this whole project? I mean, I'm sure you can't help me on that. The sentiment is we don't need it. We absolutely don't need it. We're improving slowly and steadily. We need to do things we need to do. There is enough public transportation at hand that we need to fix. We don't need to dig up our environment where we have a potential for earthquakes and things like that. Please keep that in mind. I really think we need to think through to see do we really have a project that's already decided and who decided it, how we decided, how do we stop it. In LA, there used to be a thing called 105 freeway that ran from the middle of the east-west side to LAX. It took ten years for Jerry to get it restarted—I mean Jerry Brown—in the '70s. I think we can delay this one too. If they want it, they can have it 50 years from now, but not on our watch. Thank you.

Senator Hill: Thank you. If I could just respond to a couple of things. On the High Speed Rail issue, I think time will tell. When the Governor's tenure is over in 2018, there may be a new conversation around this. It may not have the legs that it has, the wheels I guess, after that. I will let time tell. In terms of the security and the other things, you raised an excellent point. There's a new book by Ted Koppel. I haven't read it yet, but it's related to something that was a concern of mine last year. When the substation in San Jose was shot in the middle of the night, someone attacked the substation. There was very little security. They shot through some transformers; it destroyed them. The fear that I have and that we will be working on this year is the security of the grid. That is something that a concerted effort around the country or in the west coast could put the power out for weeks or months at a time with—I hate to say it—not a lot of effort. A concerted effort by someone could create some real problems. I think the utilities are now taking it more seriously. PG&E is. I've been by that substation recently, and it is now almost a fortress, which it should be. transformers are very expensive, one. Two, they're not available; they have to be manufactured because they're so large and important. We want to really work on that security system this year to make sure that that part is something that we can depend on. Thank you.

Mayor Holman: Senator Hill, thank you for coming this evening, spending time with us and sharing your thoughts. You know you're always welcome here. Thank you so very much.

Senator Hill: Thank you very much. It's a pleasure, Madam Mayor. Thank you. Council Members, thank you. It's great to see everyone tonight. Thank you all very much.

Agenda Changes, Additions and Deletions

Mayor Holman: Council Members, the next item on our agenda is Agenda Changes, Additions and Deletions. I believe we have Item Number 7 which, I believe, Staff is pulling. Is that correct, City Manager?

James Keene, City Manager: Yes, Madam Mayor. We had gotten some additional questions and concerns about that item. I felt if we just pulled it off the agenda, added some more information to it, we would bring it back on Consent on December 7th with the expectation that we would effectively answer those outstanding questions and not require you having to have an agenda item discussion on an action portion of an agenda.

Agenda Item Number 7- Adoption of a Resolution Revising the Citywide Records Retention Schedule... removed from the Agenda at the request of

Staff to be heard on December 7, 2015 with changes as outlined in At Place Memorandum.

Mayor Holman: Thank you for that.

<u>City Manager Comments</u>

Mayor Holman: Our next item on the agenda is City Manager Comments. Jim, back to you.

James Keene, City Manager: Thank you, Madam Mayor, Members of the Council. I did want to call out to attention that this morning we raised the French flag at half-staff, at the same level as the American flag, as the President had instructed to be the situation until Thursday and as a way to show our support to the people of Paris following the terrorist attacks last weekend. As you now, we have some especially close ties to France through our Sister City Albi which is situated in southern France on the Tarn River 50 miles from Toulouse. I did want to thank Council Members who asked me about the French flag this weekend, in particular to thank Lon Peterson in Claudia Keith's office who not only helped with the photo and everything this morning. If you came in or if you leave through the main foyer in City Hall, on the big screen we've got up a couple of photos with the tricolors of France and pictures of our City in support for the folks in Paris and in France. Thanks to the Staff for that. I've reported on these before, but just since we're getting very close to them. There are a couple of community meetings we just again want to remind our community about. First again, this Wednesday, November 18th, we are hosting a public community meeting related to the site assessment for a new Public Safety Building on Lot C6 and C7 between California and Sherman Avenues. We'll be bringing that back to Council for discussion and approval next month. There's a dedicated webpage for the project which is cityofpaloalto.org/publicsafetybuilding. Ιt will have more meeting information and a current draft of the presentation. That will be at Escondido Elementary School Wednesday, November 18th, from 7:00 p.m. to 9:00 p.m. I think especially importantly on Thursday, November 19th, the San Francisquito Creek Joint Powers Authority in partnership with East Palo Alto, Palo Alto, Menlo Park, San Mateo County Flood Control District and Santa Clara Valley Water District, which comprise the membership of the Joint Powers Authority governing body, is hosting an important community meeting from 7:00 to 9:00 p.m. at Lucie Stern to talk about what has been done to reduce flood risks; sand bags, when, where and how do people get them and place them; as well as highlight the new flood warning site; and just have a general dialog related to the potential El Nino winter. Speaking of sand bags, we had a very successful sand bag day yesterday at the

Municipal Services Center on East Bayshore. We loaded approximately 1,700 sand bags into cars, not only with City employees but we had Explorers and volunteers from the Rotary Club helping provide this service. So far this winter we have provided over 10,000 filled sand bags to the Last year during the severe storms we had in December which seemed to be a precursor to a wet winter that never really arrived, we provided approximately 16,000 filled and loose bags in a 24-hour period. We're on track to surpass that mark, and it's only early November. continue to restock our supply and inventory at the three identified sand bag stations, Rinconada Park, at the MSC and at the Palo Alto Airport. For more information, folks can check out the website cityofpaloalto.org/storms. I did want to just share that Palo Alto tomorrow and the next day will be hosting the cities of Cambridge, Massachusetts, and Santa Monica, California, on Tuesday and Wednesday with other guests from Boulder, San Jose, San Francisco and the Carbon Neutral Cities Alliance in a (inaudible) learning exchange to explore the development of a zero net energy policy. exchange was organized by our Office of Sustainability and funded by the Urban Sustainability Directors Network. Discussion will include the challenges and successes Cambridge has faced during their development and adoption of its Net Zero Action Plan and evaluate barriers and solutions to net zero energy policy development. As most of you know, last Friday the City hosted the fourth annual Building Carbon Zero California Conference. We thank Mayor Holman for delivering the opening address and speaking to our City's strengths and leadership in green building. Along with Passive House California, the City brought together experts to discuss carbon reduction strategies for buildings, cities and regions. The keynote address was delivered by Dr. Diana Urge-Vorsatz, lead author of the Nobel Prize winning report from the Intergovernmental Panel on Climate Change. Her presentation was live-streamed to Vienna where a simultaneous event was taking place as part of former Vice President Al Gore's Climate Reality The conference also brought together members from all departments of the City to have an open dialog about our future and green building. On Saturday, conference attendees were invited to join Former Mayor Peter Drekmeier on a bicycle tour of passive energy efficient homes in Palo Alto. Along those lines, more to come on this, but we are pointing towards a community sustainability summit on January 24th at Jordan Middle School from 1:00 to 5:00 p.m. It will be part of our Our Palo Alto initiative and focus on sort of the background work to precede our Sustainability and Climate Action Plan. I'll have more to report on that. With the approach of the Thanksgiving Holiday next week, a couple of fun events to be sure to put on calendar to kick off the holiday season. This Saturday, November 21st, from 11:00 a.m. to 5:00 p.m., you can join the artists of Cubberley Artist Studio Program in Wings E, F and U at the Cubberley Community Center as they open up their working studios during

the Annual Holiday Open House. In addition to meeting artists in their studios, visitors of all ages will have the opportunity to engage in art making and participate in hands-on workshops. The Holiday Open House celebration will feature drop-in tours and special teen MakeX exhibition also curated with artists. Those of you who walk past Lytton Plaza will see that the holiday tree is up in Lytton Plaza, yet unlit. The fifth annual Holiday Tree Lighting will take place on Friday, December 4th, from 4:00 to 7:00 p.m. on Lytton Plaza. This is always a fun family-centered event. We encourage folks to come Downtown for that. That's all I have to report.

Mayor Holman: Thank you for all of that.

Oral Communications

Mayor Holman: Our next item on the agenda is Oral Communications. I want to thank our friends at SEIU for coming back to speak at this time under Oral Communications. With that, you'll each have three minutes. We have 11 speakers at this point in time. We have Lynn Krug, to be followed by Joseph Duran. If you would, when you hear your name called, if you would come down to the front, that will help save us a lot of time and be very efficient. Thank you. Welcome, Ms. Krug.

Lynn Krug: Good evening, Mayor Holman and Palo Alto Council Members. I'm the chapter chair of the SEIU unit of full-time I'm Lynn Krug. employees. We're here tonight to introduce ourselves again to you. We're in negotiations now. We carry the institutional knowledge, the dedication to service and the respect for the City and its residents. We are the face of Palo Alto. We're the people that interact. We're the people that answer and Ourselves and our families depend on these jobs, so we are dedicated to our service to the City of Palo Alto. Tonight I'd like to read to you a gentleman's speech who wasn't able to attend. We have public safety dispatchers who are also part of our unit. I'm going to read on behalf of Mark Chase. One of the most important functions of my job—this is Mark speaking by the way. One of the most important functions of my job is keeping the citizens and the visitors of Palo Alto safe and secure. dispatch center in Palo Alto provides a wide variety of services. We are the dispatch center for Palo Alto Police and Stanford Department of Public Safety. We also dispatch for the Palo Alto Fire Department and provide medical dispatching instructions before paramedics arrive to the scene. We can help a bystander give CPR, stop bleeding or deliver a child amongst many other things. In addition, the dispatch center also provides 24-hour dispatch services for the different Utility Departments throughout the City, water, gas, wastewater and electric. Finally, we are the 24-hour dispatch center for Palo Alto Animal Services which provides service for three local

cities including our own. Our dispatch center is a 24-hour operation serving residents days, nights, weekends and holidays. A resident is always able to get a hold of a City employee with no voicemail tree when they call us. Here are some calls Mark personally handled in recent days: a motor home fire, an elderly resident who had stopped breathing, a woman who went into labor at 40 weeks of pregnancy, vehicle accidents, bicycle accidents, a woman stuck in an elevator, citizens concerned about traffic at their local schools, an intoxicated man trying to break down the door of an occupied resident's home and more. Mark provides quality public services as do all the other dispatchers to all the residents and employees that utilize the dispatch center. When you are asleep at 4:00 a.m., Mark and his colleagues are at work in the dispatch center keeping the community safe. Their experience and knowledge of the City is invaluable, especially when he is training the next generation of City employees. For all our jobs, institutional knowledge is key. Thank you very much.

Mayor Holman: Thank you. We do discourage emotive comments of any sort, positive or negative, so that it's kind of an even playing field for everyone. Thank you for coming. Our next speaker is Joseph Duran. Again, if speakers could come to the front row, that would be helpful. The next speaker is Mark Chase, but it sounds like he is not present. Is that correct? Then our next speaker will be Diane Meyers, after Joseph Duran. Welcome, Joseph.

Joseph Duran: Thank you. Thank you for this time for letting me share a little bit about my department. My name is Joe Duran, that's what I go by. I work for Public Works Facilities. We are a team of 13, one manager, two leads, six mechanics, two painters, one carpenter and an electrician. We are all journeyman level in our trades. Palo Alto has over 130 buildings, 1.6 million square feet and 900 maintained pieces of equipment. The median building age is 50 years. Palo Alto has some older buildings, but we also have some new buildings. One of my favorite buildings is Mitchell Park Library and Community Center. This is a LEED Platinum Certified building. It boasts a living roof. It has solar panels, solar water heaters. It has a night sky system. The night sky system sprays water at night allowing the cool air to pre-chill water for the chiller which actually adds energy efficiency to the chiller, makes it work less. Rinconada is another building that has been upgraded recently. It has three geofields that help efficiently heat and cool the entire building. It works really efficiently actually. Palo Alto also offers electric car chargers. Our electrician has supplied electricity to these He also maintains them. He's also been retrofitting old light systems with new LED energy efficient systems. I'm really nervous right now. Our carpenter has renovated and constructed new office space. He's made patio shade for Rinconada Pool. When you come into Palo Alto, one of

the first things you notice is how many trees are here. Something that you may notice is the graffiti. This is in large part due to the two painters that when they're not painting offices or accent walls, they help to keep Palo Alto beautiful. The care for these buildings is no small task. It takes a team with good leadership, a team that knows their buildings and has the expertise to do the job right. I like to say we can fix everything from the ground up. I love what I do, and I love to do it for the City I care for. We are just one spoke in the wheel. I hope to continue to provide the services Palo Alto deserves. Thank you.

Mayor Holman: Thank you, and thank you for your service. Diane Meyers to be followed by Aimee Bailey. Again, if speakers would please come to the front row, it would be most helpful. Thank you.

Diane Meyers: Good evening. I'm going to speak on a different topic. First, I would like to thank the representatives of the Council who came to the first neighborhood meeting that we had at Duveneck School. I appreciate also the participation of the City Staff who also participated in that meeting. It was really very informative, and it was a wonderful conversation. that process continues. I'd like to speak on something that was touched on at that meeting, and that was the air traffic noise. I came to this community in 1984 with my family. The reason we came was because we value the quiet that this City provides us. I live in the Triple El neighborhood which is just across 101 from the local Palo Alto Airport. I know that this evening you'll be touching on the topic of the airport. I wanted to register my concern about the noise that the airport and its air traffic produces. We are constantly reminded about the helicopters that are in training over our neighborhood. It has affected the joy that we have in being outdoors in our own backyard. It interferes with our quiet space that we have there. know that so much of the SEC controls what happens in and out of that airport, but I do know that the City of Palo Alto as the administrators for that airport does have some control. I ask that you please keep our interests in mind when you make decisions that do affect the airport and the traffic that travels through it. Thank you very much.

Mayor Holman: Thank you, and thank you for mentioning the neighborhood meeting. Actually our next one is December 3rd. Watch the City calendar for that. Aimee Bailey to be followed by Amy Christel.

Aimee Bailey: Thank you very much for the opportunity to speak. I'm Aimee Bailey. I'm a resource planner in the resource management group in Val's Utilities Department. I'm very happy to share a little bit about what I do. I'm one of five resource planners, so this is kind of representative work. I work mainly on local solar, and then emerging technologies and

sustainability. For instance, I lead the implementation of the Local Solar Plan which was adopted by Council on Earth Day of last year, including the development of a community solar program which would allow anyone within the community to go solar even those that may have a roof that doesn't face the right direction, live in a historic building, rent, maybe they live in a condo or maybe their roof is shaded by our beautiful urban tree canopy here. If you're a member of the Finance Committee, I'll be speaking to you all December 1st on a couple of solar items, specifically a recommendation for PV partners and then also some design guidelines for net energy metering, specifically the successor tariff program. The other half of my work is mainly emerging technologies and sustainability. For instance, I run the program for emerging technologies which is a program to help launch pilot projects for innovative products and services that will better use and manage energy, water and fiber optic services. Also, I perform some strategic analyses, for instance, related to cost effectiveness of residential fuel switching. That analysis underpinned part of the work plan that was presented on electrification recently. Those are just a few examples of what resource planners do. I think that these services are really kind of important for the community, specifically for helping the community meet the very aggressive sustainability goals that it sets for itself. This community embodies the value of embracing innovation. I love my job. I'm very happy to work here. We ask you, the elected leaders, to support your frontline workers by investing in quality public services and a fair contract that will help achieve that. Thank you very much.

Mayor Holman: Thank you. Amy Christel to be followed by Rita Vrhel.

Amy Christel: Hello, and thank you for the opportunity to speak tonight. I also thank all of the amazing people who keep the City running like a finetuned machine. Tonight I would like to speak to the obligations of this Council and the City as owners of Palo Alto Airport. The benefits of that airport are many, but they come with costs, very real costs. Noise pollution, the need for financial support in the way of maintenance. None of these costs can or should be ignored. I ask this Council, number one, to install noise monitors in the neighborhoods of this community. We need data to monitor the very real impacts of air traffic, both jets and general aviation traffic that is generated inside our neighborhoods, not just over the Bay or the airport. Number two, I would respectfully request the City to stop taking FAA airport improvement grants. Those AIP grants cost us any control over operations at Palo Alto Airport well into the future. By accepting those grants today, you are handcuffing future leaders and future residents of this The impacts of aviation activities involve impacts on the environment as well as enjoyment of life as you've heard tonight. Number three, I would like the City to really address the costs of maintaining the

airport and not give up our rights to control that airport by accepting funds. Maybe it costs, but let's face the cost. Number four, I would like transparency, greater transparency in matters related to Palo Alto Airport. For instance, I would like a reporting of noise complaints made to that operation. So far in the year of ownership, I've not seen one noise report made public. I know I complain. Also, I would like to have residents be informed of any requests or applications for new operations at the City of Palo Alto's Airport, new operations that will certainly, most certainly, have an impact on our lives. Thank you very much.

Mayor Holman: Thank you. Rita Vrhel to be followed by Esther Nigenda.

Rita Vrhel: Good evening. I'm here to talk about dewatering again. A lot was said tonight about climate change and sustainability. I don't think any sustainability can occur without looking at groundwater as a vital resource. I gave each one of you a copy of the groundwater supply feasibility study by Carollo Engineers which Keith Bennett referenced last week. I believe that he emailed you the list of his analysis of this report and an earlier report. I also wanted to call your attention to a really fantastic website put out by the US Geological Survey. It's usggov.ed. It talks about the entire water cycle. Of interest to me was infiltration, the way that precipitation becomes part of our aquifers and the relationship between the different levels of aquifers and groundwater. 713 South Hampton is still pumping. This is 18, 15, 16 days after the mandatory cutoff. I wanted to speak of something that is also of interest to our community which is This Thanksgiving Dinner which is put on by the Downtown Streets and Innvision Service Community. It will be on the 26th from 12:00 to 2:00. Leftover dinner will be on the 27th which is Friday from 11:30 to 1:00 p.m. This will occur at All Saints Episcopal Church, 555 Waverley Street. If anyone in the community has not participated in this wonderful event, you can go to the Innvision or Thanksgiving Dinner website. There's a list of foods that you can bring or prepare. All prepared food needs to be dropped off on Wednesday between 9:00 and 12:00. The Episcopal Church also contains the Food Closet. If you have any cans or other foods that you would like to donate, that also can be done at the same time. Thank you.

Mayor Holman: Thanks so much. Esther Nigenda to be followed by Phil Harsh.

Esther Nigenda: Good evening. First of all, I want to thank City Council for the approval of the incorporation of climate protection, climate adaptation and sea level rise in the Land Use and Community Design Element of the Comprehensive Plan. Pardon my ignorance, but I hope this directive of incorporating climate change applies to the whole Plan, especially Goals 3

and 4 of the Natural Environment Element which refer to our urban forest and the protection of our water resources. FEMA Director Craig Fugate says droughts have the potential of all the hazards we face to be the most destabilizing, both to our nation and to the Earth because of food shortages, food insecurity and water wars. The USGS says groundwater is among the nation's most important natural resources. It provides half of our drinking water and it is essential to the vitality of agriculture and industry as well as to the health of rivers, wetlands and estuaries throughout the country. Large scale development of groundwater resources would accompany declines in groundwater levels and other effects of pumping has led to concerns about the future availability of groundwater to meet domestic, agricultural, industrial and environmental needs. I'm an Emergency Services volunteer. Some of you might have seen the disaster management cycle which includes mitigation, preparation, recovery and response. only for myself as an Emergency Services volunteer, I take Director Fugate's warnings seriously. I believe that saving Palo Alto's groundwater falls in the categories of preparedness and mitigation for future droughts. That is why I joined the organization Save Palo Alto's Groundwater. Our group, Save Palo Alto's Groundwater, is no longer asking for a study to determine the effects of dewatering for the construction of basements. We are requesting that the City change its policies to reflect the fact that with climate change dewatering is a gift to a few homeowners that our City can no longer afford. September 8, 2015 was Protect Our Groundwater Day. Policy N-18 of Palo Alto's Comprehensive Plan states protect Palo Alto's groundwater from the adverse impacts of urban uses. It is our hope that the implementation of City policies will truly protect our groundwater. For more information about dewatering and related issues. please visit our website savepaloaltosgroundwater.org. Thank you.

Mayor Holman: Thank you. Phil Harsh to be followed by Winter Dellenbach.

Phil Harsh: First of all, I'd like to thank you all for allowing me to speak here. Secondly, I'd like to thank you for organizing, maintaining and encouraging one of the finest Fire Departments in the country and one of the finest Police Departments in the country. I'd just like to speak very briefly to three points that have come to my attention since Friday the 13th. One is that Palo Alto Fire Department no longer has a rescue truck. It may not be critical to the City's needs right now, but in the case of a big emergency it would be very useful. Secondly, in light of what happened and how quickly it happened in Paris, I think it would be helpful, if it's possible, to build a new police station that's a little more hardened than other police stations in this area, so that our police are protected and also to encourage a defensible perimeter around the new police station, if that's possible. Thirdly, I think it would be advantageous if our emergency departments could have more

modern communication equipment. This isn't a simple matter, because it's necessary to get approval. If digital radios that could not be listened to by any of our adversaries were in their hands, things might be a little smoother. I think all of these three points are not only local issues, but they're national issues in that this is the heart of the Silicon Valley. Everything that happens here in a big way influences the whole nation. I think there's some responsibility for the City to pay for these things. I think the greater responsibility in my view is for the Federal Government. Thank you.

Mayor Holman: You're welcome. Winter Dellenbach to be followed by Herb Borock.

Winter Dellenbach: Hi. I live in Barron Park, and I'm really glad to do this while there are so many Barron Park neighbors of mine here. It's time for Posada. You're all invited to Posada, everybody at Stanford, everybody in Palo Alto. Buena Vista fourth annual community Posada. We're going to have a really good time. The famous Barron Park donkeys will be there from 4:30 to 5:30. Anyone who wants to spend quality time with the donks, that's the time to do it. Of course, we will do the annual procession that's the traditional part of Posada, where we all as a community come together and support each other, looking for shelter, for a place to stay the night. How appropriate in Palo Alto to be looking for housing. The folkloric dancers from Raices de Mexico will once again, the girls in their really colorful outfits, be dancing. Some of these girls live in Barron Park, and some of them live at Buena Vista. It's always very sweet to see them dancing for their community. Afterwards, of course, there will be tons of homemade tamales and enchiladas and all kinds of things to drink. It's just going to be so much fun, and everything lit up and really pretty. Please everybody come, 4:30 to 5:30 for the donkeys, 5:00 to 9:00 for Posada. There'll be some greetings, I've heard, from some City officials, perhaps a County official. A good time will be had by all. Everybody come to Posada.

Council Member DuBois: Which day?

Ms. Dellenbach: December 5th. Thank you so much. Saturday, December 5th. It's coming right up. December 5th.

Mayor Holman: If you haven't been before, the Posada is a pretty amazing event. Who doesn't love the donks? Herb Borock to be followed by our final speaker, Stephanie Munoz.

Herb Borock: Good evening, Mayor Holman and Council Members. Five weeks ago you adopted some actions related to the rail issue, including having the Mayor reappoint the City Council Rail Committee. The Rail Committee, when it existed, was a committee that was always subject to the

Brown Act even before it was included as a Standing Committee in the Council's procedure manual. Since that action five weeks ago, I haven't heard anything about the Committee, who's appointed to it or whether it's having any meetings. It's important because there are issues that are coming up on rail. For example, I believe tomorrow is the High Speed Rail Authority Board's meeting which includes the awarding of the contract for the contractor to do the environmental review for the San Francisco to San Jose section of High Speed Rail. As far as I know, the schedule is still to complete that environmental review by the end of next year. I'm not aware that it takes into account one of the other items that was approved five weeks ago which was to have the Staff and Mayor convey to the High Speed Rail Authority that the timeline of the Environmental Impact Report should be adjusted to include adequate timing for the EIR and adjusted for time needed to fully integrate context sensitive solutions in that process. Secondly, there's another item that's come up related to High Speed Rail. That is that there has been a proposed statewide initiative submitted to the Attorney General for the 30-day public review. It's titled the New Surface Water and Groundwater Storage Facilities. Included in the language of that proposed measure is to reallocate \$8 billion from High Speed Rail bonds to this Surface Water and Groundwater Storage Facilities Act. I think it would be appropriate for that to be reviewed in the public process to be able to decide whether to make comments about that initiative by the deadline which, I believe, is December 13th. In terms of what happens at the High Speed Rail Board, they're required to have, under the Bagley-Keene Act, the ten-day advance notice of their meetings and their agenda items. There clearly is enough process time there to schedule Rail Committee meetings and make recommendations to the Council for anything that's on that Board's meeting as well. Thank you.

Mayor Holman: Just quickly for public information, the Rail Committee is comprised of Council Members Burt, Scharff, DuBois and Berman. Maybe the City Clerk could get that on the City's website as to Committee configuration.

Beth Minor, City Clerk: Yes, I will.

Mayor Holman: Thank you.

James Keene, City Manager: Madam Mayor, if I just might say something before the last speaker and before folks leave. On the issue of dewatering, we'd previously announced that the Policy and Services Committee was going to take that up at its evening meeting on December 8th. That meeting has been rescheduled to December 1st. We'll be taking that item up before Policy and Services on the evening of December 1st. Thanks.

Mayor Holman: Thank you for the update. Our final speaker under Oral Communications is Stephanie Munoz.

Stephanie Munoz: Hi. Like one of those previous speakers, I'm grateful for the opportunity to talk and thank you. I wanted to remind you something about consistency and the law and the Constitution. I know many of you are lawyers. That gives you a special interest and a special need and a special responsibility to protect the law which is the Constitution. The main thing about the Constitution as far as the rest of us are concerned is that the amendments to it aren't prescriptive. They are proscriptive. concerned because the people that wrote them out came from authoritarian and totalitarian governments. The governments could just do anything they damn pleased. They didn't want that for us. What we find as our society progresses, especially with capitalism, is that people pay lip service to the idea of being equal and that everybody be equal is not really possible. I don't mind that I get bone china and somebody else has to eat off a paper That doesn't bother me. When it gets to the point where some people don't have any home at all, that bothers me. Robert Reich used to be Secretary of Labor has written a couple of books. One's called Saving Capitalism. The point that he makes is that certain forces in the society are able to have laws made which favor wealth. I don't think any of you have any prejudice against poor people. I really don't. I know you. The way these laws work out is like this. Over in Hawaii we had a situation similar to Buena Vista. The native poor people owned the land on which the City of The wealthy people or the middle class people rented from them. The Legislature of Hawaii passed a law that the owners, that is these Hawaiians, brown-skinned people, had to sell their land to the wealthy middle-class white people who had the houses on them. This has not happened in Buena Vista. It's very clear that it's because of the money discrepancy between the people. It's not so much that you have anything against poor people. Give it some thought. Thank you.

Mayor Holman: Thank you. With the Council's indulgence, just a couple of quick acknowledgements. You probably have noticed this evening at the Council's desk there are actually three people. Jessica Brettle, the new Assistant City Clerk, has joined the table this evening. Welcome to you, Jessica, for your first Council meeting. At the rear of the room, some of you may have noticed the last several weeks that there is a young man, John Burton, who has been studying at the feet, if you will, of Vince Larkin who announces the Council meetings. Thank you, John, for your dedication to listening to our meetings and interest in public service.

Minutes Approval

3. Approval of Action Minutes for the October 5, 13, 19, 26, and November 2, 2015 Council Meetings.

Mayor Holman: With that, we then go to Minutes Approval. Council Members, these are the Action Minutes for the meeting of October 5, 13, 19, 26 and November 2nd. Could we have a Motion please?

Vice Mayor Schmid: Move approval.

Council Member Berman: Second.

Mayor Holman: Motion by Vice Mayor Schmid, second by Council Member Berman, to approve the Minutes.

MOTION: Vice Mayor Schmid moved, seconded by Council Member Berman to approve the Action Minutes for the October 5, 13, 19, 26, and November 2, 2015 Council Meetings.

Mayor Holman: Vote on the board please. That passes unanimously.

MOTION PASSED: 9-0

Consent Calendar

Mayor Holman: We then go to the Consent Calendar. We do have some comments here. As mentioned previously, Item Number 7 has been pulled by Staff. As noted in the agenda, Item Number 13 has been continued to December 7. Council Member Burt.

Council Member Burt: Excuse me. I would like to move to pull Item Number 9.

Council Member DuBois: Second.

MOTION: Council Member Burt moved, seconded by Mayor Holman, third by Council Member DuBois to remove Agenda Item Number 9- Approval of a Seven Month Contract With Cypress Security... from the Consent Calendar to become Agenda Item 13A.

Mayor Holman: Item Number 9 has been pulled. I believe we can hear that this evening. It's just a quick comment—Council Member DuBois. It's just a quick comment we want to make on that one, I believe.

James Keene, City Manager: We can hear that one tonight, yes.

Mayor Holman: Yes, indeed. Council Member DuBois.

Council Member DuBois: I'd like to move to pull Item 8 from Consent to a date uncertain.

Mayor Holman: I will also vote for that.

MOTION: Council Member DuBois moved, seconded by Mayor Holman, third by Council Member Filseth to remove Agenda Item Number 8- Approval of a Record of Land Use Action... from the Consent Calendar to be heard at a later date.

Mayor Holman: Item Number 8 has been pulled and continued to a date to be determined. Anybody else? Then we will move Item Number 9 to be Item Number 13a. On the Consent Calendar then, Items Number 4, 5, 6, 10, 11, 12, 13 with Item Number 8 pulled and Item Number 9 becoming the new Item 13a.

MOTION: Mayor Holman moved, seconded by Vice Mayor Schmid to approve Agenda Item Numbers 4-6, 10-13.

- 4. Approval of Change Order Number Three to Contract Number C15157253 With Daleo, Inc. Extending the Contract Term to January 6, 2016 and Adding \$190,000 for a Total Not to Exceed Contract Amount of \$4,599,031, to Provide Emergency Water Main Replacement Work on Kingsley Avenue.
- 5. Resolution 9559 Entitled, "Resolution of the Council of the City of Palo Alto Approving the City of Palo Alto's Continued Participation in the Mortgage Credit Certificate (MCC) Program Through the County of Santa Clara."
- 6. Approval of Amendment Number One to Contract Number S14152214 With Toubar Equipment Company Inc. in the Amount of \$600,000 for Closure Maintenance Assistant Services at the City of Palo Alto Landfill (Capital Improvement Project RF-11001, Landfill Closure).
- 7. Adoption of a Resolution Revising the Citywide Records Retention Schedule and Repealing Resolution No. 8688.
- 8. Approval of a Record of Land Use Action for a Variance to Allow for a Reduction in the Required Front Setback (Contextual) From 37 Feet 1-1/4 Inches to 32 Feet for a New Two-Story Single Family Residence Located at 224 Churchill Avenue.

- 9. Approval of a Seven Month Contract With Cypress Security, Inc. Not to Exceed \$439,441.84 for "Track Watch" Contract Security Services.
- 10. Ordinance 5359 Entitled, "Ordinance of the Council of the City of Palo Alto Amending Chapter 18.79 of Title 18 (Zoning) of the Palo Alto Municipal Code Regarding Development Project Preliminary Review Procedures (FIRST READING: October 26, 2015 PASSED: 9-0)."
- 11. Ordinance 5360 Entitled, "Ordinance of the Council of the City of Palo Alto Amending Section 2.28.080 (Amendments after Adoption) of Chapter 2.28 (Fiscal Procedures) of the Palo Alto Municipal Code (FIRST READING: November 2, 2015 PASSED: 9-0)."
- 12. <u>Budget Amendment Ordinance 5361</u> Entitled, "Budget Amendment Ordinance of the Council of the City of Palo Alto Authorizing the Reappropriation of Fiscal Year 2015 Funds to Fiscal Year 2016."
- 13. PUBLIC HEARING Certification of the Final Environmental Impact Report (FEIR) and Approval of the Record of Land Use Action to Allow Demolition of Four Existing Structures Totaling 265,895 Square Feet and Construction of Four Two-Story Office Buildings Totaling 265,895 Square Feet of Floor Area With Below and At-Grade Parking and Other Site Improvements Located at 1050 Page Mill Road. Zoning District: Research Park (RP). Environmental Assessment: An Environmental Impact Report has Been Prepared (Staff Requests This Item be Continued to December 7, 2015).

Mayor Holman: That said, vote on the board please. That passes unanimously.

MOTION FOR AGENDA ITEM NUMBERS 4-6, 10-13 PASSED: 9-0

Action Items

13A. (Former Agenda Item Number 9) Approval of a Seven Month Contract With Cypress Security, Inc. Not to Exceed \$439,44 for "Track Watch" Contract Security Services and Adoption of a Related <u>Budget</u> Amendment Ordinance 5362.

Mayor Holman: Council Member Burt, to Item Number 13 a, the prior Number 9.

Council Member Burt: I support the funding of this contract. The reason I wanted to pull it was to be able to look at when the Council can review essentially the source of funds. As it's currently written and agendized, it

would be from the Stanford Medical Center Development Fund for Health Services and Safety, which is something that we had identified \$2 million of that fund toward Project Safety Net. I think the uses of that fund toward Track Watch and our City's share of the fencing are very important measures, but I think they should come from the General Fund and reserve the dollars in the Stanford fund toward continuing support for Project Safety Net. My question would be of the City Manager, if we approve this tonight, how can the Council in the nearer term be able to have a consideration how to perhaps backfill the Stanford Community Health Fund to keep those dollars dedicated toward Project Safety Net.

James Keene, City Manager: Thank you, Madam Mayor, Council Member Burt. First of all, we would really need to have the Council's approval tonight to use the funding as proposed and a Budget Amendment Ordinance so that we could initiate the new contract effective December 1st. being said, I know that some of the concern would be that, one, Project Safety Net itself is a larger initiative than just the issues of means restriction to the track. Of course, the City has been contributing and then actually contributing funding to sort of the broader range of issues related to Project Safety Net. However, with this contract award, effectively the City would have allocated all of the authority of the \$2 million essentially that the Council has already approved. I would propose two things. One is that when the City comes back to the Council in the winter with the mid-year Budget review, that we would have the opportunity to identify funding sources in different amounts that the Council could use to essentially replenish the Stanford funds to whatever degree you thought would be appropriate when we do the mid-year Budget review. Tomorrow night, the Finance Committee will be taking up the CAFRA, the Comprehensive Annual Financial Report. In that report already, the year-end closing from the prior fiscal year identifies a lot of both under-expenditures in the General Fund and over-collection of revenues that are recommended for different uses, going in the Budget Stabilization Reserve, going in the Infrastructure Reserve, some suggested potential payments. There's a significant amount of funding there that certainly could allow the flexibility for a good discussion by the Council as a whole. Not tomorrow night, but post-that, when we get to the mid-year Budget review to give you the flexibility to look at options on keeping a large portion of the original \$2 million for Project Safety Net available for ongoing and future expenditures. In addition though—I've talked with some of our Staff—there could be a situation in the nearer term. For example, we're out looking at hiring a Project Safety Net Director. We anticipate, if that happens, bringing that person onboard and beginning their salary and support of those efforts. I think we have sufficient capacity in the nearer term between now and the mid-year Budget review to be able to handle any of those expenses within the departmental budgets. I have the

ability as City Manager to be able to move funding to ensure there would be no disruption, no slow down in any way at all on some of the other Project Safety Net efforts that we would have. I would propose that the Council approve the recommendation as put forward with the Staff coming back at the mid-year Budget review with proposed options for funding potentially up to all of the means restriction public safety expenditures that have been taken out of the existing Stanford funds over the past four or five years.

Council Member Burt: That sounds fine by me. Because the City Manager brings the Budget to the Council, I don't think that we would need a Council direction tonight given what the City Manager just stated. I'm satisfied with that commitment. I just want to say to colleagues that I think it's important as we're moving in Project Safety Net to hiring an Executive Director and looking at strengthening the collaborative nature of it, the collaborative partners really need to have a confidence that the City has an ongoing commitment to the program. I know that we do have that, and the City Manager has expressed that. This Stanford fund has been the principal funding source. With the way it looks in the Budget, it's not a clear enough commitment to those partners. Frankly, moving the dollars into this fund is another one of our essentially reserves. I look forward to the Council discussion on that.

Mayor Holman: Council Member Burt, as you were the initiator in pulling this, do you want to make the Motion then to approve the item?

Council Member Burt: Yes, that would be fine. I would move that the Council approve the seven-month contract with Cypress Security in an amount not to exceed \$439,000 for Track Watch security services and adoption of a related Budget Amendment Ordinance.

Council Member Scharff: Second.

MOTION: Council Member Burt moved, seconded by Council Member Scharff to approve a seven-month contract with Cypress Security, Inc. not to exceed \$439,441 for "Track Watch" contract security services and adopt a related Budget Amendment Ordinance.

Mayor Holman: Do you care to speak any further to your Motion?

Council Member Burt: Nope, thank you.

Mayor Holman: Council Member Scharff, to your second?

Council Member Scharff: I did. I just wanted clarification from the City Manager that in this process it'll come to Finance first. I think that's our usual procedure.

Mr. Keene: Is the usual procedure to go to ...

Council Member Scharff: I think so. I just wanted to ask because I wasn't sure.

Mr. Keene: ... with mid-year Budget review to Finance? As appropriate.

Council Member Scharff: You don't know?

Mr. Keene: I'm assuming—if it's our usual procedure, then definitely we would do that.

Council Member Scharff: That's what I thought. I was asking if it was. I thought it was, but I'm not sure. We don't know?

Mr. Keene: My recollection is we typically bring it to Finance. I mean, I would say ...

Council Member Scharff: That's my recollection too, but I just don't recall. All right.

Mayor Holman: Council Member DuBois, you had also voted to pull this. Do you have any comment?

Council Member DuBois: Just the one about we're in the process of trying to hire, so I think the optics are important. There's not a lot of runway for a new Director of Project Safety Net to get established and seek other sources of funds. I think we want to make sure it's clear that we support the program.

Mayor Holman: The Motion before the Council then is to approve the sevenmenth contract with Cypress Security Inc. not to exceed \$439,441.84 for Track Watch contract security services and adopt a related Budget Amendment Ordinance. Not a part of the Motion but agreed to by Staff was that they will bring forward options on funding sources as part of the midyear Budget review. With that, seeing no other lights, vote on the board please. That pass unanimously. Thank you, Council Members.

MOTION PASSED: 9-0

14. Review and Direction Regarding a Draft Ordinance Regulating Hazardous Materials Users and Sensitive Receptors Such as

Residences, Schools, Day Care Centers, Convalescent Homes and Similar Uses in Office, Research and Manufacturing Districts and Making Related Changes to Municipal Code Provisions Related to Non-Conforming Uses, as Well as a Draft Ordinance Regarding Amortization of Uses at Communications & Power Industries, LLC (CPI), 607-811 Hansen Way.

Mayor Holman: We now go to our first action item which is review and direction regarding a draft ordinance regulating hazardous material users and sensitive receptors such as residences, schools, daycare centers, convalescent homes and similar uses in office, research and manufacturing districts and making related changes to Municipal Code provisions related to non-conforming uses as well as a draft ordinance regarding amortization of uses at Communications and Power Industries LLC or CPI at 607-811 Hansen Way. Before we have the Staff presentation, Council Member Berman, did you have a comment you'd care to make?

Council Member Berman: Yes. Thank you very much. Just out of a kind of abundance of caution and transparency, I just wanted to flag something for the community and make a disclosure. One would have a conflict of interest if one either personally or their spouse or dependent children—City Attorney, correct me if I misstate this—if their earned income would be affected at all by a decision they'd make on the City Council. I don't have a spouse or dependent children, so that's not the case here and it's not the case for me personally. I do have a mom who is a realtor in town, and she has a listing on Chimalus. In my understanding and confirmation with the City Attorney, this is not a conflict, so I'm not conflicting myself out of this issue. I just wanted to flag it for the community and folks involved.

Mayor Holman: Thank you for that. Does Staff have a presentation?

Hillary Gitelman, Planning and Community Environment Director: Thank you, Mayor Holman and Council Members. I'm Hillary Gitelman, the Planning Director. I'm joined by Rod Young of our consulting firm AECOM. We're going to collaborate on the presentation this evening. First, I wanted to thank the others who have contributed to this agenda item including Joe Afong at the Fire Department, other City Staff in a variety of different departments. This evening, we're going to start with a review of the City Council's direction on this issue about a year ago. Then proceed with the rest of this outline. Some background information on CPI, a summary of the current Code provisions that relate to hazardous materials users, a summary of the proposed zoning revisions, and then a discussion of next steps. It's important to emphasize that we're not this evening asking for the Council to adopt an ordinance or ordinances. We've brought you two ordinances for

your early input and discussion. Based on your discussion this evening, we expect that at least one possibly both of those ordinances will need to be revised slightly, and then they'll have to go through the normal process that an ordinance goes through, a recommendation at the Planning Commission and come back to the Council for your review and consideration. As we'll explain in the course of our explanation, there were a couple of adjustments to the information in the Staff Report as we prepared for the hearing this evening, at least one adjustment to one of the ordinances before you. We'll go into that in more detail. Just to recap your direction from October of last First you asked us to prepare a draft ordinance for review by the Planning Commission and the City Council. You asked us to do it pretty darned quick, and it has taken us much longer than we anticipated. It's been a very complex set of issues that we've had to confront and deal with. First, you asked us to consider plating shops and uses similar to plating shops in development of an ordinance. You also asked us to broaden the current approach to identifying potential sensitive receptors or uses that might be incompatible with hazardous materials-type uses. You suggested this kind of tiered approach that ultimately took shape in the ordinance that we're bringing to you this evening. The City Council's direction came after discussion of CPI. We included in your Staff Report a chronology of some of the events having to do with CPI that brought this issue to the fore. We've included here just a Staff Report that shows how close the CPI facilities are to the adjacent neighbors. Here is another version of that chronology just explaining some of the events of CPI including the hazardous materials releases that happened in 2006, 2007, then Council's adoption of an ordinance to address hazardous materials users in 2007, the steps that CPI took to reduce their chemical quantities below the Title 19 or CalARP thresholds in 2012, and then bringing you up to the current day in 2015, our work with the consultants and outreach to interested parties which I'd like to say is still going on. We are still outreaching to some of the businesses now defined as Tier 2 under the proposed ordinance. There are two ordinances before you. The first one would define hazardous materials users in three Rod is going to go into some detail on that. It would also define sensitive receptors. It's important to know that the ordinance is kind of a two-way street. We're regulating hazardous materials users that are close to sensitive receptors, but we're also proposing to regulate sensitive receptors in industrial zoning districts that are close to hazardous materials users. In fact, I think the Council received a late email communication from someone who hopes to develop housing on a site immediately adjacent to CPI whose plans would not be feasible under the proposed terms of the ordinance. We're also proposing changes to the amortization section of the Code and a separate amortization ordinance that we can discuss further if you wish. With that, I'm going to turn it over to Rod who's going to talk

about the tiered approach and give you just a little more detail on how the Code would change and how we came up with the tiers that we've identified.

Roman Worobel, AECOM: Thank you, Director Gitelman. Members of the Council, thank you for inviting me to join and participate in the conversation tonight. Let me go ahead and start by explaining a little bit more of this notion of a tier, which really simply refers to a grouping or a classification of a land use type within one of your existing zoning districts. In this case, we're talking about the industrial or the manufacturing district. The tiers that are being identified and described for you tonight reflect different types and quantities of hazardous materials. That becomes the The City's existing hazardous materials regulations, basis for the tiers. which are found in Title 18 under the zoning regulations ordinance, identifies two such tiers; although, they're not specifically labeled as such within the ordinance. There is one tier that includes hazardous materials at quantities that are covered by the State Title 19 CalARP or California Accidental Release Program. Then there is everything else. Those facilities that fall into everything else are what we are identifying as Tier 1 for the time being. Tier 1 includes all facilities, gas stations, nail salons, hardware stores, etc., that have to file a hazardous materials inventory form per the City's regulations. Those regulations are specified currently in Title 10. They identify specific quantities at which point a business needs to come in and secure a permit from the City Fire Department and Planning Department. Of those—let me go ahead. In Palo Alto right now, as you can see on the chart, There really are no use limitations. we have two tiers. conditional use permits, etc., required of these Tier 1 uses. What has been required and what came about in the existing regulations, which are found at Code Section 18.23.100, is a notice. A notice has to be provided to residential uses and districts within 150 feet if a building permit has been issued, and that permit has been issued in order to (1) enable changes in the types or quantities of hazardous materials, and (2) those changes involve exceeding what we call the CUPA thresholds—I'll define those a little bit later—or they double the amount of hazardous materials at the site or an incident has occurred such as a release. Those are the conditions under which a notice occurs. That notice occurs within 150 feet of the business. In addition, for those businesses that reach this threshold, again the CUPA thresholds, there is a requirement to provide what's called the Emergency Contingency Plan. That Emergency Contingency Plan needs to be submitted to the Palo Alto Fire Department, and the Fire Department needs to approve that prior to the permit being issued. Just by way of information and for the benefit of the community, Tier 1 basically anything that requires a permit from the City related to hazardous materials, there are about 420 such facilities throughout the entire City. Of those that exceed what I'll get into as the CUPA thresholds, there are about 270 of those. The second tier, as I

mentioned, are those particular uses within the industrial zone. Actually at this point, we haven't even paid attention to whether it's in the industrial zone or not. What we've done is we've canvassed and we've inventoried and we've looked at all the hazardous materials inventory forms that have been submitted to the City regardless of where they're located, regardless of whichever zone they actually occur in. What we've identified as this Tier 2 are those uses that exceed Tier 3 as those uses that exceed the Title 19 CalARP thresholds. As far as we know right now, there are no businesses that exceed these thresholds based on the inventory forms that we've reviewed to date. As far as we understand, CPI was the last such business. When they reduced their quantities of certain chemicals, they fell below the Title 19 thresholds. Right now, there are no businesses that would comprise this third tier. Of interest is that the way the Code currently is written in 18.23.100, any such use that exceeds these Title 19 thresholds would be prohibited within 300 feet of any residential use or any residential zone, and a conditional use permit would be required for any other similar type use beyond that 300-foot distance from a residential area. In terms of noticing, when a business exceeds the Title 19 thresholds, they're required as part of the regulations to prepare something called a Risk Management Plan. The Risk Management Plan evaluates offsite consequences from different accidental release scenarios. That Risk Management Plan is expected to be available and provided to the Palo Alto Fire Department, and a notice is supposed to go out to those affected residences that would be within what they call the zone of effect or the area of potential concern within that Risk Management Plan. Those are the two existing tiers. Tier 1, pretty much everything. Tier 3, those that exceed the CalARP thresholds. What's new? What we are introducing is a new middle tier or Tier 2. What we are looking at is something that, per the Council's direction, combines the quantities and the types of hazardous materials onsite. We were looking at those inventory forms again and trying to identify and isolate the types of chemicals that produced the kind of health risk, the health concern or health effect, that are currently of concern within Palo Alto such as those presented by the plating shops. What we identified are a series of facilities that involve or have toxic or highly toxic chemicals. We've also identified a series of chemicals that are referred to as extremely hazardous substances. If we are then using those as the types of hazardous materials, then the corollary is sort of what quantities are we concerned about. Given that we already have a Tier 1 which makes mention of CUPA thresholds and the fact that we have a Tier 3 that mentions the CalARP thresholds, we're essentially looking for quantities that fall between those two bookends, if you will. The other thing that we were trying to introduce with this—not trying to, we did introduce with the second tier a similar noticing procedure and a similar reporting requirement to what you find already presented in Tier 1 and Tier 3. What we were trying to do was establish noticing and reporting provisions that respected

those two bookends, Tier 1 and Tier 3, and recognizing that the amount of chemicals and the type of chemicals that could occur in Tier 2 could be as high as those that are identified in Tier 3. What that meant to us is that the reporting and noticing requirements should be as great as Tier 3. present that in a chart in just a moment. From the Council's perspective again, what I wanted to do is just reiterate again this whole direction of trying to identify similar uses with similar hazards and acknowledge that, by reviewing the various inventory forms, we were essentially putting on blinders in terms of the locations and the types of different businesses. What we started to do was screen and look at those facilities with hazardous This is where we started with the roughly 420 different businesses within Palo Alto. The next step was to take a look at those types of hazardous materials that pose a human health risk. We are specifically looking at chemicals that produce a health effect, so there might be an acutely hazardous reaction within a relatively short time. What this would exclude are those types of facilities that might have physical hazards, flammables, corrosives, things like that. We are really zeroing in on those that create health hazards. In order to identify those again, we isolated those facilities that have toxic, highly toxic or extremely hazardous substances. I'll get to this note in just a moment. Finally, in terms of trying to identify the appropriate quantities, since we already had established quantities from Tier 1 and Tier 3, in CUPA and Cal ARP, we were identifying for Tier 2 a quantity of toxic, highly toxic or extremely hazardous substances that fell within those two quantity amounts. The important thing is that we have not gone out of our way to be particularly creative. We haven't introduced any new concepts, new definitions for hazardous materials, new classifications of hazardous materials. We've been very cautious and careful about relying upon existing definitions and classifications of hazardous materials. The notion of using toxic and highly toxic as a type of hazardous material of particular interest, it's really rooted in the Uniform Fire Code which has been adopted by the State of California and subsequently adopted but amended by the City of Palo Alto. The toxic and highly toxic substances have very specific definitions within the Fire Code, and they speak to the lethal dosage from various epidemiological studies and studies on laboratory animals. The other thing that's important about the toxic and highly toxic is that they also are consistent with the City's Building Code. The Building Code references toxic and highly toxic substances in a Building Code group called High Hazard Group 4. There are certain building requirements associated with these particular chemicals. The extremely hazardous substances are derived from Federal regulations, in particular Code of Federal Regulations Part 355, Appendices A and B. These are referred to as acutely hazardous materials in the City's Fire Code. summarizing what all this means in terms of going through all the various inventory forms, if you take a look at the types and quantities of hazardous

materials that we've identified, there are 14 similar facilities of concern. These are those that have greater than CUPA, less than CalARP and toxic, highly toxic or extremely hazardous substances, so 14 facilities. You saw earlier all those notes about possibly revising the regulations that Hillary referred to. We had some concerns about how the Tier 2 was being defined as it relates specifically to extremely hazardous substances. conversations with the City Fire Department, we're also recognizing that oftentimes they're very, very similar, so that when you capture things that are toxic or highly toxic, you're oftentimes covering a lot of things that are extremely hazardous substances. When you take a look at the net effect in terms of those facilities that would be captured by this Tier 2, the difference is if we eliminate extremely hazardous substances from the definition, we still have 13 facilities that would be included in Tier 2 by virtue of them being toxic or highly toxic at quantities greater than CUPA. I did want to point out that when we did this inventory and we looked at all the different facilities within the City, there are three facilities that occur in public facility zoning districts. There are two that are at the Stanford Medical facilities and there's also the Palo Alto Water Quality Plant. The reason we chose not to specifically categorize these with the other manufacturing uses is that these particular facilities provide essential facilities for public health and safety. The nature of the business and the nature of the process and the activities are very, very different from the others that are identified in Tier 2. Hillary mentioned, one of the Council's directions was to expand the breadth of populations that could be potentially affected by the regulations. existing regulations zero in on residentially zoned properties or residential Recognizing that the US EPA, public health officials, the CEQA documents that the City's familiar with, all of them make reference to a larger population group called sensitive receptors. These include different occupants of land uses that would be generally considered sensitive to exposure to hazardous materials. In this broader definition of populations that would apply in this new zoning regulations, we're looking at residences; schools, primarily elementary schools, to protect the youth; daycare centers and homes; homes for elderly, convalescent homes; and other similar type uses. The focus on the noticing and the reporting will expand beyond just the residential uses, but include now the sensitive receptors. I'll zip through these really quickly now. This really wraps up the presentation on the summary of the zoning regulations. Tier 1, as I mentioned earlier, there is a notice of 150 feet. There is no conditional use permit. requirements that prohibit any kind of Tier 1 facility in any location. The regulations aren't really changing as far as Tier 1 is concerned. The same thing applies for Tier 3. These are facilities that have amounts of hazardous materials greater than CalARP. Right now per the regulations, they're not permitted within 300 feet of the residential uses, and we would expand that to sensitive receptors. There is a requirement to notice because there is a

conditional use permit associated with these types of uses. Anything beyond 300 feet or away from a residential area requires a conditional use permit. They City's requirements for conditional use permits is a noticing of 600 feet. What we are introducing is this second tier now. As you can see on the chart, the Tier 2 regulations regarding noticing, the conditional use permits and what's permitted and not permitted within 300 feet of sensitive receptors would be the same as Tier 3. That was a whirlwind overview. I'd be happy to answer questions later.

Ms. Gitelman: Thank you, Rod. I'm going to try and wrap this up kind of quickly. I know we're taking more time than usual, but we thought it was warranted given the complexity of some of these issues. Let's cut to the chase and kind of get to the bottom line here. We've been doing some mapping of these 14 Tier 2 facilities. This is a map I hope you recognize from your Staff Report. With many thanks to Vice Mayor Schmid, we now have identified a complete universe of the Tier 2 uses that are within 300 feet of sensitive receptors. That includes three facilities at CPI and one facility called Target Discovery on Fabian Street. I should say that we are still working on outreaching to all of the 14 Tier 2 businesses. It's guite possible that some of the 14 may fall off this list. In fact between the community meeting on October 22nd and this evening, there were originally 15 uses; now there are 14. Rod was able to work with one of the businesses on the list and discover that they had been overly conservative in terms of how they filled out their inventory form. They didn't warrant being on the list. That's just to say this is still a little bit of a work in progress. Right now, we have four uses that would become legal and nonconforming under the terms of the proposed ordinance. I just wanted to take a minute and talk about what that term "legal and nonconforming" means. that applies to uses that were legal at the time they were established but are no longer in conformance with the existing zoning. Those uses that are legal and nonconforming generally can't be expanded or intensified. ordinance is adopted. Tier 2 facilities within 300 feet of sensitive receptors would fall into that category. It would also apply to sensitive receptors in industrial zones that are within 300 feet of Tier 2 uses. Importantly, we did not draft the ordinance so it would apply to sensitive receptors that are in other zoning districts. That's an important distinction that we can talk about a little bit more, if you wish. Generally, legal and nonconforming uses have a right to continue; although, they can be required to phase out or terminate if there's a process by which you establish a reasonable amortization period commensurate with the investment involved. If you look at the City's current zoning regulations, we do have some termination dates for nonconforming uses as well as a minimum of 15 years for amortization which we're proposing to amend that minimum standard to allow for sitespecific amortization studies like those that have been completed for CPI.

Just to refresh everybody's memory. Back in 2011 and 2012, there were two amortization studies performed looking at operations at CPI. The first was done by a consultant working for the City. It looked at the plating shop use specifically and the chemical storage area that supports that use. concluded that that use could be amortized over a 15-year period, and it was 15 years from 2011 which is how we got the year 2026 that's in the second of the two ordinances. The second amortization study was completed in 2012, was completed for CPI. It essentially argued that the plating shop couldn't be separated from the rest of the uses on the site. At Rod's direction, the folks at AECOM have reviewed these two studies and found them to be generally sound. There's a memo attached to your Staff Report that contains the full summary of their findings. Essentially, they thought these two studies were good for that they were intended to do. They made a couple of notes about how the findings of the studies might be qualified. The first was that the conclusion of the 2011 study by the City's consultant might need to be updated if there have been additional investments that have been made in the plating shop between now and We know there haven't been any building permits issued in that period, but there might have been other investments that we don't know about that could affect the timeframe and the value. The other points that were raised about the 2012 study included an observation that if technologies changed, this conclusion that you can't separate one use from the others might also change, and also that updated information about the value of the investments in the rest of the facility could affect the year that's identified for amortization or the overall schedule. The approach that we've taken in the ordinances before you is really to take both of these amortization studies at face value. That means that the ordinances would require the plating shop to relocate on the existing site 300 feet from sensitive receptors by the end of 2026. The 2026 date comes from the first amortization study; the fact that it would be still proximate on the site to other uses is consistent with the second amortization study. based on that second amortization study, the other uses at CPI would be required to relocate or terminate by the 2052 date that we got from the second study. I know that's a lot of material. What we're hoping for this evening is to hear from public comments, then City Council questions and comments and direction to Staff. We recognize that we need to complete a few revisions to the ordinance specifically to address the extremely hazardous substance portion of the definition, as Rod alluded to. We'd also like to complete our outreach to the potentially effected facilities including the Target Discovery facility. Our hope is that with your direction and these few steps we could bring an ordinance to the Planning Commission for their recommendation and back to the City Council for adoption early in the new With that, we're happy to get public testimony and then Council questions.

Mayor Holman: Thank you, Hillary. While this item is not a quasi-judicial item, I think there are some Council Members who wanted to make disclosures about their communications and contact with interested parties. Council Member DuBois.

Council Member DuBois: Thank you. I was invited and took a tour of the CPI facility including the plating shop about two weeks ago.

Mayor Holman: Council Member Berman.

Council Member Berman: I had a conversation with Leslie Guardino who's a consultant for CPI. I've also had conversations with members of the community who I won't name.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: I, like Council Member DuBois, was invited by CPI and also their representatives to take a tour of the facility and did so.

Mayor Holman: Council Member Kniss.

Council Member Kniss: I have spoken with the consultants on this including Leslie Guardino. I've also spoken with several of the residents who live close by.

Mayor Holman: Thank you. Council Member Burt.

Council Member Burt: Yes. I also had a conversation with two of the consultants for CPI.

Mayor Holman: Council Member Scharff.

Council Member Scharff: I just had conversations with everybody. I know I spoke with the CPI people. I spoke with Art. I spoke with Samir. I spoke with Leslie Guardino, and I spoke with all the people at the CPI meeting. I think there was five or six of them. I think I've just spoken to everybody.

Mayor Holman: Make me feel like a slacker. I was invited to and took advantage of a tour at CPI, and I've had conversation with a couple of members of the public. Thank you. With that, we'll now hear from the public. We have a number of cards. Our first speaker is Bob Moss. You'll have three minutes. Again to help us facilitate the meeting, if the next speaker would come to the front, it would be appreciated. Bob Moss is to be followed by Bob Fickett.

Robert Moss: Thank you, Mayor Holman and Council Members. First, I'd like to point out that over the years CPI has done an absolutely awful job of working with the neighborhood and the community. They haven't notified when there have been toxic spills. They haven't talked about changes in the facility. They haven't made any real effort to communicate with the public. If there are a lot of people who are really mad at CPI, it's primarily CPI's fault because they goofed. I thought the Staff ordinance was an excellent start, but I think it needs some tweaking. I'm sure the people who will speak will give you some suggestions about details. Let me give you just a couple. Right now the Fire Department does unannounced inspections at least annually. I think that after the Fire Department has done their inspection, they should have a community meeting and report to the neighborhood what they found, if there were any issues or any problems that they identified, what those problems were, what the timeline for correcting the problems was, and then make a commitment to get back to the community when the time has expired and say, "CPI has fixed it. We've looked at it, and everything's okay," or "They goofed. We have some problems." We have to keep the community involved and informed about what's happening. We can't depend on CPI to do that. I would like to see the Fire Department actively involved. I think that the Planning Department also should be involved, because it's a planning issue, what goes on that site and how is it being maintained and operated. Second, if CPI brings a new material that is not on the site now onto the site, there's no requirement in the ordinance that anybody be notified. The Fire Department would find out when they happen to make their annual inspection. If that new material was mixed with an existing material and created a really serious toxic hazard, nobody would know. I think there should be an ordinance provision that says if anything other than what is in the site as of a date certain, a new material is moved in, the Fire Department has to be notified, the community has to be notified. If it's a potential for mixing that new material with another existing material would cause a material, that has to be identified. Any resolution has to be clearly spelled out, so that everybody understands what's going on there, what might happen, what the consequences could be, and how the community will be protected. We need to do some modifications to the ordinance.

Mayor Holman: Thank you. Bob Fickett to be followed by Marina Remmel.

Bob Fickett, CPI President: Hi, I'm Bob Fickett. I'm the President of CPI. I've worked for CPI and the predecessor, Varian, since 1982, all in the Palo Alto location. As stated in my letter to you, CPI which was the original business of Varian and Associates was the first tenant of Stanford Research Park. We've operated in Palo Alto since 1953, and our plate shop has been in its current location for almost 60 years. Due to the nature of the products

and our required manufacturing processes, the plate shop has always been and will always need to be an integral part of our manufacturing infrastructure. Without it, we wouldn't be able to make the lifesaving products that treat cancer patients and protect the men and women of the US military. We're a major company, and we're subject to requirements of our US Government contracts as well as Federal, State and local oversight agencies. Safety has always been a top priority for CPI. Our employees including all of our plate shop employees have excellent safety records. While we acknowledge that an unpleasant odor traveled into the neighborhood in 2006, the use of our plate shop is not a danger to the CPI neighbors. Based on the findings of three separate third-party environmental firms, there is no realistic worst-case scenario that would or could cause a danger to the neighbors. Despite this indisputable fact, we've continued to make investments that further enhance the safety of our operations. We've continued to reduce our onsite chemicals to the point that our Title 19 chemicals are now at the lowest level they've been in our recorded history. We've added the implementation of additional redundancy to our safety features and alarm systems, all exceeding regulatory requirements. We've improved the communication protocol with the Palo Alto Fire Department. If there's even a hint of an issue, we contact the Fire Department. I feel that the proposed ordinance solely attacks CPI without justification and would definitely have a significant impact on our company's viability. That's no small thing. There are very few companies worldwide who are able to make the products that we make that end up protecting our military and civilian lives. The ordinance unfairly penalizes our company and our company's employees based on unsupported fears of some very vocal Palo Alto residents. We plan to continue to operate CPI in Palo Alto, and I can assure you that we will continue to act as a very responsible and very safe Palo Alto neighbor. The next two speakers are CPI employees. purposely did not seek participation from more of our nearly 600 local employees, because the level of intensity that some of the people bring to this issue can and has been daunting to face. I'm aware of a few recent incidents in which CPI employees and their families were privately and unpleasantly confronted on the issue. This is unacceptable to me, and it should be unacceptable to all of us. For this reason, I have made it very clear to our employees that they do not need to publicly identify themselves and take on the responsibility of speaking for CPI. Thank you very much.

Mayor Holman: Thank you. Marina Remmel to be followed by Sue Courchaine.

Marina Remmel, CPI Employee: Good evening. My name is Marina Remmel, and I'm a lifelong Palo Alto resident and homeowner as well as a long-term employee at CPI. My family has resided in Palo Alto since 1959, and I was

raised in Palo Alto and attended Palo Alto schools, as did my three children. I joined CPI in 1981 back when it was Varian Associates, and I have worked there for the past 34 years. I'm a senior human resources representative at CPI. I work with and am a voice for the approximately 600 employees that CPI has in this City. We chose not to invite employees here tonight. Instead these petitions were signed by hundreds of CPI employees. In them, the employees state, on behalf of themselves and their families, they feel safe working at CPI every day. I'd like to tell you about our employees, because they are quite impressive and unique to this area. As I mentioned, we have approximately 600 employees in Palo Alto. On average, they've been working at CPI for more than 20 years. That loyalty and dedication is unheard of in this day and age, and I believe it speaks volumes about the type of company and employer CPI is. Our employee base ranges from office workers to assemblers and technicians to scientists and engineers. We have more than 200 engineers in Palo Alto, and we actively recruit from California colleges. In my role in HR, I help oversee the extensive training programs that we have. Many of these focus on health and safety because by keeping our employees safe, we can keep our community safe. addition, we conduct extensive annual physicals on employees involved in the handling of chemicals. They're our colleagues and our friends, and we want to make sure that they remain healthy. I can assure you that our employees are not a shy group. If they did not feel safe working at CPI, they would let me and others know. If they saw a safety concern, they would speak up. They are regularly encouraged to do so. Yet, their many years of service as well as the signed petitions that I have here tonight attest to the fact that our employees feel that CPI is a very safe place. As a lifelong resident of Palo Alto and as someone who has seen the nuts and bolts of the operation since 1981, I have no concerns about the safety of CPI operating in Palo Alto. Thank you for your time tonight.

Mayor Holman: Thank you. Sue Courchaine to be followed by Doug Daugherty.

Sue Courchaine, CPI Employee: Hello. I am Sue Courchaine, and I am a CPI employee. I have been with the company for 37 years. In fact, I am the manager of the plate shop in Palo Alto, and all of its employees report in to me. It is my job to oversee not only the safety of the plate shop but the well-being of its employees. I have 16 employees in the plate shop. They are all very highly trained. On average, they have been with CPI for more than 17 years. Every year these employees are required to participate in more than 70 mandatory job training sessions, and skipping is never an option. If a question or concern arises in the course of a workday, in addition to our experienced plate shop staff, we have a chemist and safety experts on hand and immediately available to help with any issue. Our

trainings, inspections and audits are rigorous and very effective. I am very proud to say that we have never had a single injury from the use of our chemicals under my watch. CPI's plate shop is state of the art. We have small baths which are covered when they are not in use. chemicals are in separate bath areas. In the extremely rare event that something spills out of the baths, we have berms in our floors to catch and contain the spill. We have second and third-level containment mechanisms to catch solids and liquids. We have exhaust scrubbers in the ceiling to ensure that nothing leaves the plate shop in vapor form. The scrubbers have backup generators so they can continue to run during a power outage. We also have gas monitors and alarms outside the plate shop, on the roof above the plate shop and on the wall along our property line. These serve as yet another layer of assurance that nothing harmful has gotten past all of our other safety measures. As a company, our highest focus is on safety. The safety of our plate shop operations are overseen and regulated by the Palo Alto Fire Department and numerous other agencies. Department conducts announced and unannounced inspections on a regular In addition to other governing agencies conducting regular inspections and audits, so do our internal CPI audit teams. These facts and my own 37 years of experience at CPI give me the confidence to tell you that CPI's Palo Alto operations are safe and do not pose a risk to my employees, nor to our neighbors. Thank you.

Mayor Holman: Thank you for coming. Dave Daugherty to be followed by Jennifer Johnson.

Douglas Daugherty, Ramboll Environ Managing Principal: Good evening. My name is Doug Daugherty; I'm a managing principal with Ramboll Environ, an environmental safety and health firm. My qualifications were provided to the City in my declaration. I was retained by CPI since 2012 to review and evaluate its Palo Alto chemical management and process safety systems and the level of risk resulting from its use of chemicals. Based on my review, there is no realistic accidental release scenarios that would impact offsite locations. Both I and AECOM confirm that no offsite impacts would result from EPA and State defined worst-case releases as reflected in CPI's last required Risk Management Plan submission in 2008. AECOM's extreme scenarios go beyond EPA and State guidance on release scenarios, but they fail to take into account numerous independent safeguards in place for the management of chemicals at CPI. For example, in AECOM's extreme nitric acid delivery scenario mentioned in the Staff Report, it depends on ignoring actual, existing mechanical defenses, human safeguards and the fact that CPI prohibits the delivery of nitric acid when temperatures reach 90 degrees or higher. If these existing risk-reducing management features had been included, then no offsite impacts would have been predicted. Even AECOM

said this scenario was highly unlikely in their report. I also agree with Staff and AECOM that the ultra extreme earthquake scenario is highly unrealistic and, therefore, not an adequate basis on which to base land use decisions. I also continue to work with CPI to review its chemical management program. I'm currently reviewing its reported chemicals, and CPI will be updating that As Staff mentioned of one of the reporters, CPI has also been conservative in its reporting of toxic and highly toxic compounds to the City in its Hazardous Material Business Plan. Therefore, Table 2 in the Staff Report is not accurate. Finally, I've also reviewed the proposed ordinance, and it does not appear to have a scientific basis that supports the proposed restrictions including that it fails to recognize that you simply can't assess a hazard based upon its categorization and that small quantities of a chemical that may impact someone if they ingest it would not impact an offsite receptor if it's released onsite. There's also no explanation for the 300-foot setback on a scientific basis or why it's only restricted to industrial areas and not other areas within the City. I thank you for the opportunity to speak here today, and I'm happy to answer any questions.

Mayor Holman: Thank you. Jennifer Johnson to be followed by Betsy Lake.

Jennifer Johnson: Good evening. My name is Jennifer Johnson, and I'm a cofounder and principal of Canyon Snow Consulting in Las Gatos. recently joined the CPI team as a consultant to help improve communications with the community. I'm also an environmental engineer, and my Master's degree focused on air pollution. I thought perhaps I would take a moment to share some of the assumptions and thinking that goes into the models that are used to predict offsite impacts. I know in a City with more PhD's than bachelor's degrees that many of you may not need this tutorial, but I was hoping that it might provide some benefit. As you've been hearing, offsite model impact models were run for CPI's facility by two different teams. One scenario with normal operations showed no offsite impacts. Another scenario during chemical delivery did show offsite impacts, but it was during conditions above 90 degrees of outdoor temperature. CPI does not allow deliveries at that temperature, in that weather. The third scenario, as you heard, involved an earthquake event that was so unlikely, but it did show offsite impacts. In addition to these conditions, there are a lot of assumptions that get built into air pollution models. I thought I would share three examples. First is the chemical properties, properties like vapor pressure which is used to indicate how easily a liquid could evaporate. The Title 19 chemicals at CPI have such low vapor pressures that they're not even included in the models, and so we fudged it, if you will. Higher vapor pressure values were input, so that would result in a higher likelihood or higher volume of evaporation during a spill. The second are weather conditions. Weather conditions during these models are usually designed to

be perfect; high temperature, low wind. The plume of the chemical, if you will, stays together more than would be realistic as it moves towards any potential receptors. Third, the modeling exercise assumes that a spill would occur outdoors and that the total amount of all the chemicals stored onsite at any one time would be instantly and entirely spilled in a puddle on the ground. In reality as you've heard, these chemicals are stored indoors, in baths and in closed tanks. If they were to fail, if the tanks were to fail or the baths were to splash, the spillage would go into a collection berm system, down into closed tanks in the lower part of the building. None of the predicted evaporation would happen and would not give that material a chance to migrate. I just share all this with the hope that maybe a better understanding of how these predictions come to be could give members of the community and the residents nearby some comfort. Finally, I want to quickly say that my colleagues and I have had the privilege of meeting with several residents. We want to thank them for their time and for giving us the opportunity to connect. Thank you very much.

Mayor Holman: Thank you very much. Betsy Lake to be followed by Mike Mielke.

Betsy Lake: Good evening. I'm Betsy Lake. I am a former resident of Palo Alto, a graduate of Stanford Law School and now with Holland and Knight in San Francisco. We represent CPI. I have two main points. The first is that the Tier 2 chemical zoning ordinance has no rational basis and is unlawful. I understand the process leading to the proposed ordinance was prompted by reactions to incidents that occurred over seven years ago and that have Although CPI may not have been a good been fully addressed. communicator, it has been proactive. You've heard they've hired outside experts to advise. They've installed redundant systems. importantly, although not required to, they worked cooperatively with the City to change their processes so that they reduced their chemical use to under Title 19 thresholds, and they have kept it at that level ever since 2002. CPI has invested and continues to invest heavily in its plating shop and related safety systems. Now that CPI conforms to the Title 19 thresholds, the proposal before you has been designed to make CPI's operations nonconforming to a new standard. This new standard, as you've heard from Doug Daugherty, isn't supported by the facts or the science. The law requires that ordinances have a rational basis, and this one doesn't. The City should not continue to pursue this ordinance. If it does, however, the City has acknowledged that CPI has legally protected property rights. That leads to my second point. The proposed amortization ordinance is both unfair to CPI, and it's also unlawful. First, the City's amortization ordinance on the books, as you've heard, requires a minimum of 15 years from the date the ordinance is passed. The proposal would allow ten. Second, the

proposal to provide less than the minimum number of years for CPI only is unprecedented. All of the examples within your current Code are extensions to the 15-year amortization period. Third, the City's experts admit that the 2026 date isn't valid if there's been additional improvements to the plating shop. There have in fact been additional improvements. Fourth, the City's experts acknowledge that CPI's plate shop is integral to its whole operation. If the whole operation were to be amortized, the date would extend to 2052. Here, it's not realistic to assume that it's feasible to move the plate shop onsite. Even if CPI were able to, there's no assurance the City wouldn't then move the goal post again. At minimum, CPI's plate shop should remain and allowed to stay through the end of its lease in 2052. The current proposed ordinance would significantly damage CPI. There's no actual corresponding benefit. On behalf of CPI, I urge you to follow the law and reject the proposal. Thank you.

Mayor Holman: Thank you. Mike Mielke to be followed by Art Liberman. I apologize if I mispronounced your last name.

Mike Mielke, Silicon Valley Leadership Group: Well, yes. Good evening, I'm Mike Mielke, senior vice president with the Silicon Valley Leadership Group. Thank you for the opportunity to speak with you tonight. The Leadership Group, as you may know, was founded in 1978 by David Packard of Hewlett-Packard, and we represent more than 390 of Silicon Valley's most respected employers on a number of issues, programs and campaigns that affect the economic health and quality of life here in Silicon Valley. Our members collectively provide one out of every three jobs in the region. I am here tonight on behalf of CPI which is a member in good standing with the Leadership Group. Silicon Valley Leadership Group strongly supports making sure the region has a healthy and vibrant environment. We are also focused on ensuring the region has and keeps good, local, high-paying jobs. CPI has been a member of the community of Palo Alto, as we've heard tonight, for over 60 years. Having toured the facility, we understand the company, which has spent about \$15 million upgrading its facility, has successfully reduced its chemical footprint and put industry-leading safety procedures in place which have been verified by independent third parties. It is our hope at the Leadership Group that the Council will carefully consider any ordinance which could set a precedent of unduly punishing corporate citizens that provide good jobs and which go above and beyond in responding to community concerns. Again, thank you.

Mayor Holman: Thank you. Art Liberman to be followed by Lynnie Melena.

Arthur Liberman: Thank you. Good evening, Council Members. The Staff Report may seem on first reading very technical. It refers to toxic, highly

toxic, extremely hazardous materials, EPA and OSHA regulations, CUPA thresholds. The issue before you is really straightforward. It's about safety, our safety, safety of other sensitive receptors and the location. That's the important word, the location of some very hazardous materials. CPI has over two tons or just about two tons of acids and cyanide compounds that are extremely hazardous substances. This has been the same amount that they've had for the last several years. All their materials are at the back of the building, about 50 feet from the residents that live in Barron Park. Let me just ask you a question. Ask yourselves what would you do if a new proposal were to come before you for a plating shop located this close to residences with that much extremely hazardous materials. What would you do if it were to come before you for a prescreening review? I'm sure you would say, "No way. Don't build it there." Unfortunately, you were not given the option at that time, but you can do something now and prevent this from happening again. Now, this is not the only case of zoning mistakes that have happened. There have been places elsewhere where officials have allowed facilities with extremely hazardous substances to be located too close to residents. Some of those have had accidents. This is a photo from an accident that happened just last year in Lawrence, Massachusetts. It was a nitric acid spill by a metal finishing company. The accident scenario is very similar to that which was actually described in the AECOM report. The folks in Lawrence waited too long to make changes to their zoning. Don't I don't know if you have any familiarity with make that mistake here. hazardous materials, perhaps you worked in businesses using them. I know that Council Member Burt owned and operated a plating business for many years, but none of you live next to one. You don't, as Council Member Scharff mentioned last year, live in fear of smelling an odor that might be an indication any time of a toxic gas release. The AECOM study demonstrated that we residents are in risk. Internal safety systems and standards that CPI described are certainly necessary, but they are not sufficient. Accidents do Just a month or so ago, a CPI employee at another of CPI's facilities was seriously injured in a hazardous material accident and was transported to the hospital. Just two weeks ago, toxic gases from the garage at the Westin Inn sent a dozen guests to the hospital. If those people had been 300 feet away, they would not have been affected. The key to ensure the safety of sensitive receptors when you might have a toxic gas release is distance, distance between them and extremely hazardous substances. The separation suggested in the Staff Report of Tier 2 and Tier 3 recognizes that. Thank you.

Mayor Holman: Thank you. Lynnie Melena to be followed by Romola Georgia.

Lynnie Melena: Good evening, Council Members. My name is Lynnie Melena. I live in Barron Park, although, not in the area that would be affected by a toxic release. However, I first became acquainted with this issue at a meeting at Art Liberman's house in 2007 as a new member of the Barron Park Association Board. As a city planner, I was shocked to realize that this very hazardous use was right next to single-family houses. Ever since, I've stayed engaged and I'm very happy that we're here tonight with hopefully a resolution on this and Council support for the two new ordinances. Thank you.

Mayor Holman: Romola Georgia to be followed by Samir Tuma.

Romola Georgia: Good evening, Council Members, Mayor Holman and Staff. I'm Romola Georgia. I've lived in Barron Park for 35 years, and I've been writing and speaking to you since 2007, just after CPI released toxic nitric acid fumes into our neighborhood. Today, I'm asking you one more time to please make our neighborhood safe. I want you to know that problems connected with this facility are ongoing. We live daily, weekly, monthly with geysers of unknown vapors, alarms and sirens, noisy trucks delivering toxic contents, and we had two other confirmed releases. One was just the day after the Fire Department inspected. Would everyone here tonight who wants toxic and hazardous materials removed from our Palo Alto neighborhoods please stand up and give the Council a big wave? Here we are. Great, thank you, thank you very much. I want to thank the Council and Staff for its long work regarding risks and zoning and amortization. Council has said that one of your top priorities is the health and safety of residents. I think the risk of toxic and hazardous materials should certainly be right up there with cigarette smoke as a health and safety risk. report and zoning material is long and very complex, but the issue is pretty simple. Operations that use large quantities of toxic chemicals should not be located right next to homes. Babies and young children and seniors also live on our block. We're all sensitive receptors. I believe the City erred when it approved moving CPI's operations from an industrial area in San Carlos to just a few feet from our homes without any kind of noticing—Rod certainly talked about noticing—to the neighborhood. It's time to rectify that error and remove this danger from Barron Park. The news shows us daily that earthquakes and industrial accidents are neither predictable nor preventable. Please vote tonight to change the zoning rules and begin the process that helps CPI move its facility and the toxic and hazardous materials away from our homes. We've been petitioning you and waiting for nearly ten years. Thank you.

Mayor Holman: We don't encourage either support or displeasure with speakers please. Samir Tuma to be followed by Stephanie Munoz.

Samir Tuma: Madam Mayor, Members of the Council, Sami Tuma, 827 Chimalus, right down the street from CPI. I've got really two comments or one comment and one thing I'd like some clarity on. There was a portion of the presentation this evening and counsel for CPI has also focused in on this notion that if they've made additional investments since 2011, somehow that resets the clock. That certainly is not what we have been told as we've patiently waited through the years of this process. It sort of flies in the face of a notion of amortization. Keep spending and you keep prolonging the clock. I'd like some discussion and understanding of how that works. They certainly have known since 2011 that this was a very real possibility, and that time was when the study was done. It was interesting listening to some of the members from CPI who were here this evening, the HR person in particular, talking about how comfortable they all are working at CPI. suspect that you sort of have to convince yourself that you're comfortable with that. Otherwise, how do you get through the day? Crystal Wise was comfortable working at DuPont's factory in Houston. I'm going to read you an excerpt from an article that was published just last Friday. On her way to work Crystle Wise, a grandmother from Texas, passed a sign outside DuPont's plant. The sign read safety is our core value. On November 14, 2014, Wise would pass that sign for the last time. Early the next morning, a massive leak from one of the buildings where she worked left her and three others dead. Unfortunately, this is not an isolated issue. Every two days a leak, fire or explosion occurs at a plant in the United States. Last year 27 workers were killed on the job, and more than 2,400 people were evacuated from nearby areas because of toxic leaks, spills or emissions. Many more Americans are at risk since nearly 14,000 active such plants exist in the United States. The father of one of the people killed in that accident was quoted as saying, "It's a real freak accident. Stuff like this isn't supposed to happen." Unfortunately, it does. It's time to do something about it.

Mayor Holman: Thank you. Stephanie Munoz to be followed by David Bomberger.

Stephanie Munoz: Thank you, Mayor Holman and Council Members. It's funny for me to be here. This is just the converse of what I usually say which is that the Council should keep its word and keep its bargains with the people that it zones into the City. They shouldn't invite people to the City to live here and then tell them, "Oh, no. Now you can't live here." Safety is different. Safety trumps precedent. Safety trumps written law. A year ago, just about a year ago, you passed a law saying that new apartments had to have electric car chargers. I said to Larry, "Larry, you can't make people put electric car chargers in their apartments." He said, "Oh, sure we can. We do it all the time." I had to laugh. You do make people do things. Often, most often, the demand is for safety. I have a rental house, and the

City of Mountain View is tying knots in the process, making me do this and making me do that. The excuse is usually safety, and it really doesn't have much to do with it. I would like to say, because someone on the CPI side She said these laws have no rational basis. referred to illegal. illegal—or unlawful, sorry. Those experts may be guite correct. maybe not an atom that's dangerous over at CPI. The argument against having them there is not irrational. The fact that people object to the possibility, however small, that is not irrational. The law is meant to reflect reality. People from the very beginning have always had a prejudice against industry. I remember, because I was around in the '50s, how Terman said we could have a very good industrial complex. It would be different from other industry that people have a prejudice against. People have a prejudice against industry because it is ugly, because it is offensive and because it is dangerous. Now, they have done a very good job about ugly. Not ugly. There is one for that company, not ugly. It is dangerous.

Mayor Holman: Thank you. David Bomberger, who I believe is our last speaker on this. Nope, we've got another card. David Bomberger to be followed by Lydia Kou.

David Bomberger: David Bomber. I'm director of manufacturing at Target Discovery. I thought I should raise the flag, seeing as how you started out talking about us. One of my responsibilities is to fill out our Hazardous Materials Business Plan every year. I must say I was astonished to see that little red dot on my facility based on what I see in my Business Plan that I file. The CUPA thresholds say 55 gallons of liquid, 500 pounds of solid. I can control those by how often I have my hazardous waste pickup scheduled. That's no issue. What does cause me a problem with the way the ordinance is written is your restriction on 200 cubic feet of compressed gas. If by that you mean my tank of liquid nitrogen, that causes me a problem because I can't get rid of that. At the same time, that's only a hazard to the people in the shop. It's not a hazard to people outside. I look forward to having a conversation with your contractor about how we can maybe make some changes.

Mayor Holman: Thank you for coming. Our final speaker on this item is Lydia Kou.

Lydia Kou: I really don't mean to be last, but nobody brings up my concerns so I have to come up and speak for myself. First, I just want to say good evening, Council Members and Mayor Holman. I don't like the word receptors. It dehumanizes us. We are mothers and daughters and, I'm sure, fathers and sons and uncles and so forth. There are disabled people in our neighborhood and fragile. I really would like to use a different word.

Next, nobody actually really brought up in all of this risk management. There is one Risk Management Plan that is between CPI and the Fire Department. It's between CPI and its employees. It does not extend out to the neighborhood, to the people in the neighborhood or even in the Research Park. I would like to see that at least there is that consideration of us in the neighborhood and of the other human beings as well as animals that inhabit the surrounding close to CPI included in the plan. I would like to see that CPI and the Fire Department work together with that and bring it to us to work with us in the neighborhood and to conduct training and exercises as well. Next, another concern of mine is the transportation and delivery of these hazardous material. I don't know how it comes in, whether it's by tanker trucks or by trains and so forth, but it does use our streets. Today there is an increased use of our streets by bicyclists, by pedestrians and other modes of transportation. This is all by design. I hope that there is that consideration on their safety as well with the transportation of hazardous materials. Lastly, horizontal consistency is important for our Comprehensive Plan and the moving forward of our City. 3159 El Camino Real would provide 48 housing units, but it's within that 300 feet to CPI. It brings to mind what happens with the Fry's site which could provide potentially much more housing. I would like for that consideration to be taken into account as well. Somebody help me Google it. I don't know how many feet, but it's definitely 8 minutes walk from CPI to the Fry's site. Hopefully you'll take a look at that too. Thank you.

Mayor Holman: Thank you. I'd like to give this opportunity to Staff to respond to anything that they heard.

Ms. Gitelman: Thank you, Mayor Holman. Again, Hillary Gitelman, the Planning Director. There were a few comments in all of that that I think we would like an opportunity to respond to. I'd also point out that you're still sporting Senator Hill's nameplate in front of you there.

Mayor Holman: I don't object to being called a Senator. Thank you.

Ms. Gitelman: Just a few things. First, to Mr. Tuma's question about amortization and the value of additional investments. I think the concept of amortization is something we've talked about before. It is based on an estimate of the value of the property and the investments that have been made. If CPI were to argue that the value of their investment has increased since 2011 when the City's study was done, they would have to provide us with evidence of that. As I mentioned in my presentation, we haven't processed any building permits in that time period. It would have to be in the nature of some kind of equipment that we just wouldn't be aware of that investment having taken place. We would have to accept their evidence as

legitimate. In addition, Mr. Liberman talked about what would you do if a new proposal came to the City that was a Tier 2 use. I just wanted to point out that comment, because I expect that tonight we're going to have a lot of conversation about CPI and amortization and things like that. I don't want to lose sight of the fact that the hazardous materials ordinance we presented to you is really about making sure that if a new Tier 2 business were to come to Palo Alto, that they would have to conform to the standards in the new ordinance. Without this ordinance, a new Tier 2 use would not be regulated except as a CUPA use or as a Tier 1 use. I wanted to make that point. In addition, just responding to Mr. Moss' comment about the need for neighborhood notification. If new hazardous materials are used onsite, that is included in the current ordinance in 18.23.100(b). I can point that out to Mr. Moss if he's interested. Now, I think the City Attorney wanted to add some thoughts.

Molly Stump, City Attorney: Thank you, Mayor Holman. Molly Stump, City Attorney. Mr. Daugherty and Ms. Lake both made some comments of a legal nature that I'll respond to at just a very high level. With respect to the zoning ordinance, Mr. Daugherty questioned the scientific basis for the categories of the chemicals in the proposed ordinance and the 300-foot distance and suggested that the ordinance was tailored for one specific business. We've reviewed these issues very carefully. It's our position that the rational basis is established for the categorizations that are present in the ordinance that are before you, most of which are based on existing categories in State and Federal law. As you've heard tonight from the Staff presentation and from a representative from another business in town, the ordinance is one of general applicability. It very well will apply to some sensitive receptors and other businesses as well as the CPI facility. second general area of comment is that there were some comments by Ms. Lake about the amortization period. We do recognize that this is an area where there are disagreements that could potentially lead to litigation. We've presented you with an ordinance that we believe is lawful, but we do acknowledge that there is a possibility that litigation could be filed. If that were to occur, it would be the judicial branch that would review these rules and ultimately judge the adequacy of that ordinance against Constitutional standards. There is some significant possibility of at least delays during any judicial process. I think it makes sense to hear from Council Members and to understand Council's direction. If Council wants some additional suggestions from Staff with respect to potentially attempting to navigate some of these issues, we can provide that guidance as the evening progresses. Thanks.

Mayor Holman: Council Members, we've heard a lot tonight from a lot of different sources. Can I suggest that we do—if we need to do a second a

round, so be it. Could I suggest that we do three-minute rounds that are questions only, and then we'll come back for comments and Motions. Council Member Berman.

Council Member Berman: Thank you, Madam Mayor. I wanted to just kind of follow-up on this issue of amortization and the ability to, I believe it says make substantial investments. I'll kind of just get all my questions out before I give you guys an opportunity to answer them. One question is what's the definition of substantial investment. The second is—I'm just not necessarily understanding—maybe just the law doesn't say this. If that's the case, then it's a questionable law. Once an amortization study is conducted, somebody's on notice that a community is considering limiting their ability to operate their operations as they currently are at some date in the future. I just don't understand why somebody would be able to—once they're on notice, once there's a clear understanding that a community is uncertain about whether or not they want that company to be conducting those operations in a certain area, why they could then just make a substantial investment and restart that clock. I'm just still not really understanding how that—if that is really what the law says. If it is, then it is. That just seems to fly in the face of why anyone would go through this process at all. Maybe I'm misunderstanding things.

Ms. Stump: This will be a tag team effort. The legal and planning issues overlap closely. Council Member Berman, Planning Director will jump in at some point, I'm sure. Thank you. The question about investment. The question is capital investments that are subject to depreciation that the law requires the municipality to recognize in the amortization process. As the Planning Director indicated, there hasn't been a building permit issued. It is possible that there are investments that are of a nature that would need to be taken into account, if the amortization period were reached other than by a process that involved agreement. Additional investments do not restart the clock. They may in fact add to the company's property right in the sense that there are some additional items there that they're entitled to get the economic value out of before their use is terminated.

Council Member Berman: I'm going to interrupt, just because I see I have the yellow light. I better get my questions out, and then let you guys answer after it buzzes. That's to say that if—let's say two years before whatever amortization period is decided upon is to end, a company decides to invest \$1 million in that facility. They would then have a legal right to the benefit of that investment?

Ms. Stump: Many amortizations programs do include an exception process where companies are able to request adjustments towards the end of the

period. We do have examples of amortization of industrial uses in Mountain view, for example, that did involve some extensions perhaps for reasons such as that. I think that that is not necessarily exercise of a legal right. To the point where Council were to establish an amortization period by law, I think those issues would be quite a bit clearer. I think it would be our hope and expectation that this would proceed in a way that there would be commitments on all sides that are enforceable and don't lead to any kind of adjustment later on in the process.

Council Member Berman: Thank you.

Ms. Gitelman: Council Member ...

Council Member Berman: Please.

Ms. Gitelman: ... Berman, if I can just add to that. We do have a provision in our Code, the section of the Code about nonconforming uses, that limits the amount of additional investment that can be made in a nonconforming use. If the first ordinance were to be adopted and the facility became a nonconforming use, the amount of additional investment they could make and, therefore, add onto the amortization period would be limited by our Code.

Council Member Berman: Thanks.

Vice Mayor Schmid: Council Member Scharff.

Council Member Scharff: Thank you. So little time, so many questions. The first one is—we don't have any Tier 3 sites. Why wouldn't we just prohibit those period? Why would we want any more to come in? Why wouldn't we just change the ordinance to say no Tier 3?

Ms. Gitelman: Thank you, Council Member Scharff. That really is a policy matter. We took the approach in this ordinance not to change sections that had been adopted by this Council in 2007. You could certainly direct us to make those changes.

Council Member Scharff: On a high level then, what this ordinance does right now is it would say in 2026, you need to move that plating shop 300 feet away from any residences. If you move it onsite, which this ordinance allows as long as it's 300 feet away from the residences, it can stay. Is that correct?

Ms. Gitelman: That's correct.

Council Member Scharff: The fact that there's a conditional use permit required, would that make any difference? Would there be any discretion on the City not to grant the conditional use permit?

Ms. Gitelman: Based on all of the evidence that we have in the record, I think we would be able to apply site-specific conditions to the use, but I don't believe we would be able to prevent them from obtaining a use permit and moving 300 feet away as anticipated by this ordinance.

Council Member Scharff: Then there's some sense, in the Staff Report that in 2052 then it goes away. I guess I don't read it that way. I read it that you can still have the plating shop. You can still have the uses. They just can't be within 300 feet of a residence.

Ms. Gitelman: That is correct. The plating shop could remain, and the uses in Buildings 1 and 1A could be moved 300 feet away. We happen to know, however, that the term of their lease is up around that time. Our expectation is that the uses would be relocated effectively at the end of the lease.

Council Member Scharff: Unless they renewed their lease for some reason. There was that comment about liquid nitrogen. I was a little confused on that. Is that a hazardous material, just having a tank of liquid nitrogen or did I misunderstand?

Mr. Worobel: I'm going to make sure I get this correct with the City's hazardous materials specialist. As I understand it, the liquid nitrogen that occurs and is found at Target Discovery is not considered toxic, highly toxic within the City. The chemicals that were identified are a miscellaneous group of, I believe it was flammable liquids. My understanding is when the inventory forms are completed, if a particular chemical is going to fall below the CUPA thresholds, the business is told to go ahead and aggregate those different chemicals. In this particular case with a number of miscellaneous liquids, each of which would be below the 55 gallons of the CUPA threshold, they could be aggregated. The aggregate amount at Target Discovery was 110 gallons, but no one specific chemical exceeded the CUPA threshold. That's kind of the conversation I'm trying to have further with Target Discovery to make sure I understand that properly. That's why the Planning Director suggested they may come off the list.

Council Member Scharff: Just briefly, I was in Town and Country over the weekend. I think they have a tank of liquid nitrogen for the new cryotherapy store next to Douce France, where you can freeze yourself at 150 below Fahrenheit or something like that for three minutes. I just

wanted to make sure we didn't pick up things throughout the City that weren't really hazardous. Maybe that is hazardous; I don't know.

Mayor Holman: Thanks. Council Member Kniss.

Council Member Kniss: On a completely different avenue than what we've been going on, there are a couple of questions that I'd like to ask Molly Stump. If we get into what we might call an agreement of some kind, maybe called a settlement, which term do you prefer?

Ms. Stump: Either one will do. I'm not sure where you're going here.

Council Member Kniss: I think we're going to get into some number of requirements tonight. One thing that I heard tonight—I heard it very clearly from Art Liberman and from Bob Moss—is that, put very frankly, it doesn't sound as though CPI has been a warm and communicative neighbor. What could we put in place that would require certain kinds of communication, certain kinds of ability for there to be interaction between the neighborhood and CPI? How could that in some way alter what will be the outcome? We're not going to be shutting CPI down tonight. That's not going to happen. That's not in our ability. Where could we go with this? We're talking about amortization. We're talking about a variety of other things that are very straightforward, very much can be stipulated. What about that piece of this challenge?

Ms. Stump: Thank you, Council Member Kniss. You're quite right that even under the City's view of a minimal amortization period, it is quite a number of years before there would be any movement of any facility on the site. That does leave open as a potential fruitful area of discussion whether there are other types of protective measures that the residents may find useful, helpful and protective of the residential neighborhood and that the company may be, in fact, willing to adopt and engage in and/or the City may find reasonable areas of regulation. I think that if the Council is so inclined to direct the Staff to work with stakeholders in the community and to communicate with the company about those potential areas—we would also want to use our experts—that might be a fruitful area. I don't have and am not aware that the Planning Department has specific recommendations for you in that area tonight, but it certainly is an area where I think we could do some work and see what we can come up with.

Council Member Kniss: It doesn't in any way—I know Samir Tuma spoke to this. The danger is real in very many ways; however, if this is going to continue for a certain number of years, it would seem as though the kind of relationship that CPI has with the community could be quite different. I don't know if it's been tried before. I see Judy Kleinberg out here tonight

who probably dealt with it when she was on the Council. We have not dealt with this recently. I know that others on our Council have. That is the one thing that seemed to come through loud and clear, this ability to have some kind of interaction. I realize that CPI opening their doors for tours was very important. I was glad that a number of my colleagues were able to go. I hope at some point in the future I can do the same. We could weave that into whatever current arrangement, whatever we may call it. We could weave that into where we end up, at least at this point, with not only CPI or with other companies as well. Thanks.

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: Three questions. Interested in the consequences of what we're passing with the ordinance. I think of east of 101. Right now there's a lot of spaces out there that are being used for a variety of things. There's new schools appearing, new daycare centers. Are we, in essence, rezoning what is a general manufacturing zoned area? Same thing with San Antonio and Charleston area. If childcare centers go in there, do we in essence rezone it?

Ms. Gitelman: Thank you, Council Member Schmid. We are proposing changes to the industrial zoning districts to put in place this 300-foot minimum distance between hazardous materials users in Tier 2 and sensitive receptors including daycare. To the extent that these facilities already exist, it would place a limitation on new uses within that 300-foot distance. If you look at the map that we provided in Attachment F that we showed briefly on the screen, you'll see that that doesn't cover a great percentage of the industrial zones. It's really ...

Vice Mayor Schmid: My question is the dynamics of the future. If some alternate school pops up in one of the empty spaces, does it rezone the substantial area?

Ms. Gitelman: Yes. If you would have new sensitive receptors, it would have the effect of limiting new Tier 2 uses within 300 feet.

Vice Mayor Schmid: Quick question. The 2006, 2007 incidents at CPI, were they breaking the Tier 3 rules at that time?

Mr. Worobel: The reduction of the hazardous materials that would have qualified for the CalARP were reduced subsequently. The—Molly.

Ms. Stump: In fact the City did not have what we're now calling the Tier 3 rule in place at that time. The Council adopted that 300-foot buffer distance

for CalARP chemicals after those incidents. No, they were not in violation of any rules at that time.

Vice Mayor Schmid: Just some questions on the amortization periods. People mentioned that the ordinance dates—the amortization period starts with the date of the ordinance. Secondly, they said that there is a list of reasons for extension for specific businesses in our Code or somewhere. Do you have any response to that?

Ms. Stump: When the amortization period starts is one of those areas where the City's lawyers and the company's lawyers have a stated disagreement. That is an area that could be subject to litigation. We won't fully explore it here.

Vice Mayor Schmid: It's not written in our Code anywhere?

Ms. Stump: To amortize a business, you would need to adopt an ordinance that established the amortization schedule. We have proposed to recognize a study from 2011 that supports amortization of the value of those assets finishing in 2026. CPI has disagreed with that as unfair on the grounds that our existing general code provides for 15 years from adoption of the ordinance, which is a longer period of time.

Mayor Holman: Thank you. Council Member DuBois.

Council Member DuBois: I have a couple of questions for—actually I have one question for Doug Daugherty and questions for CPI, if you could come up. In the Ramboll report, you said you found instances where CPI was conservative and reported stored materials as toxic that didn't actually meet that definition. Can you just explain what you mean by that?

Mr. Daugherty: Sure. I think one framework to put with the Hazardous Material Business Plan reporting is it is self-reported information. A facility like CPI in the past has taken a very conservative tack on how it categorizes certain materials it has onsite. Essentially it's a form that you fill in what the material is and then you check whether it's toxic ...

Council Member DuBois: (crosstalk) they consider toxic that wasn't on the list essentially?

Mr. Daugherty: I think conservatively there is materials they handle that has hazardous material waste onsite that gets shipped off under other California regulations and check the box marked toxic or highly toxic for those. In reality, there is a specific definition in the Fire Code of what's toxic

or highly toxic. When you look at those specific definitions, the material they have onsite do not meet those.

Council Member DuBois: Thank you. A question for CPI. You guys have been there a long time, 1953. I guess when your lease is up, your building is going to be 100 years old. I know you've maintained it. If there was a way the safety issues could be addressed, would you stay in Palo Alto at the end of that lease or are you basically planning to move to a lower cost—I mean, do expect the rent to go up to a level that you couldn't stay there?

Mr. Fickett: Personally, I'm not going to be there. There's always things to weigh. I mean, there's a lot of infrastructure built into it. There's a lot of heritage with the employees built into it. As we talked about, the average lifetime of the employees there, the tenure, so it's not compelling to move. If the demographics and economics change, I can't really project out that far.

Council Member DuBois: Before I run out of time, I think you were asked the last time you were here. As technology advances, do you guys foresee a time when you could do the plating in an offsite location, transport it in a clean fashion, basically do your scheduling and your manufacturing process so that you could continue but with the plating shop somewhere else?

Mr. Fickett: It's hard to look that far ahead. I do know that right now—you got the chance to see it. I mean, it does need to be integral right now because you do go from the building to the plating, to the building, to the cleaning, to the building, several times in and out. The problem is as soon as you end up making them non-adjacent, you're all of a sudden adding in inefficiencies, cost, chance for scraps. You potentially take away our competitiveness. It's really just a question of viability.

Council Member DuBois: Thank you.

Mayor Holman: Council Member Burt.

Council Member Burt: A couple of questions. One is that—in one of the reports around the worst-case scenario, there was a question about whether the building itself had had seismic upgrades that affected that likelihood. I didn't see an answer to that. Maybe it was that CPI's consultant said that the analysis didn't take that into account. I never saw any data or information that explained if there had been any seismic improvements.

Mr. Worobel: Thank you, Council Member Burt. The report that you're referring to went through an exercise, a particular scenario, of looking at a number of different accidental releases, some of which could be caused by a

seismic event. To your point, the specific retrofits, the voluntary retrofits that were prepared by CPI were not specifically taken into account, because the scenarios were looking at a number of administrative, engineering and management controls. We took those into account in making a determination about whether the particular scenario was plausible, was worthy of being evaluated. We did have sort of a qualifier at the end to say that depending on the voluntary seismic retrofits, it could affect the results that are being presented.

Council Member Burt: Is there a retrofit that's already occurred or are you saying it's a prospective, future retrofit?

Mr. Worobel: There was one that was performed previously.

Council Member Burt: Are we aware of what that is and its impact on the risk?

Mr. Worobel: Not specifically, no. There was subsequent to the original report in January 2014 that was supplemented the request by the Barron Park neighbors to look at an extreme event which took into account the potential effects of a catastrophic earthquake. In that particular instance, CPI then brought forth a report by a seismic consultant, a geotech consultant, who provided some documentation about why the likelihood or the probability of that type of event being that catastrophic and resulting in the (crosstalk).

Council Member Burt: I remember the probability part. I would just say that as this goes through our next phase of review, it would be of value to know whether there is or is not a significant seismic upgrade that occurred and would effect that risk potential. I wanted to follow onto something that Council Member Kniss had brought up, and that's any additional prospective measures that might be able to be taken. Part of the previous Motion a year and a half ago was to really look at not just best practices, but state of the art practices. It appears that a number of those have been utilized. I am interested in whether there would be additional communication tools that could be available to both the public and finally one related to information going to our Fire Department. One of the issues raised by neighbors has been the whole reporting mechanism should there be some form of a release. We've heard that there are gas monitors at the property or building line. My understanding is that those report into CPI. My question would be, which doesn't necessarily have to be answered tonight, whether it would be feasible to have those monitors also report directly to our Fire Department so that they could have real data real time. If they want to respond to information they receive, they can take the initiative to contact CPI. If it

was at a level that they deemed appropriate, they could take their own actions independently. That's one other potential that I'd be interested in finding out about. If you have answers or our Fire Department does now, that'd be great. If you don't, I'll look for them as the process moves forward.

Mayor Holman: I have just a couple of things. Council Member Burt asked one of my primary questions which had to do with seismic. I'm also interested in that. I appreciate the tour. Council Member Scharff and I actually went together on that tour. I left, I realized, a little bit unclear on whether all of the recommendations that have been made, either from the Fire Department or any other entity, have been adopted and incorporated at CPI.

Ms. Gitelman: Maybe if Joe Afong or another member of the Fire Department could respond to that.

Mayor Holman: Okay. I'd be grateful for that.

Ms. Gitelman: I think we believe the answer is yes. I was just hoping someone in a nice uniform would stand up and confirm that.

Mayor Holman: Maybe the someone in a nice uniform could come forward.

James Hendrickson, Palo Alto Fire Department: You might restate the question.

Mayor Holman: The question was if all of the recommendations made to CPI have actually been accepted and incorporated.

Mr. Hendrickson: Recommendations made when, Mayor Holman?

Mayor Holman: Any additional safety recommendations.

Mr. Hendrickson: Over the course of the years, we've had a number of opportunities to do inspections at the CPI facility. As far as I'm aware, Fire Marshal Hendrickson, each time we have made recommendations, they have been incorporated into CPI's business practices. Yes.

Mayor Holman: You have a sidekick there with you.

Mr. Hendrickson: This is Joe Afong. I've only been in the position for about nine months. Joe Afong has been working as a Hazardous Materials Specialist, working with CPI, for 12 years, 14 years. He would be my historical knowledge on the facility.

Mayor Holman: Mr. Afong, perhaps you'd like to answer the question too then.

Joe Afong, Hazardous Materials Inspector: Yes, we have made inspections. With all our special reports, they have always complied, and they always give us a response, a schedule of completion.

Mayor Holman: Thank you for clarifying and confirming that. Also, one thing that I did appreciate was that some of the inspections are announced and some of the inspections are unannounced. I think that's really greatly helpful. I don't see any other lights for questions by Council Members. City Attorney Stump, you had a couple of comments to make.

Ms. Stump: Yes. Just before the Council moves into the phase of Motions, I thought I would summarize some of the things that we've heard from the neighborhood residents, from CPI and Council questions with respect to the legal status of where we are. If the Council is supportive of the categories and the creation of the Tier 2 and the proposed regulation, we think that that zoning ordinance would be ready to move forward through the process which, as the Planning Director indicated, would be to go to the Planning Commission. There's further refinement that would be needed in a couple of areas. That would potentially come back to you for final adoption. I have a slightly different thought about the second ordinance, the amortization ordinance. There is a draft before you. I do think it behooves the Council to think seriously about whether further attempts should be made to bridge our remaining differences with respect to the application of the amortization Leaving aside from this forum any discussion of the relative strengths and weaknesses of the parties' positions, there is a substantial disagreement there. If Council is interested in exploring a resolution of that that would focus on CPI's argument that it's unfair to apply a period that is less than the 15 years, Council could direct Staff to work on that issue. I would expect the Council would be interested in some substantial additional protective measures for the neighborhood if it were to consider anything like that. One area I think that you may wish to direct us to work on is with the potential for there to be technological advances in the future, when is the earliest possible date that the plating shop could be entirely removed from the facility, potentially in advance of the current date that's proposed in the amortization ordinance. I leave you with those thoughts as you consider the direction you're going to give us this evening.

Mayor Holman: Council Member Scharff. We move into the next phase of three minutes of comments and Motions.

Council Member Scharff: Thank you. A couple of things that came out of here. I do think that we should definitely tell the City Staff, I guess, to go ahead and continue discussions with CPI. Also, having done enough litigation and those kind of things, I know that without moving forward with the amortization ordinance at the same time—I don't see why it can't be done at the same time frankly. If an agreement is not reached that's beneficial to the stakeholders—by the stakeholders, mean neighborhood and CPI really frankly—and they're not beneficial, then I think we need to move forward with the amortization ordinance. I don't really want it to be delayed where we have more and more discussions forever without actually moving forward. I know that when you have a trial date, for instance, the ability to settle a case really gets focused on people. That's why so many cases settle on the courthouse steps or during arbitration, because people actually have to make some hard choices. I'm really hoping that we will give the direction in the Staff recommendation to move forward with both, and then we'll also direct Staff to work with the neighborhood stakeholders in that. The other thing that came out of this for me is it seems really, really difficult to get rid of uses you don't want in your community, frankly. I really do think we should prohibit Tier 3 uses in the I asked that question seriously because it struck me that there's no reason you would want to allow new Tier 3 uses coming into the community when we have none. If there were reasons and if anyone has one, I really would like to hear from Staff that says no, there could possibly be a reason why you'd want it. If you have one, let me know. If not, that's fine. If it comes up during the process, I think you should come back to us and say, "We've heard this input and that." With that, I'd like to move the Staff recommendation that's put forward on packet page 307, and say "with the exception that Staff be directed to prohibit Tier 3 uses in the Also "direct the Staff to work with community." I'll say it slowly. neighborhood stakeholders and CPI to explore whether there is a resolution that could add substantial neighborhood protections such as a shorter period to eliminate the plating shop from the site and/or better communication tools or other neighborhood protections that might address CPI's concerns about the 2026 date as well." I may have to read this again.

Mayor Holman: Did you provide that to the City Clerk?

Council Member Scharff: No, but I can go down there and work with them on that.

Mayor Holman: It sounded like you were reading it. If you might ...

Council Member Scharff: I wrote it over here, so it's a bit of a mess.

Mayor Holman: if you might certainly read over this. I think it looks like you did a great job trying to capture this. If you could confirm that. Council Member Burt, I heard your second. We'll get to you in just a moment.

MOTION: Council Member Scharff moved, seconded by Council Member Burt to direct Staff to prepare two Ordinances substantially in the form of the draft Ordinances regulating hazardous materials users and establishing a schedule for amortizing a nonconforming use, to be reviewed by the Planning and Transportation Commission (PTC) and consideration by the City Council at a noticed Public Hearing before the end of February 2016 with the exception that Staff be directed to prohibit Tier 3 uses. Direct Staff to work with neighborhood stakeholders and Communications & Power Industries, LLC (CPI) to explore whether there is a resolution that could add substantial neighborhood protections such as better communication tools and/or a shorter period to eliminate the plating shop from the site while considering CPI's concerns about the 2026 date.

Mayor Holman: Is this ...

Council Member Scharff: It's not exactly. I'll go down and work with them to get it exactly right, unless you want me to just tell them right now.

Mayor Holman: If there's much that you have to change, then it'd be good if you step down there.

Council Member Scharff: I'll just go down and do that.

Mayor Holman: Judging from ...

Council Member Burt: Do you want to speak further to it?

Council Member Scharff: Yeah, that's what I thought I'd do first but, yeah, just following (inaudible). I think this is a good resolution. What I want to say is that I'm not sure that there's not more of a win-win situation here. I don't want that to delay the process. I feel it's been delayed enough for the neighborhood. I want everyone to know it's moving forward, we're getting that. In my mind, it may be a better resolution if the plating shop left earlier and there was maybe a longer or slightly longer period of amortization frankly or some sort of a deal. That depends on the neighborhood. It depends on how it's worked out. Otherwise, you could have a situation where the plating shop is there until 2052, and there is no resolution that's satisfactory, that it's just moved 300 feet. If that's completely satisfactory to the neighborhood, that's one thing. If that's not satisfactory, there may be some sort of a solution that works better. There

may also be better communication tools that were talked about. I think exploring this makes a lot of sense while we continue to move forward.

Mayor Holman: Council Member Burt, speak to your second.

Council Member Burt: Yes. I think the Motion captures a lot of the—both the intent of the Staff recommendation, which I think has really come up with new tools and regulatory mechanisms that are not common but are sound and add protections that basically don't exist in many communities. I want to thank Staff for having done the work in response to the Motion we had a year and a half ago to pursue some directions that frankly there was skepticism at the time that we could come up with something that would be sound in its legal standing and be on good general science and add protections that didn't previously exist. I do have also one question. There was a reference to a cryogenic facility, and that got some chuckles. Frankly, it goes to this point and part of why we had this regulation look beyond a specific use that was perceived to be a risk and look at materials. It's the materials and their uses that pose the risk. One question I have is—I didn't see anything about gas stations. This goes to the point of we have these common perceptions of what poses risks and then we have scientific realities of risks. I heard another laugh earlier when smoking was brought up. In actuality, almost 20 years ago when I spent a year on the State comparative risk project that looked at all public health and environmental risks in the state and tried to rank them according to real comparative risks, smoking dwarfed everything by orders of magnitude. That's something that we kind of lose sight of when we see something scary like hazardous materials. These are really ways that we should be looking at rational approaches to what we're doing to reduce risk. At the same time, if we have in Orchard Supply pallets of sodium hypochlorite with no secondary containment at all or gas tanks that do have underground and secondary containment but tens of thousands of gallons of gasoline, I want to make sure that the ordinances that we're having address all of our risks comparably. Any thoughts on these similar risks in non-industrial areas?

Mr. Worobel: I have a real short response. When I thought earlier about gasoline stations in particular because you're absolutely right, Council Member Burt. There's a tremendous volume associated with the underground storage tanks. In going through the various forms and looking at the check marks that was referred to earlier, the gasoline is not considered toxic or highly toxic. By virtue of our definition of Tier 2, those would be off the list. For things that are found at like an Orchard Supply hardware store, that's a really, really good example. There are also exemptions that allow for certain chemicals, if they're going to be used

primarily for retail, they're packaged for consumer products and retail use, they aren't considered part of that.

Council Member Burt: It sounds like we have regulatory exemptions that may or may not be based on real public health risks. I think that this Tier 2 ordinance addresses some things that existing ordinances simply don't cover. I think it's a real good step in the right direction. I do think that we have seen some good progression by CPI in attempting to reduce volume and other redundancies, and that should be acknowledged. On the other hand, I would not want to be over the fence from this facility. responsibility for that circumstance goes back decades. What we're faced with is how do we try to fix this as best we can. I think we've taken an aggressive approach that is not as aggressive as some of the neighbors would like, but is pushing the boundaries of what is legally permissible and has already resulted in, I think, risk reductions that are significantly lower than what had been at that site for 60 years, both when we look at volumes but really even more so in terms of the safety controls and the redundancies to those. That's probably not adequately reassuring to those neighbors, especially if there are risks that they weren't aware of historically and were always there. I think in reality on a scientific level, we've seen a significant reduction there. That whole notion of can we look at this in a more rational way, it's difficult. If it's your fence and feeling that jeopardy, it's hard to do so. In this community, we probably are overwhelming people who would say to climate deniers that they need to be looking at the science. They're science deniers. It's much harder when we feel our own eMotions and have science that we need to stare at and look at that. We have a situation that has less risk, and still risk that is not what should be there for residents over a fence. I think these are good moves, and I support them.

Mayor Holman: Because it's a long Motion, I'm going to read it here. Direct Staff to prepare two ordinances substantially in the form of the draft ordinances regulating hazardous materials users and establishing a schedule for amortizing a nonconforming use to be reviewed by the Planning and Transportation Commission and consideration by the City Council at a noticed public hearing before the end of February 2016 with the exception that Staff be directed to prohibit Tier 3 uses; and also direct Staff to work with neighborhood stakeholders and CPI to explore whether there is a resolution that could add substantial neighborhood protections such as better communication tools and/or a shorter period to eliminate the plating shop from the site while considering CPI's concerns about the 2026 date. I have lights from Council Member DuBois next.

Council Member DuBois: I'm concerned about the Tier 3 restriction. We have industrial zones for a reason. I'm just concerned that we're not really

thinking through unintended side effects. I mean, new technologies appear. I think a couple of the Tier 2 sites are hospitals. Again, I think there could be even biotech applications that use toxic substances. As long as they were a sufficient distance inside our industrial zone with proper safety mechanisms, I think that's some businesses that we might be interested in. I'm just concerned that an outright ban is too restrictive. I would offer a friendly amendment instead of just prohibit it, to direct Staff to review the Tier 3 restrictions and suggest improvements in the ordinance when they bring it back.

Council Member Scharff: I actually asked Staff if they do come up with anything that seems Tier 3 that we might want to consider, they bring it back to us. At the moment, I'd like them to prohibit it.

Council Member DuBois: I guess I would offer that as an unfriendly amendment.

Mayor Holman: As a separate amendment?

Council Member DuBois: Yeah.

Vice Mayor Schmid: Second.

AMENDMENT: Council Member DuBois moved, seconded by Vice Mayor Schmid to replace in the Motion, "that Staff be directed to prohibit Tier 3 uses" with "Staff to review Tier 3 use restrictions and suggest improvements in the Ordinance when it returns to Council."

Mayor Holman: Do you care to speak any further to your amendment, Council Member DuBois?

Council Member DuBois: Now we're on the amendment. I did have some questions about ...

Mayor Holman: The amendment only.

Council Member DuBois: ... the original ordinance. On the amendment itself, again, I just think we're not really thinking through unintended consequences of an outright ban. We do have industrial zones that are set up for this purpose.

Mayor Holman: Vice Mayor Schmid, do you care to speak to your second?

Vice Mayor Schmid: Just to support the notion that we do want to explore consequences before making a serious recommendation. I think it makes sense to investigate.

Mayor Holman: Council Member Scharff, to the amendment.

Council Member Scharff: I wanted to speak against the amendment. I think there are unintended consequences that go the other way as well, which we've seen with CPI and the issues like that. Once you put in a Tier 3, obviously people make an investment. Then it's a 15, 20, 30-year discussion about if you want to change that. That's a large unintended consequence. We are talking about dangerous Tier 3—CPI's not even Tier 3. CPI is now in Tier 2. I don't really think we'd want to invite those kind of uses into the community and limit, frankly, land uses around them for that That's a big decision you're making. I think that is the unintended consequence you wouldn't want to do. Now I did suggest that if Staff sees something or hears from people about why you may want to have some exceptions to that general rule, I think that'd be fine as we go through the ordinance process, which we are doing. We're going to go to Planning and Transportation and move through that. I think it makes much more sense to eliminate Tier 3 rather than leaving that out with the unintended consequence that we could frankly be limiting other land uses then for a really long period of time. If the community wants to get rid of that once it's in there, we no longer can do that. I think the other thing we have to realize is that this is a conditional use permit that's usually granted by the Director of Planning. It doesn't come to Council. There are a couple of conditional use permits that have been granted that I didn't agree with. I think they were a mistake, and I think a lot of people—I mean that's not attacking the Director's decision. We could make a 30-year land use decision without oversight by the Council and without an understanding of what's happening. To me that's a huge unintended consequence.

Mayor Holman: I guess I understand, but I think there is a lack of clarity in the amendment, Council Member DuBois. It says to replace in the Motion that Staff be directed to prohibit Tier 3 uses. I think it's also "and replace with Staff to review Tier 3 use restrictions and suggest improvements in the ordinance when it returns to Council." Isn't it "and also"?

Council Member DuBois: (inaudible) replace it with (inaudible).

Mayor Holman: Now that gets us clear. Council Member Burt.

Council Member Burt: I am familiar with what Title 19 thresholds are like. Our industrial areas are light industrial. They're not heavy industry. Title 19 size of facilities that have this level of hazardous materials really don't belong in light industrial areas in urban environments. We've seen an evolution as two things have happened over the last 50 years or so here. We've become more urbanized in Palo Alto, and long term it'll be even more

so. We understand risks and incompatible uses better than we did. This is part of what we've been talking about. If we had hindsight, we wouldn't have done this sighting. We need to have enough foresight to not go into another bad decision. I think this is a sound one. Having levels up to Title 19 is still moderate amounts of hazardous materials. Under this ordinance, they would have proper buffer zones. I think it's a correct balance, but I don't see a need to have Tier 3 facilities in our areas. I'll oppose the amendment.

Mayor Holman: Council Member Filseth.

Council Member Filseth: On the amendment, it seems like both the pro and the con cases for the amendment, under both those cases, the Staff is going to go off and think about are there any unintended consequences of this and are there any applications that actually would make sense to do. It seems to me that the question between the pro and con is if the Staff doesn't come up with anything terribly conclusive, what's the default? I think the default ought to be that there's no Tier 3 uses. I think probably the best thing is that the amendment fails.

Mayor Holman: Seeing no other lights, we will vote on the amendment, which is to remove from the Motion "Staff be directed to"—Council Member DuBois, did you ...

Council Member DuBois: Listening to the argument, I would actually withdraw the Motion rather than vote. I think you guys convinced me. I appreciate hearing from my colleagues.

Ms. Stump: Point of order, Madam Mayor. To withdraw the amendment, you need the agreement of the seconder.

Mayor Holman: Vice Mayor Schmid?

Vice Mayor Schmid: I'll go along.

AMENDMENT WITHDRAWN BY THE MAKER AND SECONDER

Council Member DuBois: Could I continue with my questions?

Mayor Holman: Yes, you still have the floor.

Council Member DuBois: Thank you. Actually most of my questions, I think, are for the City Attorney. I have four questions. If I could just rattle them off, then you could answer them. Are the Tier 2 restrictions limited to industrial zones or are they Citywide? If a Tier 1 facility exceeds the CUPA, does it become a Tier 2? There were some comments in the Q&A that

basically listed it as a Tier 1 as exceeding, which was confusing. I wonder if you'd give us a quick explanation of the issue with extremely hazardous substances. The last question is why not include the City Plant under the ordinance since there's no sensitive receptors, no residences near our Plant. Why exclude ourselves from the ordinance?

Ms. Stump: I think all of those are questions for the Planning Director and our expert. I'd like them to at least take the first shot. Thank you.

Ms. Gitelman: Thank you, Council Member DuBois. Let me take the first shot, and then I'm going to need Rod's help on the extremely hazardous substance issue. First, your question about whether the ordinance would apply only to Tier 2 uses in industrial zones. Yes, that is the case. The way the ordinance is currently drafted, it's an amendment to the section of the Zoning Ordinance for industrial zones. We did an inventory of where Tier 2 uses exist. We found that they were all in the industrial zones with the exception of the three that Rod mentioned in his presentation.

Council Member DuBois: Does that mean that some of these Tier 2 uses would be allowed in retail zones, for example?

Ms. Gitelman: I'll let Rod respond to that question. I mean, I think technically they would be allowed, but his research has shown that there are very limited applications or opportunities for those kind of uses outside of our industrial or manufacturing zones. Your second question was about whether a Tier 1 use can become a Tier 2 use if they ...

Council Member DuBois: In the Q&A, it talked about a Tier 1 use that exceeded CUPA. Doesn't that make it a Tier 2 use at that point?

Ms. Gitelman: It would be if it had materials that were classified as toxic or highly toxic. It depends not just on the quantities but on whether these materials that are identified in the Fire Code are those materials that exceed the CUPA quantities.

Council Member DuBois: If it was a toxic substance that was below CUPA and then went over, it would become a Tier 2.

Ms. Gitelman: Then you're correct. It would become a Tier 2. Your question about why not include the City Plant. Again, the ordinance is structured as a regulation that would affect the City's industrial zoning districts. That's the section of the Code we've amended. If we wanted to address facilities in the public facilities zoning district, we would have to include and amend a whole other section of the Code. I think our feeling was that that would be an effort that really is not necessary given the nature

of the facilities and, as you point out, the distance that the Water Treatment Plant is from sensitive receptors. Let me ask Rod to respond to the extremely hazard substance issue.

Mr. Worobel: Could you repeat the question please, so I make sure I get it correctly?

Council Member DuBois: There's notes in here that we may eliminate extremely hazardous substances. It wasn't clear why.

Mr. Worobel: Glad you're sitting down. When we first started down this path of trying to identify different methods of screening different types of facilities and looking at the different types of hazardous materials, we were originally focused on toxic and highly toxic. There was a suggestion made by the Barron Park neighbors to why not consider extremely hazardous substances which are defined in the Federal regulations. We thought that was a really good idea. It's actually something that's alluded to in the State Health and Safety Code, so that when you prepare a Hazardous Materials Business Plan, not only are you looking at the specific quantified CUPA thresholds of 500 pounds, 55 gallons or 200 cubic feet of compressed gas, but you also take a look at the extremely hazardous substances when those substances exceed quantities that are defined as threshold planning quantities. If you hold onto that thought for a moment. The way the Health and Safety Code reads in the State, it suggests that businesses that exceed the threshold planning quantities for extremely hazardous substances should be preparing a Hazardous Materials Business Plan. When you go to the CalARP regulations, the CalARP says we have a series of regulated substances, including extremely hazardous substances, and we have three different tables that you need to refer to. Table 3 identifies quantities at which point a Risk Management Plan should be prepared, and those businesses should be part of Tier 3. What we've actually got in our definition for Tier 2 right now with the use of extremely hazardous substances is something that just doesn't make sense, because it's actually suggesting a definition for what should be part of Tier 3. That's why we're having further discussions with Staff that suggest that perhaps the extremely hazardous substances limitation be removed from the regulations.

Council Member DuBois: They just wouldn't be allowed under Tier 2 essentially.

Mr. Worobel: Also because most of the extremely hazardous substances tend to be covered by the toxic and highly toxic substances. They're not identical. I think what we were facing is that if we don't use the threshold planning quantities for the extremely hazardous substances, what lower

threshold could we actually establish that would be rational and scientifically based? I don't really find any other different quantities that would be acceptable.

Council Member DuBois: Thanks. I'd just like to say, I mean, I think CPI is a good company. You guys make good products. That's not really the question. Both the company and the homes have been there a long time. It's not like one was there well before the other either. If we were zoning this today, I don't think we would allow it to happen this close. I think some type of amortization process makes sense. Updating our ordinances on material handling makes sense. We have a duty to protect the community. I think there are reasonable concerns. I'm going to support the Motion.

Mayor Holman: I see no other lights so—Molly.

Ms. Stump: Madam Mayor, just one housekeeping item. I'm not sure this needs to be part of the Motion. Perhaps it is prudent to direct Staff to continue to evaluate whether there are any additional facilities that would fall under the new proposed Zoning Ordinance. To the extent that there are, that Staff similarly pursue an exploration of appropriate amortization for those facilities. This is based on the fact that we are at least possibly considering that there is another facility. Now, it may not in fact be captured by this regulation. If it is, then we should proceed with respect to that facility in a similar manner and explore appropriate amortization.

Mayor Holman: The board did light up. Council Member Berman.

Council Member Berman: Thank you, Madam Mayor. I want to agree with a lot of the comments that my colleagues have made, and especially just initially kind of call out and emphasize the comments last made by Council Member DuBois and also alluded to by Council Member Burt. CPI is a good company; they make important products. While they haven't been a perfect neighbor necessarily to the community, I think on the whole they've done a good job of addressing concerns that the City has brought up. Maybe not communicated that as well to the community. I do support the Motion. I think we're moving in a right direction now that we've taken a kind of deliberate look at this situation, which obviously isn't ideal of having this type of operation across the fence from a residential neighborhood. Ideally, this would have been evaluated a decade ago when the operations were consolidated at this site or longer before that, but that isn't the case. Now, it's important for us to take a responsible, legally appropriate approach. I think we're doing this. For me personally—one of the reasons I especially appreciate the second part of the Motion—I think in an ideal world we get two things. One is certainty for the neighborhood and for the company. If I

had my preference, the plating shop would not be moved 300 feet on the site; it would be moved offsite. It's clear by the rules and even these new rules that CPI would have the ability to just move it 300 feet onsite until That's why I think it's important to have this longer discussion between the community members and CPI and the City to see if we can come up with a compromise and a solution, kind of a win-win for everybody, where the plating shop is relocated offsite. The community gets the certainty it needs, and we kind of alleviate that just psychological fear that currently exists in that neighborhood. CPI gets the certainty that it needs to operate as a business. During the interim—there's going to be an interim period. I won't guess as to how long that's going to be. I think it's important for there to be increased communication between CPI and the community. We've heard some concerns tonight and possibilities of how to improve that communication. I'm sure Staff has been doing a good job of compiling those concerns from the community and will talk with CPI to see what's feasible and what isn't so that we can increase communication so that, for whatever period of time exists, both CPI and the residents have open lines of communication and everybody feels better with the situation. I was reading one of the emails that we got from a resident that gave a great historical kind of narrative of the history of CPI and the history of Barron Park and the history of Chimalus an everything. The email alludes to the fact that Mr. Varian back in the '40s, '50s, '60s and '70s had a good relationship with the residents. I think maybe that kind of alleviated some of the concerns that might have otherwise existed. I hope we get back to that, because that was a kind of relationship that everybody felt good about. Obviously the people who work at CPI feel very passionately about it. I was very impressed by the duration of employment of some of the folks that came up and spoke today. You just don't hear that often these days of folks working at a company for 30, 35, 37 years. I think everyone wants to do the right thing. Hopefully at the end of this process when we get everybody to the table, we can come up with a solution that everybody feels good about.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: I think I'm going to be supporting this Motion. I think it strikes the right notes and the right balance. My thinking about this is that in policy discussions—a couple of big points. First, in policy discussions, a particular case can elevate an issue in the eyes of the public and in the eyes of the City. It's important that we don't remain solely fixed just on a particular case when we realize that the issue is actually broader. I think it's important to acknowledge that that's what we've done here. This isn't just about CPI. The amortization part obviously is. As far as protecting residents in Palo Alto, this is a broader issue. Barron Park residents

identified and have shined a light on this particular perceived risk. studying and considering this risk, we've realized that it's not just Barron Park residents, but all Palo Alto residents that should enjoy greater certainty of their safety in their neighborhood. That's what this is really about. Also, just as far as how we move forward and why. I think this is a well crafted Motion. In policy discussions, we really must recognize all of the values that are at stake and thoughtfully weigh them. The ideal of course is to not only weigh them, but find ways to coordinate them. When we look at this situation, what are some of the values at play? Community safety, property rights, investment, good jobs. These are all important values. I really do hope that our friends and some of the residents of Palo Alto at CPI along with the residents in Barron Park and City Staff will seize this opportunity to work with sincerity to identify a win-win, to identify the best solution for everybody moving forward where everybody, both for residents' safety and for planning the future of your business and for helping us be clear about our future zoning and planning, can have the predictability that's so important for making long-term decisions. I think that's what's going to be most important for all parties at play here. I also just wanted to offer gratitude to those three groups. First, to the residents for having really focused on this issue and helping us realize what more we needed to do to improve safety throughout the City of Palo Alto. To CPI for having very evidently learned through these experiences over the last few years, improving their safety and improving their community outreach, for inviting us within the walls of their organization. I do commend you for that. That is a good lesson for all corporate citizens. For the City Staff especially the Planning and the Legal Departments for thinking very creatively and offering to continue to do that so we can find the best solution. Thank you.

Mayor Holman: Council Member Kniss.

Council Member Kniss: I will be supporting the Motion as well. My concern remains with the communication piece of this. We primarily tonight are voting for an all purpose ordinance. This is not just directed at CPI. The reason that we've been here tonight talking about CPI is that is going to be the most quickly effected business by this particular ordinance. Before this comes back to us, I would like to hear three things. How CPI is going to reach out into the community; who the person will be who is responsible at CPI for doing that. I think that's really important to have somebody identified. Lastly, for CPI to consider whether or not they would allow others in their neighborhood to do what they have invited us to do as a Council. I think that would make a substantial difference long term. As I've said, as much as we're dealing with an ordinance and we're dealing with how this will affect others in our community, this also is one of those times when there really needs to be far more communication and a far more comfortable

feeling as long as CPI is in the backyard and, as Pat has described it, over the fence.

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: Just a simple question. I recall hearing early in the process that there was some activity going on in the medical center that were excluded because they had special safety requirements. Would this ordinance have any impact on either research or medical procedures that either are or might be going on in the medical center?

Mr. Worobel: After we went through the inventories and we looked more closely at the specific chemicals that were identified as possibly making them eligible for Tier 2, those were all ruled out as either toxic, highly toxic or extremely hazardous substances. They all fell below the various thresholds we were concerned about. The VA or the Stanford University Medical Center? In both cases, they fell off the list. And they're in public facility zones.

Vice Mayor Schmid: The amounts they need, they use, fit within the requirements?

Mr. Worobel: Right.

Vice Mayor Schmid: Thank you.

Mayor Holman: City Attorney.

Ms. Stump: On further reflection, I would like to actually recommend that the Council add that last housekeeping item. I guess that's a recommendation to the maker and the seconder that the Motion include a last sentence along the lines of "direct Staff to evaluate whether any additional facilities would be legal and nonconforming under the proposed regulation. If so, explore appropriate amortization."

Council Member Scharff: Is the language that's written there, is that what you just said?

Ms. Stump: Yes, that will do. Thank you.

Council Member Scharff: That's fine with me.

Mayor Holman: Council Member Scharff, are you okay with that?

Council Member Scharff: Yes.

Mayor Holman: Council Member Burt?

Council Member Burt: Yes.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "direct Staff to evaluate any additional facilities that may fall under the Ordinance and direct Staff to explore amortization for those facilities."

Mayor Holman: Thank you for that City Attorney. I'll certainly be supporting the Motion. I also support the comments made by Council Member Kniss and encourage Staff to pursue that. Also I think before this comes back, too I think any information that we could have about the seismic capability of the building would be really, I think, information that we should know. With that, we will be voting here for Staff to prepare two ordinances, substantially in the form of the draft ordinances, regulating hazardous materials users and establishing a schedule for amortizing a nonconforming use to be reviewed by the Planning and Transportation Commission and consideration by the City Council at a noticed public hearing before the end of February 2016 with the exception that Staff is to be directed to prohibit Tier 3 uses; and also direct Staff to work with the neighborhood stakeholders and CPI to explore whether there is a resolution that could add substantial neighborhood protections such as better communication tools and/or a shorter period to eliminate the plating shop from the site while considering CPI's concerns about the 2026 date. Also added to the Motion with the acceptance of the maker and seconder, direct Staff to evaluate any additional facility that may fall under the ordinance and direct Staff to explore amortization for that facility. (inaudible) for that or With that, vote on the board please. those facilities. That passes unanimously. Thank you, colleagues. Thank you to the Staff, public and CPL.

MOTION AS AMENDED PASSED: 9-0

15. <u>Resolution 9560</u> Entitled, "Resolution of the Council of the City of Palo Alto Establishing Interim Minimum Standards and Leasing Policies for the Palo Alto Airport" and <u>Resolution 9561</u> Entitled, "Resolution of the Council of the City of Palo Alto Revising the Airport Schedule of Fees and Charges."

Mayor Holman: With that, colleagues, we go to Item Number 15 which is adoption of a Resolution establishing interim minimum standards and leasing policies for the Palo Alto Airport and adoption of a Resolution revising the airport schedule of fees and charges. Staff, are you ready for your presentation?

Mike Sartor, Public Works Director: Yes. Good evening ...

Mayor Holman: Thank you.

Mr. Sartor: ... Mayor Holman and Members of the City Council.

Mayor Holman: Excuse me just for a second. Could members of the public please move to the lobby for your conversation, so that we can conduct business? That would be really appreciated. Thank you. There you go, Mike.

Mr. Sartor: All right. Again, good evening, Mayor Holman and Members of the City Council. I'm Mike Sartor, Public Works Director. We're here to present to you tonight a recommendation to establish interim minimum standards and fees for the Palo Alto Airport operations. Just as a quick introduction. When Palo Alto took over the airport last August, there were no minimum standards in place as the County of Santa Clara had not done this. Although Staff is recommending interim minimum standards at this time, we fully intend to conduct an open stakeholder-involved process to put into place permanent minimum standards for airport operations. We'll start that process early next year. Next slide, Andy. Real quickly, interim minimum standards are needed at Palo Alto Airport to preserve the airport as a community facility that serves the City and neighboring communities. It would also ensure a minimum level of aeronautical services and facilities for airport users. Next slide. It would promote safety in all airport activities, maintain a higher quality of service for airport users, protect airport users from unlicensed and unauthorized products and services, and provide a clear and objective distinction between service providers and will provide satisfactory level of service (inaudible) knows it will not. In relation to the fees that we have modified, there are no increases or decreases in fees at this point. If you look at the redlined copy that's attached to your Staff Report, you'll see that we've removed services that are not applicable to Palo Alto Airport, recognizing that these fees were put in place by the County of Santa Clara at that time. We've removed the monthly and annual fee for aircraft charter companies and kept the per operation rate structure for Lastly, we've removed monthly parking permits for RVs, trailers and other oversized vehicles as we no longer provide permits for those types of vehicles. With that, I'm open to any questions that you may have. Thank you.

Mayor Holman: Thank you. We do have four members of the public who'd care to speak to this item. Amy Christel to be followed by Mark Shull. Again, if the second speaker would come to the front, that would be helpful.

Amy Christel: Here I am again. Thank you for giving me this opportunity yet again. I'm struck—I have a whole script written, but I'm struck by the relationship of the last topic you considered to the one that is before you right now. My basic question is why are we having this discussion now after the airport has been in your hands for a year without such minimum standards, and who is not providing the kind of services that these standards seek to provide, and what is inadequate about the situation right now that we are rushing to accept minimum standards on an interim basis that will essentially allow leases to be granted for whatever period of time, grandfathered, and put us in the same situation that the residents of Barron Park have been in, where you cannot extract yourself from an arrangement, a lease, a contract for a service provider that is not in the best interest of the rest of the community. Maybe I'm borrowing trouble, but I think not. One of the City's stated goals of establishing minimum standards includes minimizing impacts on the surrounding residents. Yet, nothing, not one word, in these interim standards addresses impacts on residents. Not the possibility of increasing congestion in air traffic. Not the possibility of low flying helicopters and more helicopter training services, parachuting, skydiving, the list goes on, taxi services, something such as Surf Air which is a quasi non-commercial enterprise. I just wonder if perhaps we need a citizens advisory group to work on establishing long-term standards and skip the whole interim process and be a little bit patient and get something installed that really considers the entire community's desires for what should be and what shouldn't be out at that airport. I realize we have FAA guidelines to work within, but I think we can still come up with something better than what is before you tonight. Thank you.

Mayor Holman: Thank you. Mark Shull to be followed by Rachel Kellerman.

Mark Situll: Thank you. My concern is similar. This just seems like at the eleventh hour, just before where the City Council is asked to vote on a measure, an agreement, we find out indirectly as citizens. It reminds me of something that's happened to Palo Alto over the last couple of years, over the last year. In April of 2014, the City received a letter, Jim Keene, from the FAA that said we're establishing updated arrival routes and/or fixes to the EA, which is environmental assessment airports. Aircraft bound for those airports would use optimized procedures to transition from high altitude route to an existing route. The implementation is not anticipated to increase the number of aircraft operations. Guess what happened? Over 54 percent of all flights now go over Palo Alto. They didn't. They now fly 4,000 feet. They established a new arrival route. They said no new routes, but they did. We're now—the way the FAA has basically designed this is they have said that there's less noise. The way they get to less noise is they concentrated all the routes, all the noise into one location. Guess what?

Palo Alto is that sacrificial noise corridor. It does concern me that being burned once, we're going to rush into something at the Palo Alto Airport without notice to citizens. Perhaps you know all the details of what's going on. I read the agreement. I have a lot of questions about details. Are we going to get another Surf Air? What can come in under this agreement? We need to know that. I'd like to encourage the City Council to pay a lot more attention to air noise, what the FAA is doing, what air operators are doing. Cities in San Mateo County have done this for a long term. They've created a roundtable and, over the years, basically—the data shows this—traffic has migrated from those locations. They have a net reduction in traffic. We have a dramatic net increase. The City needs to basically take this on, do what the cities of San Mateo County have done, basically focus more on the serious implications of what can happen. That's not only what's happening with the new routes into San Francisco Airport that are overhead, but the potential for what could happen in the Palo Alto Airport if basically agreements are rushed into. Lastly, I'd like to ask the City to give us as citizens more notice and information early in terms of what is being considered. Thank you very much.

Mayor Holman: Thank you. Rachel Kellerman to be followed by our final speaker on this item, Stewart Carl.

Rachel Kellerman: Mayor Holman, Council, City Staff. On a positive notice, I'm going to veer a minute off topic to give my great thanks to City Staff and Council, especially Khash and Council Member Filseth, for working with citizens to engage an intractable FAA and demand that they redesign our airspace so that it is safe, efficient, and does not concentrate noise and pollution in unhealthy ways. There was an exciting new development today. The FAA finally responded, but there is much more work to be done before we have healthier skies. Some good news. However, this ongoing next gen FAA wicked problem should teach us how important transparency and engaging stakeholders is in planning for aviation change. concerned that by adopting these minimum airport standards without full environmental and stakeholder review, that the airport may take on an operator that will add pollution and noise to our already toxic airspace. Once an airport vendor is allowed access, it will be very difficult to evict them. You have only to look north to the San Carlos Airport to see evidence of communities struggling with airport noise due to the air taxi, Surf Air. far, these communities have been unable to find any relief from the constant noise and air pollution caused by this commercial enterprise. What is the The airport has been working for a year now with no minimum Why not wait until this gentleman says there's going to be comprehensive standards with stakeholders? Why not do that now? Because there was little community input aside from airport stakeholders

when the City took over the airport, I am wary of these minimum standards also put forward without citizen review and request that if they are adopted, they are adopted along with a firm timeline for forming an inclusive citizen airport advisory committee to create standards that comply with FAA rules but also comply with the Palo Alto Master Plan. The Palo Alto Master Plan should specifically guard our citizens and our natural resources from the noise and pollution caused by increases in aviation traffic. We know the FAA is a powerful Federal agency, but our City has power too. The City should employ legal counsel that are foremost experts in this complicated field of law on all levels, local, State and Federal. It should demand that its lobbyists weigh in on these matters on a regular basis. It should model what a regional aviation stakeholder body looks like and form such a body for its own airport as soon as possible. We can leave a legacy of balancing progress with peace and health on this issue, but it will take a lot of teamwork and perseverance. Thank you for your time.

Mayor Holman: Thank you for coming. Our final speaker this evening on this item is Stewart Carl.

Stewart Carl: Good evening, Council. It seems like we're always talking about airports really late at night. I checked my iPhone earlier today, and it's exactly—not exactly—three years and one month since I first came to the Council and warned them of a dramatic increase in aircraft noise over Palo Alto. In those three years, one thing that I've learned is that airport improvement grants are one of the kind of strings holding this fragile, dysfunctional, broken FAA airport aviation industry complex together. How do they work? The FAA has access to Federal money that comes from our Federal taxes that we all pay. The FAA uses those tax money that we pay to essentially buy control of airports from local governments using contract law to supersede local governance of the airport. How does that work? When Palo Alto signs an airport improvement grant with the FAA, it turns over a lot of its responsibility for managing the airport to the FAA in a lot of important areas. It doesn't just turn over its ability to regulate and manage the airport for this Council. Because the airport improvement grants tend to have anywhere from a 20 to a 25-year life, it actually precludes any future Council for the next 20 years from being able to effectively regulate the airport. I would encourage—it also undermines the Council's ability and the City's ability to negotiate with the FAA when essentially the City is cooperating and participating in this kind of broken system. It undermines your credibility when the City petitions the FAA for changes. Sorry, I wasn't able to prepare; I'm just speaking extemporaneously tonight. I think that's all I have to say. Thank you for considering my thoughts.

Mayor Holman: Thank you. Does City Staff or City Attorney have any comments to make in response to speakers? City Attorney, you have your light on.

Molly Stump, City Attorney: Maybe I will say a few things. First of all, the Staff certainly agrees and we hope it was clear in the Staff Report that a full stakeholder-involved process is appropriate and needed. It's a priority to begin that in 2016. If Council as part of its Motion tonight wants to direct the Staff to specifically include a process that would structure the involvement of community stakeholders as well as be an open process that everyone can participate in, we're completely comfortable with that. That's totally appropriate. Just to respond briefly. The minimum standards that are before you tonight do not enable or promote any leasing or commercial activity that would not otherwise occur. The fact is that right now there are not minimum standards or a threshold or a floor of requirements in place. That doesn't mean that leasing and commercial activity can't go forward. It could go forward. It would go forward in an appropriate case without those uniform protective standards in place. We think it's advantageous to all to put those in place on an interim basis subject to a community-involved process that will take place next year. Happy to answer any further questions.

James Keene, City Manager: I would just add obviously the item that we're dealing with tonight pertains to the Palo Alto Airport. Although, it gets aligned with and nested within, in many ways, the larger regional difficulty and challenge we have mostly with air traffic going into SFO but also coming out, and San Jose also. Not the subject for tonight exactly.

Mayor Holman: Understood. Council Member Kniss. I think on this item we can entertain questions, comments and Motions. Council Member Kniss.

Council Member Kniss: I'm going to start with a Motion which recommends the Staff recommendation which is "1" and "2," which I'm glad to read out loud, but should include a "3" that includes the stakeholders as we move toward a permanent standard to be in place at the airport.

Council Member DuBois: Second.

Mayor Holman: Seconded by Council Member Filseth.

MOTION: Council Member Kniss moved, seconded by Council Member Filseth to:

A. Adopt a Resolution approving and adopting the Interim Minimum Standards and Leasing Policies for the Palo Alto Airport; and

- B. Adopt a Resolution amending the Airport Fee Schedule to update the fees to reflect the transfer of Palo Alto Airport operations to the City of Palo Alto; and
- C. Include discussions with stakeholders as we move towards permanent Minimum Standards.

Mayor Holman: Would you care to speak to your Motion?

Council Member Kniss: Several seconds I think. First of all, let me just say that it's troubling to hear that the County didn't do what they were supposed to do. However, having served there for 12 years, I guarantee you for 12 years we tried to give the airport back to Palo Alto. It took a long time to do it. You sounded enthused initially, but you kind of lost your ardor along the way. I remember the first time I voted on it was '05 or '06. I think airports and air has become far more of a pressing issue now, especially that we have the new next gen in place that is so distressing. We hear from the neighbors all the time. We hear from any number of stakeholders. Thank you, Eric, for following this and going to the airport and observing what actually is happening. We're not seeing any easy answer right away. I think as we get into this, we need to think really carefully about the stakeholders, about what this may open up as the airport begins to expand. I know I've heard in particular from people—somebody mentioned it tonight—that Surf Air can be an issue. I think we need to be cautious as we move forward, but I'm very mindful of our County Council urging us to at least move toward the interim minimum standards. That's it. Pardon?

Male: (inaudible).

Council Member Kniss: Is that the Motion?

Male: (inaudible).

Council Member Kniss: Sorry, Molly. Clearly I was a bit surprised by the County seemingly dismissing you.

Mayor Holman: A question for the maker of the Motion. I sort of think "C" was to create a stakeholder group. It says to include discussions with stakeholders. I think it was to create a stakeholder group, was what I wrote down.

Council Member Kniss: It can be either way, to be honest. We can establish the stakeholder group. What I had said was include the stakeholders. Either way.

Ms. Stump: Madam Mayor, we might appreciate the more general statement, because there will be a consultant coming onboard to assist the airport. We should probably hear from those experts about exactly how to structure it. We fully understand that the Council wants full participation by neighbors and interested stakeholders.

Mayor Holman: Very good. Council Member Filseth, speak to your second.

Council Member Filseth: I thought it was pretty clear that Council Member Kniss made a Motion, not a "D" Motion. I just had one question. If we proceed and adopt this, when does the interim ordinance go into effect?

Mr. Sartor: Please ask your question again, Council Member.

Council Member Filseth: When would the ordinance go into effect?

Mr. Keene: The resolution.

Council Member Filseth: As a resolution. Then the City would come back with an ordinance.

Ms. Stump: You would adopt the minimum standards by resolution. Resolutions generally go into effect right away; however, this is a fine point of municipal law. In the event that some citizen group or a number of citizens were interested in circulating a referendum petition, we would advise to allow that same 30-day period that applies to an ordinance.

Council Member Filseth: I'm surprised the County hadn't done this already. I think it's high time we did it. We should do it.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: I actually just wanted to mention a couple of things in recognition of the comments that we heard from the public. Actually I think one of the speakers referenced it, but I want to make sure it's really clear. Regarding the airport noise issue that we already suffer in Palo Alto, Council Member Filseth and City Staff have been working very diligently on this. We are very focused on that. I appreciate you're also paying attention to it. Thanks for continuing to not just to keep working on that. I know that Council Member Filseth and Staff are doing their best on that issue. As far as the concerns that these standards might be too low, something is better than nothing. I definitely want to make sure we're careful not to overshoot when it's an interim ordinance. Because we haven't had the opportunity to go through that extensive stakeholder input process, I don't think that now is the time to be adopting very, very stringent

standards. Having something in place, some interim standards in place, actually provides some level of protection for our community, for our airport. As was acknowledged, I think, before, the County should have done a long time ago. Part of the fun of getting to run an airport is we're still figuring out what do we need to do, what can we do better. I think this is yet another example of how having the Palo Alto Airport under the management of the City of Palo Alto is a benefit and will have long-term beneficial impacts for the community. I appreciate all of the input from the community that we heard tonight. I think the purpose of this interim measure is to pursue those goals that the community has. I'll be supporting the Motion.

Mayor Holman: I don't see any other lights. I hope that—first, thanks to the members of the public. Appreciate the concerns and hope it's clear that this actually raises the floor. We'll be having a further discussion about this item in the upcoming period. With that, the Motion on the floor is to adopt a resolution approving and adopting the interim minimum standards and leasing policies for the Palo Alto Airport; and (b) adopt a resolution amending the airport fee schedule to update the fees to reflect the transfer of Palo Alto Airport operations to the City of Palo Alto; and (c) to include discussions with stakeholders as we move towards permanent minimum standards. Vote on the board please. That passes unanimously. Thank you, Council Members.

MOTION PASSED: 9-0

Council Member Kniss: Mayor Holman, could I ask one guestion of Mike?

Mayor Holman: Council Member Kniss.

Council Member Kniss: Mike, before you go, may I ask you one question?

Mr. Sartor?

Mayor Holman: Mike? Mike? Mike?

Council Member Kniss: Could you give us a report at some point about whether or not the airport is actually self-sustaining?

Mr. Sartor: Yes. We plan to bring an update back to Council early next year on the status of the airport, including revenues and expenditures and where we're heading.

Council Member Kniss: Thank you.

Inter-Governmental Legislative Affairs

None.

Council Member Questions, Comments and Announcements

Mayor Holman: That takes us to—unless there's any Legislative Affairs to be reported—Council Member Questions, Comments and Announcements. Council Members? Council Member DuBois.

Council Member DuBois: I was attending a conference on municipal broadband today and tomorrow. It's very interesting. It's also on telemedicine, telelearning and library support. The former governor of Illinois spoke today. He was very interesting; he's a big supporter of public broadband.

Mayor Holman: Council Member Kniss.

Council Member Kniss: I'll go to Sacramento part of Wednesday and Thursday to be part of their orientation for new presidents of the Peninsula Division of the League of California Cities. I'll bring you a direct report.

Mayor Holman: Any other Council Members before we go to Council Member Wolbach?

Council Member Wolbach: Two things on looking at the regional jobshousing imbalance. Mountain View is proposing, I think, over 7,000 housing units for the North Bayshore area, which is an important development towards addressing our regional jobs-housing imbalance. Unfortunately, on the flip side, the City of Santa Clara is looking to redevelop their golf course to be—I wish I could remember the numbers. I want to say it's about 30,000 jobs and only a handful of thousands of housing units. Far, far more jobs than housing, if that moves forward. That was being discussed at the VTA Policy Advisory Board recently.

Mayor Holman: I think your number of jobs is quite low, what's being proposed. We can come back to that another time.

Council Member Wolbach: I think it was in the tens of thousands and started with at least a two or a three.

Mayor Holman: You had another—you wanted to adjourn the meeting in recognition of ...

Council Member Wolbach: I would ask that the Mayor, that we adjourn the meeting in recognition of people around the world who have died as the result of terrorism recently in a number of countries notably, but certainly not limited to, Paris, France.

Mayor Holman: With that, meeting adjourned.

<u>Adjournment</u>: The meeting was adjourned in recognition of people around the world who have died as the result of terrorism, particularly, but not limited to those in Paris, France at 11:04 P.M.