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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:09 P.M.

Present: Berman, Burt, DuBois arrived at 6:20 P.M., Filseth, Holman,

Kniss, Scharff arrived at 6:46 P.M., Schmid, Wolbach

Absent:

#### Special Orders of the Day

1. Presentation Development Services Department Regarding to Recognition of Achievement International Standards by the Organization (ISO) for its Administering of the Building Codes Attaining the Highest Standards for Structural Safety.

Peter Pirnejad, Development Services Director, remarked that the award was a symbol of the work the City Manager began in 2009 with formation of the Blueprint. International Standards Organization (ISO) measured building resilience, competency of Staff, and quality of the building. The City received a Class 1 designation of a model organization. Milpitas, Newport Beach, and Beverly Hills were the only other cities in the State to obtain a Class 1 designation.

Ralph Dorio, ISO President, reported a rigorously enforced Building Code offered unintended benefits. The program was recognized in insurance underwriting, the Federal Emergency Management Agency (FEMA), and other organizations as a basis to compare communities. A Class 1 designation was awarded to few cities across the nation.

Roxy Rapp appreciated the City Manager and Development Services Staff's efforts to obtain the Class 1 designation. Building resilience and safety were important for the community and building tenants. Development Services had improved greatly over the past four years.

#### Study Session

2. Update on the Santa Clara Valley Water District's Collection of All of Its State Water Project Costs via Property Taxes Instead of Water Rates.

Karla Dailey, Senior Resource Planner, reported State Water Project revenue totaled slightly more than \$20 million annually countywide from property taxes. When the Santa Clara Valley Water District (Water District) Board approved water rates each year, those rates assumed 100 percent of the State Water Project obligation would be collected via property taxes. Palo Alto residents contributed approximately \$1.5 million of the \$20 million

annual revenue. The City purchased all its water from the San Francisco Public Utilities Commission (SFPUC); however, property owners continued to pay the State Water Project tax. Staff investigated the contract between the Water District and the State Water Project and noted the property tax mechanism should only be used as a last resort to meet the revenue requirement. Funds could be collected through water rates or property taxes. Staff had communicated with the Water District regarding collection of revenue; however, the Water District continued to collect revenue through property taxes. The Water District claimed the City received indirect benefits from the State Water Project. The City claimed purchasing water from SFPUC provided the same benefits. Should the Delta Tunnel Project be constructed, Staff anticipated the amount of money collected from property taxes would double. SFPUC water rates were higher than Water District rates, because of vast infrastructure improvements to the Hetch Hetchy system.

James Keene, City Manager, clarified that the concern was not the benefits provided by the Water District to all of Santa Clara County. The payment mechanism did not align with community expectations for transparency.

Jim Fiedler, Santa Clara Valley Water District Chief Operating Officer, advised that voters approved the State Water Project and its financing in 1960. The Water District implemented the tax in 1979-1980. Prior to 1979, revenue for the State Water Project was collected as part of ad valorem property taxes. It was concluded that was an override to the mechanism set out in Proposition 13; therefore, the Water District began collecting the State Water Project Tax throughout Santa Clara County. Funds could be used solely for contractual obligations incurred by the Water District to pay for the State Water Project. The Water District relied upon the tax to recover or pay 100 percent of the obligation. The Water District Board determined the amount to be set aside for the obligation annually. Typically that amount was 10 percent of the State Water Project tax. Groundwater served as a backup supply to Hetch Hetchy water. The Water District Board directed its staff to work with Palo Alto and other northern cities to provide up to \$3 million in a program that could create a greater reliance on locally sustainable, drought-proof water supplies. An advanced purification facility recently came online to blend purple pipe water to improve the quality of recycled water. In the future, the Water District envisioned using that same technology to recharge groundwater to provide further supply.

Council Member Berman asked if the Water District sold water to consumers outside of Santa Clara County.

Mr. Fiedler replied no.

Council Member Berman inquired whether the Water District Board had considered revenue sources other than the property tax.

Mr. Fiedler indicated the Water District Board provided a report that described groundwater charges and cost of service analysis. The report reflected the offset for the State Water Project tax. In July 2014, the Water District Board had greater interest in the State Water Project tax in policy discussions. In November and December 2014, the Water District Board held public sessions describing the State Water Project tax. Water District staff asked the Board whether it should change its practice of relying upon 100 percent of costs to be recovered through the State Water Project tax. The Water District Board did not provide direction to make changes.

Council Member Berman asked if most water agencies collected infrastructure costs via a tax or water rates.

Molly Stump, City Attorney, reported the State Water Project was a special situation. In general, the contemporary philosophical underpinnings of a tax were that fees aligned with services provided. Many other water districts provided a portion of the State Water Project costs through tax rolls. Staff believed the Water District's practice of collecting all costs through the tax was unusual for an urban and semi-urban district.

Council Member Burt inquired whether Palo Alto's drawdown of water helped prevent subsidence.

Mr. Fiedler could not say. The basin was large, and the Water District recharged it in portions to maintain the balance. Many people benefited by the Water District's management and recharge program.

Council Member Burt was referring to preventing subsidence today. He asked if the Water District drew from the water table.

Mr. Fiedler advised that the Water District did not pump groundwater. Other municipalities and investor-owned utilities pumped groundwater. The Water District provided a means for water supply to remain available.

Council Member Burt asked if the Water District pumped water into the water table while users throughout Santa Clara County withdrew water from the table.

Mr. Fiedler responded yes.

Council Member Burt asked if any water pumped from the water table served Palo Alto.

Mr. Fiedler believed approximately 250 active private wells were located within Palo Alto. If those wells were used for the purposes defined by the District Act, then a groundwater production charge was levied on those wells.

Council Member Burt inquired whether it was reasonable to state that wells within Palo Alto consumed only low single digits of the total water consumed by Santa Clara County.

Mr. Fiedler did not have that information.

Council Member Burt requested Mr. Fiedler obtain that information. The Water District's basic premise was the City was somehow benefiting from the recharge in terms of preventing subsidence and the draw. He wanted to know the degree to which that was so. If one entity received the vast majority of water from groundwater and another entity received almost no water, those two things were not equal.

Mr. Fiedler commented that both entities wanted to ensure a reliable groundwater table. He asked if the City wanted to ensure a reliable water supply whether it used a lot or a little water.

Council Member Burt would not care equally. He hoped the City and the Water District could move toward an open, frank, and straightforward discussion. The City paid equally for the replenishment of the aquifer and received very little draw from that aquifer. He inquired whether the City had a potential alternative water supply during a drought.

Mr. Fiedler noted the Water District had an interconnect (intertie) with SFPUC. In times of need, the Water District could supply water to SFPUC and vice versa.

Council Member Burt asked if that interconnect was part of the reason for Palo Alto property taxpayers to pay the State Water Project tax.

Mr. Fiedler indicated that was not necessarily a reason. The question was whether or not citizens of Palo Alto derived any benefits from having State Water Project water available in Santa Clara County. That was an example of a benefit that Palo Alto citizens directly received.

Council Member Burt inquired whether Mr. Fiedler meant the intertie was a benefit but not a reason to pay the State Water Project tax.

Mr. Fiedler advised that the Staff Report included the Water District attorney's report about taxes, other sources of revenue, benefit assessments

or even fees or charges. There were certain tax rules that corresponded to them. The tax was designed to be collected irrespective of the amount of water consumed. Citizens paid other taxes for which they might not receive an immediate benefit. As the Water District managed the basin and attempted to keep that level high, wells in Palo Alto were relying upon value in the basin and benefited from the recharge program that occurred elsewhere in the basin.

Council Member Burt believed Palo Alto did not benefit equally to other areas of Santa Clara County that actually drew water from those wells.

Mr. Fiedler reported those who drew water paid the State Water Project tax and a groundwater production charge that paid for the total cost of service.

Council Member Burt stated Palo Alto residents received a miniscule amount of benefit; other residents of Santa Clara County received a primary amount of benefit. He inquired whether SFPUC charged the Water District or customers in Santa Clara County for the reciprocal interconnect.

Mr. Fiedler explained that the Water District had the option to use dollars for the water. However, over the past few years, the Water District kept a record of the amount of water made available to SFPUC, because the Water District could recover that at a future date.

Council Member Burt understood Mr. Fiedler to state that citizens of Palo Alto received a benefit from the State Water Project tax. One of those benefits was drought resilience or some ability to have a second water supply in a drought. Mr. Fiedler's argument was that part of the reason Palo Alto citizens paid the State Water Project tax was to obtain that benefit. The Water District and customers received a reciprocal benefit for which they did not pay Palo Alto citizens. It was a one-way dollar flow. He inquired whether there was a relationship between Clean Safe Creeks, Measure B, dollars and the State Water Project tax.

Mr. Fiedler reported the 2012 measure contained provisions that were not in the 2000 measure. The 2012 measure included dollars to help pay for some of the retrofit costs at the Anderson Dam. By and large, generally they were separate.

Council Member Burt asked if the seismic retrofit served Palo Alto.

Mr. Fiedler indicated it could. Water from Anderson Dam could feed into the Rinconada Water Treatment Plant to recharge along the western side of Santa Clara County.

Council Member Burt noted the City had an allocation from Hetch Hetchy that was 30 percent above water use, and the City did not buy that water. He inquired about the relevance of the City's hypothetical benefit from improvements to the Anderson Dam.

Mr. Fiedler explained that the Water District managed the water table to avoid steep shortfalls and to ensure available water supply. Those supplies or commingled local water and imported water could be used to recharge the groundwater basin.

Council Member Burt stated that Palo Alto citizens had not drawn down the aquifer from the time the City began buying Hetch Hetchy water. Any subsidence or reduction in the water table occurred because Water District customers were drawing down more than pumping in. He interpreted the Water District's argument as Palo Alto citizens were to pay other Water District customers so that they would not draw down the aquifer. Palo Alto citizens were not at risk for drawing down the aquifer, because they had a water supply.

Mr. Fiedler explained that without Water District management wells in Palo Alto would probably be dry. By using State water and recovering the costs, the Water District provided a benefit that allowed Palo Alto's wells to be available during an emergency.

Council Member Burt asked if it was true that Palo Alto would not have caused a decrease in water supply because Palo Alto did not drawdown the aquifer.

Mr. Fiedler could not say definitely because he did not know all the historic wells in the region. He did not know how Palo Alto's demands compared to other demands in the region.

Council Member Burt asked if the Water District had a registry of all wells in Palo Alto.

Mr. Fiedler replied yes.

Council Member Burt requested that list in writing.

Mr. Fiedler agreed to provide the list. In Fiscal Year 2013-2014, active wells in Palo Alto pumped approximately 185 acre feet of water.

Council Member Burt inquired about the amount of water pumped in from the State Water Project.

Mr. Fiedler hoped to receive around 20,000 acre feet from the State Water Project. When water was available in the State water system, the Water District could store water to further supply needs in a dry period.

Council Member Burt stated Palo Alto citizens were paying for their proportionate share of the 20,000 acre feet while receiving only 185 acre feet of water. That provided a good sense of the proportionality of the amount Palo Alto citizens paid versus the benefit they received.

Gary Kremen advised that Palo Alto utilized approximately 11,000 acre feet of water per year. Palo Alto was providing the Water District a \$12-\$13 million benefit by not pumping groundwater. SFPUC had provided more water than the Water District to the intertie. Palo Alto was not suffering from subsidence issues. In south Santa Clara County, residents received a 100 percent rebate of the State Water Project tax through the Open Space Credit. The Water District could return the State Water Project tax.

Steve Jordan reported the City of Los Altos Hills met with the Water District to request water in 2008 and 2009. The Water District informed the City of Los Altos Hills that no water was available, no pipeline was available to service Los Altos Hills, and the Water District did not have sufficient infrastructure to treat water. Paying the State Water Project tax did not guarantee a water supply. The City of Los Altos Hills felt the tax was unfair and should be changed.

Bob Moss advised that a monitoring well on his property indicated an aquifer depth of 105 feet. The aquifer depth did not alter significantly with varying rainfall amounts. He understood some residents of Palo Alto had wells on their property of which the Water District was not aware. He appreciated the City Manager and Staff bringing this issue to light.

Council Member Filseth inquired whether the State Water Project tax totaled approximately 10 percent of Water District revenues.

Mr. Fiedler answered yes.

Council Member Filseth asked about sources of the remaining 90 percent of revenues.

Mr. Fiedler indicated other sources of revenue were the groundwater product charges and sales of treated water. The Water District held contracts with water retailers that purchased water from one of the three water treatment plants.

Council Member Filseth asked if those sources totaled approximately \$200 million annually.

Mr. Fiedler answered yes.

Council Member Filseth inquired whether that was covered by ratepayers of Santa Clara County.

Mr. Fiedler explained that much of the groundwater was used for water retailers. Some private domestic wells and agriculture irrigation wells paid a groundwater charge directly to the Water District. The Water District wholesaled treated water to San Jose Water Company, the City of San Jose and others who then paid the Water District.

Council Member Filseth calculated an average rate hike of slightly less than 1 percent for Water District customers if Palo Alto's subsidy ceased.

Mr. Fiedler understood it could not work in that manner. By law, the tax had to be collected countywide.

Council Member Filseth presumed Palo Alto ratepayers would not pay the increase because they did not use Water District water.

Mr. Fiedler was referring to the State Water Project tax. The tax was assessed countywide; therefore, he was not sure if Palo Alto could be excluded from collection of that tax.

Council Member Filseth asked if there was a technical problem with excluding Palo Alto.

Mr. Fiedler indicated the problem was a legal one. If Palo Alto was excluded, then the tax would have to be reapportioned among all other parcels.

Council Member Filseth inquired whether the Water District could give Palo Alto citizens a rebate as mentioned by public speakers.

Mr. Fiedler clarified that taxes were not rebated to anyone in Santa Clara County. The Water District offset its cost of services in south Santa Clara County by the amount of money received through the State Water Project. That was reflected in the groundwater report.

Council Member Filseth stated in principle the Water District could raise rates 1 percent, and send Palo Alto the difference.

Mr. Fiedler replied yes. The Water District could provide \$3 million towards recycling. The Water District cost shared funding for conservation programs.

Council Member Filseth felt the Water District was working diligently to construct an argument for providing a benefit to Palo Alto; however, there was no benefit to Palo Alto.

Council Member DuBois requested an explanation of the rebate for south Santa Clara County.

Mr. Fiedler explained that as part of the cost of services analysis, the Water District reviewed an offset for State Water Project tax revenue collected in south Santa Clara County. The Water District showed that as a credit in setting the rate for south Santa Clara County.

Council Member DuBois asked if the revenue collected was tax revenue.

Mr. Fiedler responded yes. The tax revenue was collected countywide on parcels eligible to pay the tax. In performing the cost of service analysis to determine the groundwater charge for south Santa Clara County, the Water District factored in the amount of State Water Project tax revenue collected from south Santa Clara County.

Council Member DuBois inquired whether the cost incurred in Palo Alto was different from the cost incurred in south Santa Clara County.

Mr. Fiedler reported those who pumped from the groundwater basin in south Santa Clara County paid a lower rate as a result of crediting the State Water Project tax. Again, north Santa Clara County benefited when they pumped water.

Mr. Keene inquired whether the Water District credited the amount of State Water Project tax collected from south Santa Clara County against the retail sales costs for south Santa Clara County citizens.

Mr. Fiedler answered yes.

Mr. Keene explained that south Santa Clara County citizens did not receive a reduction in property tax but a reduction in water rates. The reduction in water rates would not necessarily match the amount of tax collected.

Mr. Fiedler concurred.

Mr. Keene understood Council Member DuBois was inquiring whether the Water District could provide a \$1.6 million credit to the City of Palo Alto such that it could be distributed to Palo Alto ratepayers.

Mr. Fiedler felt the Water District Board was thinking along those lines when it considered providing funding for recycled water.

Council Member DuBois asked if the credit was related in some way to the Gavilan Water District.

Mr. Fiedler replied no. The Gavilan Water District merged into the Santa Clara County Water District.

Council Member DuBois inquired whether the Usage by City in Appendix F was total usage in the table.

Valerie Fong, Utilities Director, advised that the total usage for 2014 from January to September was the fourth column. It did not cover the entire calendar year. For three-quarters of the year, Palo Alto's usage was 9,431 acre feet.

Council Member DuBois asked if the number for San Jose reflected its total usage.

Ms. Fong explained that the numbers for San Jose reflected the amount of water purchased from SFPUC. San Jose was an interruptible SFPUC customer.

Council Member DuBois clarified that the total reflected the amount purchased from SFPUC not the total water for the city.

Vice Mayor Schmid noted the City received all its water from the south Sierras. A water supply from the Trinity Alps and the Shasta Water Basin could be more secure. A 7 percent stake in the California Water Project could monetarily be a valuable asset. He inquired whether the City received some right to California Water Project water through its annual payments.

Mr. Fiedler was not sure the Water District had rights. The Water District had contracts with the State and Federal Government that paid for facilities necessary for transporting water from either Oroville or Shasta. The Water District contracted for the delivery system to make that water available to Santa Clara County.

Council Member Schmid asked if the City was buying the right to a portion of that system and the water that flowed through it.

Mr. Fiedler reported the Water District held a contract for 100,000 acre feet of water. If the system could not fulfill all contracts, then the Water District would receive a portion of the 100,000 acre feet. The Water District expected to receive 20 percent of its contract amount, even though costs were fixed and would have to be recovered.

Council Member Schmid inquired whether the Water District retained the right to make the allocation decision.

Ms. Stump had not researched the City of Palo Alto's ability to draw on any kind of obligation the Water District could have to serve all entities in Santa Clara County. The current allocation from Hetch Hetchy was more than adequate for the City. She would provide information at a later time.

Council Member Scharff requested an intellectual justification for subsidizing water rates without charging for the cost of water.

Mr. Fiedler explained that the Water District had various mechanisms to recover its costs. The State Water Project tax was one mechanism. Water utilities throughout the state were struggling with fixed costs to provide service. The Water District could only charge volumetric rates for groundwater. The industry was concerned with finding other fixed components to recover costs. Trends were to recover fixed costs through fixed revenues. Legislation signed by the Governor in September 2014 allowed the Water District to consider fixed revenue in the future.

Council Member Scharff did not understand why the people who consumed water did not pay for it. The people who did not use water subsidized the rest of Santa Clara County. He asked if south Santa Clara County had lower water rates.

Mr. Fiedler replied yes. Rates were different between north and south Santa Clara County. The biggest differential stemmed from the fact that north Santa Clara County had much more water infrastructure to meet water needs. The same infrastructure was not present in south Santa Clara County. If south Santa Clara County had surface water treatment or additional programs, then it would have higher rates.

Council Member Scharff asked if Staff correctly interpreted the language as State Water Project costs should be recovered through rates.

Mr. Fiedler answered no. The Water District Board established its protocol through staff interaction. That was a vehicle by which the Board could decide whether or not to assess charges via groundwater charge or State Water Project tax.

Council Member Scharff inquired whether Palo Alto formerly received a credit for the State Water Project tax.

Mr. Fiedler advised that Palo Alto and other cities that relied on Hetch Hetchy water did receive a credit from the late 1970s to approximately 1984.

Council Member Scharff asked why the credit ceased.

Mr. Fiedler reported the Water District Board of Directors in 1984 determined a credit was no longer necessary.

Council Member Scharff asked if the vote was 4 to 1.

Mr. Fiedler did not know.

Council Member Scharff asked if Mr. Fiedler agreed with the gentleman from Los Altos Hills that the Water District would not sell water to Los Altos Hills.

Mr. Fiedler responded no. In 2008-2009, the Water District had no physical connection to Purissima Hills. They wanted to connect to the Rinconada Water Treatment Plant, but summer conditions were at peak capacity. The Water District released a bid on a project that would expand the capacity of the Rinconada Water Treatment Plant. He suggested the City of Palo Alto broker an arrangement to provide some of its surplus Hetch Hetchy water to fulfill Purissima Hills' needs.

#### Agenda Changes, Additions and Deletions

James Keene, City Manager, announced Agenda Item Number 4 was removed from the Consent Calendar and would be presented with additional information at a meeting in April 2015.

#### City Manager Comments

James Keene, City Manager, noted the Heart Across America bike ride began the previous day. The prior week, the State Water Resources Control Board adopted new emergency regulations limiting landscape irrigation to two days per week; prohibiting irrigation within 48 hours of measurable rainfall; prohibiting food service establishments from serving drinking water unless requested; and requiring hotels and motels to wash towels and linens upon request. The San Francisco Public Utilities Commission continued its call for a voluntary 10 percent water reduction. In 2014, the City's voluntary water use reductions reached 16 percent, one of the highest levels in Santa Clara County. The City received Acterra's 2015 Business Environmental Award for Sustainability for its comprehensive environmental achievements. Silicon Valley Water Conservation Awards Coalition named the City of Palo Alto as the Water Utility of the Year. The Summit for the Comprehensive Plan Update scheduled for May 30, 2015 would be noticed as a Special Meeting of the City Council. He played a video which would be used to encourage community participation at the Summit.

Mayor Holman added that community members who wished to attend the Summit but failed to register would be welcome. She concurred with the Council's selection of a design for the Highway 101 Bike Bridge made the previous week. Council Member Kniss as County Supervisor secured an \$8 million grant for the Bike Bridge.

#### Oral Communications

Neilson Buchanan provided a segment from the City Manager's Report of December 19, 2011 regarding a Residential Permit Parking (RPP) Program. The latest map produced by two resident survey teams indicated neighborhoods continued to suffer from lack of parking in the middle of the day. One year ago, the first stakeholder meeting for permit parking was held. After a full year of collaboration, no date had been set to implement an RPP Program.

Margaret Adkins, Service Employees International Union (SEIU) Palo Alto Chapter Chair, reported SEIU members did not believe they were treated fairly during the meet and confer process. SEIU ran a successful trial of two Community Service Officers (CSO) enforcing the area of the Downtown pilot RPP Program. SEIU requested the City observe a formal trial; however, City Staff did not agree.

Brian O'Neill, SEIU staff member, expressed concerns about the City contracting enforcement of the RPP Program for Downtown. A contract position would have to offer wages of \$17 per hour and medical benefits. SEIU offered a starting wage of \$25.25 for CSOs, which was reasonable for the region. The City could save money by retaining the positions in-house.

Gabriel Mora, Parking Enforcement Officer, and his coworkers concurred with retaining enforcement of the RPP Program in-house. Community members addressed positive comments to Parking Enforcement Officers while on the job. The City would not be required to hire additional employees; simply purchase necessary equipment.

Stephanie Munoz had requested the Palo Alto Unified School District make the Birge Clark gymnasium available to shelter homeless women and children.

#### Minutes Approval

Omar Chatty inquired about the Council's vote not to pursue a lawsuit regarding the Caltrain Electrification Environmental Impact Review (EIR). The number of people dying on Caltrain tracks had reached 220 or 221. He

requested the City join the Atherton lawsuit as an amicus because of safety issues.

Herb Borock advised that the Minutes of January 26, 2015 should include the vote or abstention of each member present on action taken in order to comply with the Brown Act. He read the legislative history from the Assembly Committee on Local Government hearing of June 26, 2013.

Molly Stump, City Attorney, advised that Mayor Holman reported on January 26, 2015 the decision not to initiate a suit against Caltrain and the vote. That should be added to the Minutes. The Council did not identify the maker and seconder of Motions in Closed Sessions, and she encouraged the Council to continue that practice.

Mayor Holman asked if the City Attorney was suggesting the Council withhold approval of the Minutes of January 26, 2015.

Ms. Stump indicated the Council could approve the Minutes with the addition of the vote count.

**MOTION:** Council Member Filseth moved, seconded by Vice Mayor Schmid to approve the minutes of January 26, 31 and February 2, 2015 with the addition to the January 26, 2015 minutes, page 39 of the vote for Agenda Item Number 8 - Potential Litigation (as petitioner) - Caltrain Joint Powers Board - Peninsula Corridor Electrification:

Change "Mayor Holman advised no reportable action" to

"Mayor Holman reported the City will not initiate a lawsuit with Caltrain based on Caltrain's commitment to work to resolve the issues previously stated that are concerns of Palo Alto."

#### **MOTION PASSED:** 9-0

#### Consent Calendar

Mayor Holman reminded Council Members that Staff requested Agenda Item Number 4 - Adoption of a Resolution Authorizing Public Works Department to Submit a Function Classification Request to Caltrans to Expand the Number of Streets Eligible for Resurfacing Work Using Federal or State Grant Funding - be continued to a date in April 2015.

**MOTION:** Council Member Kniss moved, seconded by Council Member DuBois to approve Agenda Item Numbers 3 and 5-8, Agenda Item Number 4 continued to a date in April 2015.

- 3. Approval of Two 3-Year Contracts for a Computer and Data Center Data Storage or 'Cloud Backup' Solution Totaling \$618,991: 1) Exucom Contract Number C15156183 in the Amount of up to \$327,121 for Data Center Backup; 2) Code42 Contract Number C151566312 in the Amount of \$291,870 for Computer and Laptop Backup.
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- 6. Approval of Amendment Number One to Contract C14153010 with Arnold Mammarella Architecture and Consulting to Increase the Contract by \$400,000 for an Amount Not to Exceed \$784,999 for On-Call Planning Services Needed to Support Implementation of the City's Individual Review Program.
- 7. Request for Procedural Change Present the Results of the Animal Services Audit to the Finance Committee Rather Than to the Policy and Services Committee.
- 8. Approval of a Wastewater Enterprise Fund Contract with Precision Engineering, Inc. In the Amount of \$7,405,730 for Sanitary Sewer Rehabilitation Projects 24, 25, and 26 in University South, Professorville and Old Palo Alto Neighborhoods.

#### MOTION PASSED FOR AGENDA ITEM NUMBERS 3 AND 5-8: 9-0

#### Action Items

9. Discussion and Direction to Staff Regarding Establishment of an Office/R&D Annual Growth Limit (Continued from March 2, 2015).

Hillary Gitelman, Planning and Community Environment Director, reported the Council had identified the loss of ground-floor retail and retail in general as a challenge in light of the robust economy and the demand for office space. The Council had provided some direction to Staff regarding that issue, and Staff would return to the Council on April 6, 2015 with a discussion of ground-floor retail. Staff sought direction regarding short-term and long-term remedies rather than a Council decision. The Council could

direct Staff to perform additional analysis prior to the Council adopting a strategy. Long-term ideas would be analyzed as part of the Comprehensive Plan Update. The more complicated short-term ideas were, the harder it was to imagine they would be short term. If the Council wished to pursue a short-term concept, it should be instituted relatively quickly. One long-term idea was an annual limit on Office/Research and Development (R&D) that would meter the pace of office development. A second long-term idea was programs and performance measures that directly addressed impacts. third idea was to moderate the pace of development by increasing development costs and seeking impact fees. A fourth idea was other commercial zoning changes that would modify existing development caps. A potential short-term idea was requiring a use permit for new Office/R&D uses. A second idea was some type of cap or moratorium. A third idea was to suspend temporarily the use of certain exceptions or Transfer of Development Rights (TDR). A fourth idea was some type of temporary Within short-term ideas, pipeline reduction in Floor Area Ratio (FAR). applications and Council and Staff conflicts of interest had to be addressed. Pipeline applications were pending applications that would result in a net increase in office or R&D square footage. While Staff offered two data sets, they felt the better data set was the Congestion Management Plan (CMP). Using the CMP data set, Staff calculated 185,000 square feet (sq. ft.) were in the pipeline as of the end of 2014. The 185,000 sq. ft. was spread across 16 projects, of which a few projects reached close to 30,000 sq. ft. Staff was updating the pipeline snapshot and would provide a first quarter update at the April 6, 2015 discussion of retail preservation. Staff wanted to hear from stakeholders regarding short-term and long-term ideas.

Mayor Holman requested the City Attorney comment on conflicts of interest and the two-pronged approach.

Molly Stump, City Attorney, explained Staff had structured the item to allow the Council to have an initial discussion and to provide guidance on issues in areas they wanted to explore within the Comprehensive Plan amendment process. Staff believed Council Members could participate in discussions based on Staff's reading of the law and advice received from the Fair Political Practices Commission (FPPC). Following the meeting, Staff would confirm their understanding with the FPPC. The rules for conflicts of interest were complex. The rules were changing in ways that could impact the Council as they explored issues going forward. If the Council wished to discuss ideas for changes that could be made in advance of the Comprehensive Plan process, Staff encouraged the Council to identify various ideas that they wished to explore. Staff may request the Council delay a substantive discussion of issues in order to obtain advice from the FPPC to ensure Council Members participated appropriately.

Mayor Holman did not anticipate conflicts of interest with respect to the Comprehensive Plan. However, discussion of short-term ideas would likely generate conflicts of interest.

Ms. Stump indicated that was generally correct. Legal issues were complex and changing. Council Members' interests that could be implicated by discussions varied and had changed from 2014 with the addition of new Council Members.

Mayor Holman noted Council Members were aware of previous public comments. The Council could direct Staff to explore short-term ideas and possible conflicts of interests. The FPPC would respond in approximately 30 days regarding potential conflicts of interest. Motions should provide sufficient information for Staff to determine whether conflicts of interest existed; however, Motions did not need to be perfect.

Beth Rosenthal advised that most of the tenants of 550 Hamilton Avenue were mental health professionals. She noted the loss of a variety of businesses along Cowper Street. She requested the Council consider means to establish a reasonable balance between professional services and big businesses.

Connie Henshall, Lockheed Martin, indicated consistent and clear land use regulations had been critical as Lockheed Martin's presence in Palo Alto had evolved over the past 50 years. Lockheed Martin was concerned about recent discussions of an annual Office/R&D growth limit. Prospective growth limits could force Lockheed Martin to redirect future R&D growth to the Sunnyvale campus.

John Guisliz urged the Council to utilize quality of life as the primary metric for measuring any project. Development caps were an appropriate tool to identify permanent solutions to challenges. He urged the Council to focus on short-term, temporary caps for California Avenue and University Avenue commercial cores. Development caps should be utilized until Residential Parking Permit (RPP) Programs were operational.

Neilson Buchanan suggested parking demand in the California Avenue and University Avenue commercial cores should be studied and documented with leading edge employers. Conversion of retail space to office must cease for at least 24 months. The Transportation Management Agency (TMA) and RPP stakeholder process must be elevated with oversight by the Planning and Transportation Commission (P&TC). The RPP stakeholder group should report to the Council not less than every 60 days. Parking garages needed signage and wayfinding applications, particularly at night.

Mark Weiss noted ten former music venues in Downtown had ceased operations. The City would miss many things if office space displaced other types of culture.

Suzanne Keehn read Joe Hirsh's opinion that the conversation should concern a moratorium for all new nonresidential development until the appropriate amount of new development could be determined. Continued and constant development was incrementally destroying the Bay area. Traffic management should be implemented.

Cheryl Lilienstein shared an analogy of lions as high-density advocates on the savanna of Palo Alto. High-density development should pause until measurements could be instituted to balance the ecosystem.

Ian Irwin favored a moratorium. Commercial office development had decreased the quality of life for Palo Alto residents. The functional width of sidewalks limited the walkability of the City.

Frank Ingle suggested the Council implement a selection process for commercial development projects along with a cap. Before accepting new projects, the Council should require those projects to reduce traffic impacts.

Hamilton Hitchings stated diversity, density, and quality were not addressed by the traffic and parking programs as an alternative to the zoning cap. The root cause of parking and traffic problems was increased density and usage. Mixed-use office/housing projects could share parking. He liked the idea of a temporary cap on FAR for office space per project.

Bob Moss referenced a Staff Report from 1986 regarding problems of overdevelopment. He suggested the Council implement a cap on total and annual growth of office space; require occupants of new office developments utilize public transit; and require adequate onsite parking.

Omar Chatty felt controlled growth would work in Palo Alto. Without a cap, High Speed Rail would more easily take over the City's land use through eminent domain.

Stephanie Munoz supported a cap. If the Council wanted to prevent the loss of ground-floor retail, it should adopt an Ordinance that stated there shall be no diminution of ground-floor retail in Palo Alto.

Jeff Levinsky stated arguments opposing a cap were not logical. Large businesses were locking out smaller, younger, more vibrant companies. To address the jobs/housing imbalance, the City should cease approving new

offices and save capacity for housing. A moratorium on office space would focus developers on housing.

Lydia Kou believed the Council should consider a moratorium of all nonresidential development. She urged the Council to enact a temporary moratorium to address negative impacts on parking, traffic, infrastructure, City services, and residential quality of life.

Mayor Holman reiterated that the Council was not making precise decisions. The Council was directing Staff to review considerations and determine potential conflicts of interests. She recommended each Council Member take 5 minutes to ask questions or make comments in the first round of discussion. During a second round, the Council could entertain Motions, first regarding short-term suggestions.

Vice Mayor Schmid believed the goal was for all parties to discuss the benefits and problems of growth and reducing growth. The current Comprehensive Plan was flawed. The number of jobs to employed residents was 3:1. All forecasts he had reviewed indicated office space would grow faster than the number of residents. 517,000 sq. ft. of office space had been added in the prior 15 years while retail space declined by 37,000 sq. ft. Nonresidents paid only 25 percent of property tax receipts. The business community should tell the Council the benefits of not implementing a cap on growth.

Council Member Burt agreed that a cap would not solve all issues, but a cap could be successful as part of a series of measures. A cap would address the impacts of new development. If the Council did not act to moderate the rate of office growth and to improve the quality of developments, then the City would soon have a moratorium. If the Council did not implement a cap on an interim basis, then it would create a land rush. A cap should strike a balance between residential and office growth and favor residential over office. The Council should implement an interim cap at a moderate level, perhaps for Downtown, California Avenue, and El Camino Real. Between now and adoption of a Comprehensive Plan, the Stanford Research Park should have a comprehensive Transportation Demand Management (TDM) Program along with constraints on conversion of R&D space to office. When the Council proposed Motions for consideration, he would propose a moderate cap for those areas and a competition for quality projects, meaning projects of the highest quality and offering the fewest impacts would be built under the cap.

Council Member Kniss was not in favor of a moratorium, because it was not productive. A Downtown cap and a Citywide cap were already in place. The

Staff Report indicated the City had grown by approximately 35,000 sq. ft. per year. The City would not continue to grow by that amount annually. A moderate cap would not dramatically alter the community. One program would not serve the entire community. Any solution would have to address parking and traffic. A moratorium would not significantly improve parking overnight and traffic would remain the same.

Council Member Scharff possibly could support a specifically targeted cap. He could not support a cap for the Research Park. He guestioned whether replacing housing with office would worsen traffic. He wanted to know the percentage of homeowners who actually lived and worked in the City; whether renters were more likely to live in the City; and the type of traffic likely generated by office development. The Council should carefully consider a moderate cap, what that meant, and how it would be applied to projects in the pipeline. He questioned whether nonprofit agencies and professional services should be excluded from a cap. He did not want to include the East Meadow area in a cap, because it would have a specific plan. The Council could choose to develop a specific plan for Downtown. That would probably be a better choice than a long-term cap. He hoped the Council would institute a short-term cap in order to target issues for resolution. Design issues should be targeted separately. He requested Staff provide the cost of services for housing versus office.

Council Member Wolbach noted prior discussions proposed a severe cap, a competitive process for approval of projects, and imposition of fees and fines on development and tenants. Those proposals were not mutually exclusive. Imposing fees on new development, escalating current fees, and imposing a graduated job tax did not necessarily conflict with the concept of moderating the total amount of office development. There seemed to be a disconnect regarding the issues to resolve. He believed the primary issues were traffic, parking, housing costs, quality of the built environment, and whether infrastructure and social services could support growth of housing or office development. He asked colleagues to comment on the problems to be addressed by proposals under discussion. A cap should exclude mixed-use developments that offered more housing than jobs. A cap should include areas furthest from transit. The Council should consider excluding specific projects where the community indicated it wanted the projects.

Council Member DuBois advised that after three meetings clearly there was a disconnect between businesses and citizens. Staff captured a large number of options in the Staff Report. The Council had good data but had not discussed it. He was unsure whether the community agreed on the problem or a solution. The discussion had been overly focused on traffic and parking. Traffic and parking were a subset of secondary impacts of increased density.

The Council was avoiding a serious discussion of the core issue which was the amount of office space to allow by 2030. The Council had to strike a balance between office and housing in order to have a diversity of land use. The discussion was about adding new office space, not redevelopment of existing office space. Citywide proposals were needed to address Citywide growth. He wanted to focus on methods to moderate growth prior to and as a part of the Comprehensive Plan process. Prior to adopting the Comprehensive Plan, he was interested in a discussion of rebalancing mixed use, discouraging discretionary zoning projects, and reviewing current As part of the Comprehensive Plan exceptions in the Municipal Code. Update, he wanted to discuss establishing criteria to encourage great projects. Rather than a cap on square footage, the Council could implement an annual cycle of scored project applications and allow a specific number of projects each year based on rank scoring. Criteria for projects would award points based on several factors.

Council Member Berman disagreed that the discussion concerned businesses versus residents. He understood public comment was closed after the March 2, 2015 Council discussion. Unfortunately, many residents would have spoken if they had known public comment remained open.

Mayor Holman understood public comment was not closed after the prior discussion.

Council Member Berman believed the idea of a moderate cap in a vacuum could be positive. Council Member Scharff raised several good questions regarding an interim cap. The Council was asking Staff to study different things and provide information to the Council. He was skeptical that a moderate cap would provide any discernible benefit that warranted the amount of time Staff, the Council, and the community would spend. He would remain open to discussing a moderate cap and any information Staff could provide. However, he was more interested in other initiatives that were delayed because the Council continuously gave Staff additional assignments. At some point, the Council had to prioritize initiatives and determine which one would lead to the largest result in the shortest amount of time. He was skeptical that a moderate cap on office space and applicable to a few areas of the City would generate benefits greater than other initiatives.

**MOTION:** Council Member Burt moved, seconded by Council Member Scharff to direct Staff to return with discussion of elements of an interim Ordinance along the following lines, and that Staff will have discretion to provide certain alternatives under the following guidelines and other aspects that Staff recommends for consideration:

- 1) Cap would run until the adoption of the new Comprehensive Plan; and
- 2) Areas would cover University Avenue, California Avenue and El Camino Real districts; and
- 3) Limit of  $\sim$ 50,000 sq. ft. of new office/commercial development net gain per year; and
- 4) That it have a set of scoring standards to attempt to drive quality, including:
  - A. Traffic impacts; and
  - B. Parking impacts; and
  - C. Design: Human scale of urban design, compatibility with surroundings, architectural quality; and
  - D. Environmental quality of building; and
  - E. Other potential public benefits.

Ms. Gitelman referred to questions outlined in the Staff Report to which Staff would need the answers in order to prepare a detailed proposal. Because the Motion allowed Staff discretion, Staff could take care of most questions. However, Staff needed information regarding pipeline projects.

Council Member Burt requested Staff present a range of alternatives for pipeline projects for Council consideration when the Ordinance was presented for review. Delaying a discussion of pipeline projects would allow the Council to consider alternatives. An interim cap was the more clear action at the current time. It would give the Council an opportunity to learn the correct structure and scale of a cap in the Comprehensive Plan. The Council would have an opportunity to determine the success of other measures which would ultimately influence the Comprehensive Plan. He was willing to exclude Stanford Research Park on an interim basis under two First, between the current time and adoption of a new conditions. Comprehensive Plan, present and future traffic impacts in Stanford Research Park should be addressed through comprehensive measures of TDM. Second, the Council should determine a method to restrict future conversion of R&D space to office in the Research Park. He was open to suggestions for integrating those two conditions.

Council Member Scharff concurred with Council Member Burt's comments. It was important to have a trial program. The public had indicated concerns about the three areas contained in the Motion. The cap allowed the City to meter growth in those areas. He agreed with strong TDM measures for the Research Park. He asked if the Motion allowed Staff to provide options which the Council had not proposed.

Council Member Burt offered language of "under the following guidelines and other aspects that Staff recommends for consideration."

Council Member Scharff felt the Motion moved the City forward in a direction that was good for the community and was a fair compromise.

Council Member Kniss agreed the Motion was a good compromise. The City should be involved in developing the Comprehensive Plan such that it fit the vision for the life of the Comprehensive Plan. The discussion needed to address the appropriate amount of growth for the City. The limit of 50,000 sq. ft. aligned with growth over the past 15 years. The Council needed to deal with the two existing caps. The TDM was a good direction. The design elements would result in an interesting discussion. Other potential public benefits would be a good idea.

Council Member DuBois offered an Amendment to add strong tenant occupancy limits as one of the criteria considered in the scoring.

Council Member Burt asked or clarification.

Council Member DuBois agreed for Staff to return with idea with the inclusion of ways that the intensity of use in the new building could be discussed.

Council Member Burt stated that remained a very important discussion and he was not certain how that discussion would be folded into this particular measure.

Council Member DuBois suggested part of the scoring projects would propose their occupancy and that would be considered as one of the factors.

Council Member Burt agreed to have that as one of the elements brought back by Staff for considerations.

Council Member DuBois recommended it go after environmental quality and before other benefits.

Council Member Burt agreed to place under 6 "Potential Tenant Occupancy Limits".

Council Member Scharff was agreeable with different language. He preferred Staff return to explore as part of the scoring intensity of use.

Council Member DuBois agreed.

Council Member Burt stated all of the items would be considerations for the scoring.

Mayor Holman reiterated that the Council was informing Staff of topics it wished to consider.

# INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER: to add "potential intensity of use" under number 4.

Council Member Filseth asked if the Motion should exclude retail uses.

Council Member Burt agreed the Motion should be more specific. The Motion did not include residential uses and could exclude certain services. Staff should provide options for definitions of the types of uses included in the cap.

Council Member Filseth asked if Council Member Burt meant to defer uses to Staff for suggestions.

Council Member Burt indicated Staff would provide options rather than a single recommendation.

Council Member Filseth requested Council Member Burt clarify the 50,000 sq. ft. number particularly if the Research Park was excluded from that number. He inquired whether the Council should provide Staff with a range rather than a specific number.

Council Member Burt advised that the Council could elect a different number at a future discussion. There would be no perfect number. In boom years, the City did not have control of the pace of development or impacts. The limit of 50,000 sq. ft. reflected an average year. If it was adopted, it would create a lower average. The amount was an attempt to provide sufficient office growth while allowing flexibility and reining in periods of excessive growth. It would be a trial, because the Council did not know whether initiatives to address traffic and parking would be successful.

Council Member Filseth noted the long-term average was 34,000 sq. ft. per year. Over the previous few years, the average was 67,000 sq. ft. Citywide including the Research Park. The average annual growth for Office/R&D from 2001 to 2015 was 34,300 sq. ft. per year Citywide.

Council Member Burt believed those were not the most useful averages. The average growth from 2012 to 2016 was probably more than 100,000 sq. ft. Between 2008 and 2012, the average growth was probably less than 50,000 sq. ft. A maximum of 50,000 sq. ft. along with a successful TDM Program would be the best balance.

Council Member Filseth felt removal of unlimited office growth would affect new development while TDM Programs would affect existing development. To treat areas of the City differently was sensible; however, some issues were Citywide. Staff should monitor issues, particularly since the Research Park was excluded from the limit.

Council Member Berman inquired whether the current timeline to adopt a Comprehensive Plan was the end of 2015.

Ms. Gitelman reported the last timeframe discussed was the end of the first quarter of 2016. Some Council Members had expressed a wish not to adhere to a strict deadline in order to thoughtfully and fully consider the Comprehensive Plan.

Council Member Berman recalled the Council adopted the Comprehensive Plan as a Council Priority. He asked when Staff could return with an analysis.

Mayor Holman advised that in the pre-Council meeting Staff requested 30 days to receive FPPC feedback on conflicts of interest. The next available date on the Agenda was May 4, 2015.

Council Member Berman inquired whether Staff would need 30 days to perform analyses of all issues.

Council Member Burt was not asking Staff to perform analyses. Staff was directed to provide a set of alternatives which would not require a great deal of research and analysis.

Council Member Berman asked if Staff would provide a list of alternatives for Council discussion.

Council Member Burt indicated Staff would identify alternatives and additional considerations not included in the Motion.

Council Member Berman asked when Council Member Burt anticipated Staff providing that information.

Council Member Burt replied at the May 4<sup>th</sup> meeting.

Mr. Keene would report more specifically regarding a return date after the meeting. Without analysis, the Council wanted Staff to consider alternatives and implications. If the Council utilized the Motion to direct Staff to prepare an Interim Ordinance, there would be many factors. Over the next week or two, Staff would provide the Council a definitive schedule.

Council Member Berman could not imagine the Council would reach any definitive conclusions regarding issues prior to the Summit. He would be surprised if the Council adopted an Ordinance prior to the Council Break. He inquired about delays to other initiatives while Staff worked on these issues.

Mr. Keene was sure the Council would not provide new directives for other initiatives.

Mayor Holman noted the Motion directed Staff to provide information for interim measures.

Council Member Berman stated the goal was to have an Ordinance that instituted a cap. To draft that Ordinance, the Council would have to discuss all issues.

Mayor Holman advised the Council not to expect to know every impact of every single consideration before adopting an Ordinance.

Council Member Berman understood an interim cap would inform the Comprehensive Plan; therefore, the Council would need some results. He was not opposed to some provisions of the Motion; but he did not believe those measures would reduce the amount of traffic and alleviate the lack of parking.

Vice Mayor Schmid recalled that PlaceWorks would review fiscal impacts of Comprehensive Plan scenarios. He asked if they would consider this as a focal point in their work.

Ms. Gitelman clarified that the contract with PlaceWorks was for a fiscal analysis of the Comprehensive Plan Update. The Motion concerned an Interim Ordinance that would precede the Comprehensive Plan Update and would not be included in the Comprehensive Plan.

Vice Mayor Schmid noted the description indicated PlaceWorks would review alternatives identified for the Comprehensive Plan; yet, no alternatives had been identified for the Comprehensive Plan. The Motion provided a concrete alternative. He asked what PlaceWorks would review.

Ms. Gitelman was hoping the Council would reach the question of which growth management scenarios it wanted Staff to analyze and consider as part of the Comprehensive Plan Update. That was intended to occur before and continue until the Comprehensive Plan was updated.

Council Member Burt reported the Motion provided a draft direction for the Comprehensive Plan. The Interim Ordinance would allow the Council to determine measures that worked or did not work when discussing the Comprehensive Plan. The Motion reflected the Council's best current thinking regarding a direction for the Comprehensive Plan.

Ms. Gitelman was responding to the portion of the Motion that stated "until adoption of the Comprehensive Plan." That could lead to a control of growth in the Comprehensive Plan. The fiscal analysis would consider the potential fiscal impacts of moderating employment growth in a variety of ways. That could be a way to provide the Council and community with some sense of potential impacts.

Vice Mayor Schmid asked if it was the only way PlaceWorks would consider.

Ms. Gitelman answered no. The analysis would not be specific. It would be a general analysis of strategies that moderated the pace of employment growth.

Vice Mayor Schmid indicated an important date was the December date when Staff proposed a development limit. That might be a significant date in looking at distinguishing the pipeline.

Ms. Gitelman reported the first date Staff came to the Council was February 9, 2015. The December date was the last time Staff created a list of pipeline projects. Staff was preparing an updated list at the current time.

Vice Mayor Schmid was making the case that was when Staff publicly stated the Council should consider a development cap. It could have induced some players to come forward.

Council Member Wolbach asked if the City implemented a Citywide moratorium or cap while drafting the last Comprehensive Plan.

Ms. Gitelman referred Council Member Wolbach to Mr. Moss' submittal.

Council Member Wolbach respected the fact that office development had been harmful to Palo Alto. He shared the concern that a cap would not solve all problems; however, it was not expected to solve all problems. The Motion focused on other priorities that were secondary to traffic, parking,

and housing costs. He had misgivings about excluding Stanford Research Park and other parts of the City and imposing a cap exclusively on a few areas. Those areas were closest to transit. The Council hoped new developments would implement significant TDM Programs. Targeting a cap at only a few areas of the City could focus growth in other parts of the City. The Council should probably exclude from the cap types of development such as nonprofit agencies, governmental agencies, and mixed-use projects containing more housing than jobs. The Council should study fiscal impacts and the impact on retail. Limiting office growth in Downtown, California Avenue, and El Camino Real could stifle the customer base for retail. The Council should consider whether to add those two studies to the PlaceWorks contract.

**AMENDMENT:** Council Member Wolbach moved, seconded by Council Member Scharff, that the Cap would run until the adoption of the new Comprehensive Plan or two years, whichever is sooner.

Council Member Scharff felt it was important to include a timeframe for the cap should the Comprehensive Plan Update extend beyond its projected deadline. The Council could consider changing or removing the cap before extending it.

Council Member Burt stated that discussion would occur within the context of the Comprehensive Plan. He did not want the cap automatically terminated if the Comprehensive Plan Update extended past the proposed deadline.

Mr. Keene indicated the Council was directing Staff to return with information. Staff could have some thoughts about implications for the Council to discuss.

Mayor Holman felt an expiration of the cap was unnecessary.

AMENDMENT PASSED: 5-4 Burt, DuBois, Filseth, Holman no

Council Member Wolbach wanted the Council to consider excluding specific plans or precise plans.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct Staff to return with alternatives with types of development that might be excluded from the interim Ordinance.

Council Member Berman asked if the Motion should contain language regarding analysis of the fiscal impact of a cap.

Council Member Burt did not believe that was feasible for an Interim Ordinance. It would inform the Comprehensive Plan discussion. A fiscal analysis for an Interim Ordinance would delay or kill the Interim Ordinance.

Vice Mayor Schmid understood the PlaceWorks contract extended for 12 weeks from the beginning of March. He inquired whether PlaceWorks' report would be available prior to the Summit.

Ms. Gitelman did not believe it would be complete; however, she was hoping to have a preliminary analysis of trends.

Council Member DuBois noted defining and evaluating issues as part of the Comprehensive Plan Update was not explicitly stated in the Motion. He asked if the Council would entertain another Motion for issues to consider as part of the Comprehensive Plan Update.

Mayor Holman reported the Council would discuss short-term items first because of possible conflicts.

Council Member DuBois asked if the Council would have another chance to consider items as part of the Comprehensive Plan Update.

Mayor Holman would have to review the Agenda for a future discussion.

Ms. Gitelman intended the interim strategy to be considered as part of the Comprehensive Plan Update. The Council had not mentioned whether other alternatives should be included in the Comprehensive Plan Update. She was not aware of a time when Staff could receive that direction as future Agendas were filled.

Council Member Burt stated Staff had a range of alternatives that would be discussed at the Summit. The Motion did not limit those.

Ms. Gitelman stated she would be happy to create alternatives that could be analyzed in the Comprehensive Plan. The Council should raise issues for Staff to study as part of that effort.

Council Member Burt believed the Council needed a process to educate the community on the context for a set of alternatives before requesting the community's opinions. He hoped the Summit would be an educational process and the beginning of a discussion about the nature of the Comprehensive Plan and proposed changes. He expressed concern that Staff was attempting to accomplish too much in one Summit.

Ms. Gitelman reported it was premature to expect the community to delineate and make choices at the Summit. The idea was to frame some of

the big issues or questions to be addressed as part of the Comprehensive Plan Update. If the Council had growth management strategies that it wanted tested and discussed at the Summit and as part of the Comprehensive Plan Update, they should raise those at the current time.

Council Member DuBois inquired whether one Motion should contain both interim measures and long-term measures.

Mayor Holman requested the Council focus on the Motion on the table. Council Members should propose topics for consideration in the Comprehensive Plan Update in a separate Motion.

Council Member DuBois asked if the Motion should explicitly state that measures were to be defined and evaluated as part of the Comprehensive Plan Update.

Mayor Holman felt it was clear to Staff from the Council's many comments that interim measures should inform the Comprehensive Plan. It did not have to be stated in the Motion.

Council Member Burt agreed it was not necessary.

Council Member Filseth believed the Council should proceed to a vote rather than continue to add exceptions to the Motion.

Mayor Holman advised that the Motion should exclude Stanford Research Park by clearly and definitively addressing single occupancy vehicle trips and restriction of conversion of R&D to office.

Council Member Burt agreed that those things should move forward. He was struggling with whether they should be included in the Interim Ordinance or as additional guidance for the Comprehensive Plan discussion. That would be a basis for excluding the Research Park from any consideration of a cap in the Comprehensive Plan. They were part of the Comprehensive Plan rather than the Interim Ordinance.

Mayor Holman wanted to see progress prior to the Comprehensive Plan.

Council Member Burt concurred. Between now and adoption of the Comprehensive Plan those two measures should begin to move forward. By the time the Comprehensive Plan was adopted, they should have solidified.

Mayor Holman agreed. Suggested the FAR for Neighborhood Commercial (CN) Zoning should return to 0.9.

Council Member Burt agreed. That should not be a part of the Interim Ordinance but an interim zoning measure.

Mayor Holman asked where it could be included.

Ms. Gitelman reported the Council had a limited number of meetings in which it could craft Interim Ordinances, permanent strategies and Comprehensive Plan Update programs.

Mayor Holman was not aware of another opportunity to include the CN FAR issue.

Council Member Burt suggested the City Clerk agendize it as other interim measures for the May 4<sup>th</sup> meeting.

Mr. Keene reiterated that Staff would return in two weeks with a definitive schedule. The May 4<sup>th</sup> Agenda was full. The introduction of the Motion directed Staff to return with an Interim Ordinance. He understood the Council had moved away from that to an in-depth discussion of the items noted in the Motion.

Council Member Burt agreed with Mr. Keene. He suggested the following language: return for a discussion of elements of an Interim Ordinance. He asked if it was acceptable to the Maker and Seconder.

Mr. Keene indicated Staff would provide more details in relation to items in the Motion. At a subsequent meeting, the Council could return to those issues.

Council Member Burt offered language of "in consideration of any other interim zoning measures." He believed leaving it open ended without being specific to allow for a more specific discussion at a later meeting.

Mayor Holman wanted to ensure it was addressed.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to include discussion of any additional interim zoning change measures.

#### **MOTION AS AMENDED PASSED: 9-0**

Mayor Holman asked the City Attorney if she had sufficiently specific information to address conflicts of interest.

Ms. Stump responded yes.

Council Member Berman asked if Council Members could offer alternative options to the Comprehensive Plan to study.

Mayor Holman responded yes.

**MOTION:** Council Member Berman moved, seconded by Council Member Scharff to direct Staff to include an alternative of no new net trip increase in the Comprehensive Plan update.

Council Member Berman believed the Council could best address traffic and parking issues through policies that incentivized reduction of single occupancy vehicle trips. That type of alternative would address the issue and incentivize resources to achieve those goals.

Council Member Scharff agreed with Council Member Berman. A Comprehensive Plan Update should consider alternatives. The Santa Monica model was worthy of study. He wanted to understand how a program would work and what it would look like.

Council Member Wolbach offered an Amendment to change the wording to add "single occupancy vehicle" between the words "net" and "trip".

Council Member Scharff felt single occupancy vehicle was better.

Council Member Wolbach would accept either single occupancy vehicle or the word car.

# INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER: add "car" between "net" and "trip."

Council Member Burt could support the language if it was not framed as an alternative to constraining office growth.

Council Member Filseth asked if that would replace the limit the Council just agreed on.

Council Member Scharff stated the Council had not agreed on a limit in the Comprehensive Plan.

Council Member Filseth hoped an alternative would actually result in a no net car trip increase.

MOTION AS AMENDED PASSED: 8-1 DuBois no

**MOTION:** Vice Mayor Schmid moved, seconded by Council Member XX to direct Staff as part of the Comprehensive Plan Update to investigate a 35,000 sq. ft. office development limit within the Congestion Management Plan.

#### MOTION FAILED DUE TO LACK OF A SECOND

**MOTION:** Council Member Dubois moved, seconded by Council Member Wolbach to direct Staff to further define and evaluate as part of the Comprehensive Plan Update ways to encourage mixed-use projects that are not predominately office space.

Council Member DuBois felt the Motion was a way to reach a balance and to encourage mixed uses.

Council Member Wolbach believed mixed uses were important.

#### **MOTION PASSED**: 9-0

Council Member Scharff recalled that the Council had discussed encouraging smaller units. An FAR limitation as opposed to a unit limitation would allow people to build smaller units in the same building envelope and provide more housing.

**MOTION:** Council Member Scharff moved, seconded by Council Member Burt to direct Staff to evaluate micro-units in the Comprehensive Plan.

Ms. Gitelman noted the item was noticed for a discussion of office space. The issue of smaller units would surface at the Summit.

#### **MOTION WITHDRAWN BY MAKER**

Council Member Wolbach asked if Council Members could propose an Agenda Item during Council Member Comments at the end of the meeting.

Mayor Holman answered yes. Two Council Members had to support it.

**MOTION:** Council Member Wolbach moved, seconded by Vice Mayor Schmid to direct Staff to include consideration of an employee fee or tax in the context of the Comprehensive Plan discussion in regards to office and job growth.

Council Member Wolbach preferred an employee fee or tax, because it more directly linked the jobs/housing imbalance. Funds from the fee or tax could be utilized for affordable housing or transportation infrastructure. An office

cap did not deal with the number of jobs, because a greater intensity of use could be added into existing or new offices.

Vice Mayor Schmid agreed that large office developments did not appear to contribute their fair share to funding of local government activities. This was a method to identify a fee or tax that would garner their fair share.

Council Member Burt supported the concept; however, he was struggling with including it in the Comprehensive Plan. A tax measure would likely be placed on a ballot in the General Election in the fall of 2016, and the City would not necessarily have a Comprehensive Plan at that time.

Council Member Kniss indicated the discussion was moving far afield. The number of proposals were sufficient and she would not support any proposals after the current ones.

Council Member Filseth did not believe the Motion addressed job growth or the jobs/housing imbalance.

Council Member Scharff liked the concept, but he would not support it because it had not been agendized. He preferred a fee on square footage rather than employees.

#### **MOTION WITHDRAWN BY THE MAKER**

**MOTION:** Council Member Burt moved, seconded by Mayor Holman to direct Staff to consider under the Comprehensive Plan discussion of Stanford Research Park *measures* including comprehensive Traffic Demand Management and a limitation on greater conversion of R&D to office in the Research Park.

Council Member DuBois recused himself as his wife worked at Stanford University.

Council Member Kniss understood the topic had been dealt with.

Council Member Burt answered it had not.

**MOTION PASSED:** 8-0 DuBois not participating

10. Approval of a Residential Curbside Compost Collection Program and Adopting a <u>Budget Amendment Ordinance 5314</u> entitled "Budget Amendment Ordinance for the Council of the City of Palo Alto for \$387,000 for the Purchase of Kitchen Buckets and New Outreach Materials."

James Keene, City Manager, reminded the Council that the Finance Committee had vetted the item.

Phil Bobel, Public Works Assistant Director, reported the Finance Committee directed Staff to proceed. The Council had an opportunity to reduce greenhouse gases and the length of truck trips.

Ron Arp, Solid Waste Manager, advised that Staff requested the Council approve a residential curbside compost collection program. Residents would place food scraps and food-soiled paper in the green cart rather than the black cart. Staff recommended the Council adopt a Budget Amendment Ordinance in the amount of \$387,000 for Fiscal Year (FY) 2015 for the purchase of kitchen buckets and outreach materials. Staff hoped to decrease the amount of waste transported to the landfill in order to meet the goal of the Zero Waste Program. Staff would return with a commercial recycling and composting Ordinance and an amendment to the GreenWaste Residential garbage contained more than Staff was optimistic that the residential program would compostables. capture food scraps and food-soiled paper for composting. Residents could collect material in compostable bags or place them loose in the cart. Kitchen buckets would be provided to every single-family residence. outreach was necessary for a successful program. Staff wanted to implement the program by July 1, 2015. The annual cost difference of the program was approximately \$532,000 per year primarily comprised of a tip Staff recommended food scraps be transported to the Zero Waste Energy Development Center, a GreenWaste facility in San Jose. thousand tons of compostable material would generate renewable energy and compost, conserve landfill space, and reduce Citywide greenhouse gas emissions.

Stephanie Munoz suggested the Council reconsider the kitchen bucket as it was not attractive.

**MOTION:** Council Member Wolbach moved, seconded by Council Member Scharff to:

1. Approve a new residential curbside collection and composting program of food scraps commingled with yard trimmings in the green carts, effective July 1, 2015; and

2. Adopt the attached Budget Amendment Ordinance in the amount of \$387,000 to fund the purchase of kitchen buckets and outreach materials that are needed as part of the implementation of the new residential curbside compost collection program.

Council Member Scharff was pleased to be implementing the program.

Council Member DuBois inquired about the effects for multiunit housing with shared compost bins attracting vermin.

Matt Krupp, Environmental Control Program Manager, advised that housing of one to five units subscribed to the residential service. They shared one green cart. The City would provide those units with individual kitchen buckets. Housing of five to ten units could participate in the City's free compost service. Housing of ten units or more could subscribe to the compost service offered through the commercial program.

Council Member DuBois asked if the compost service was an optional subscription for multiunit housing.

Mr. Krupp explained a mandatory commercial recycling and composting Ordinance would require all units to subscribe to a compostable service. Staff was considering an exception for multifamily units, because they did not want to compel apartment residents to use a service that was optional for single-family residents. Participation in the program for single-family residents would not be enforced.

Mr. Bobel added that concerns about smell or vermin were no different from the current situation. Residents could place compostable material in a compostable bag in the green cart or under the kitchen sink.

Council Member Berman had not noticed any issues with vermin; however, many residents deposited food scraps in the bin the night before it was scheduled for pickup.

#### **MOTION PASSED: 9-0**

Mayor Holman inquired whether the Closed Session was time sensitive.

Molly Stump, City Attorney, noted the Utilities Director and Staff had been waiting. If the Council was willing to continue, Staff could be directed to remain.

#### Closed Session

**MOTION:** Council Member Kniss moved, seconded by Council Member Filseth to go into Closed Session.

**MOTION PASSED: 9-0** 

Council Member Questions, Comments and Announcements

Council Member Scharff attended the Expressway Plan 2040 meeting where he learned the County of Santa Clara had not maintained expressways since 2010. The City should advocate for funding of the expressway systems as well as Caltrain. Two County Supervisors indicated they might change policy to fund expressways. By 2025, a significant portion of expressways would reach Level of Service F if no action was taken.

Council Member Wolbach indicated the Gunn High School production of *Anything Goes* was fantastic.

Council Member Burt was a panelist at the Local Government Commission Annual Conference. Topics included Climate Action Plan and carbon neutrality. Palo Alto was considered the leader in progress toward obtaining carbon neutrality as a city.

Council Member DuBois noted several neighborhoods were interested in a single-story overlay. He suggested the Council consider temporarily suspending fees for six months.

**MOTION:** Council Member DuBois moved, seconded by Mayor Holman to agendize a discussion of temporarily suspending the fees associated with a single story overlay.

Molly Stump, City Attorney, would need to review the list of neighborhoods interested in an overlay in order to determine potential conflicts of interest for Council Members.

Council Member Berman along with Council Member Filseth attended *Mix It Up* at Duveneck Elementary School. The goal of the program was to mix students of all grades.

**MOTION:** Council Member Wolbach moved, seconded by Council Member Scharff to agendize Staff to bring to the Council:

1) explore eliminating or reducing the limitations on density of units in multifamily zoning; and

2) ease the regulations and requirements for adding second units.

Council Member Scharff clarified that the Motion was to retain the Floor Area Ratio (FAR) limitation but eliminate the number of unit requirement to allow micro units.

Molly Stump, City Attorney, advised the Council rarely offered oral Colleague's Memo. The Council had offered three oral Colleague's Memos regarding complex items that had Staff impacts. A Colleague's Memo allowed Staff to determine the impact. She encouraged the Council to follow standard practice in writing Colleague's Memoranda so that Staff could add a Staff impact section.

Council Member Scharff supported the Motion.

Mayor Holman stated the City Attorney requested a written Colleague's Memo.

Council Member Scharff indicated the City Attorney could request a written Colleague's Memo; however, Council rules allowed oral Colleague's Memos.

Council Member Filseth attended meetings of the Downtown Merchants Association which was concerned about the rise of panhandling in Downtown. The Downtown Merchants Association was drafting a memo to the Council.

Council Member Kniss was troubled by the casual raising of issues. A Colleague's Memo provided an opportunity for the community to be aware of upcoming issues.

Mayor Holman attended the Sustainability Summit in Washington, D.C. where she made two presentations and chaired two committees. She and Council Member Kniss attended the National League of Cities Congressional Conference in Washington, D.C. She would provide a full report of both events the following week.

The Council went into the Closed Session at 11:41 P.M.

11. CONFERENCE WITH CITY ATTORNEY-Potential Initiation of Litigation (1 Matter)

Santa Clara Valley Water District funding of State Water Project obligation through property tax levy.

Govt. Code Section 54956.9(d)(4)

The Council reconvened from the Closed Session at 12:35 A.M.

Mayor Holman an	nounced there was no rep	ortable action.
<u>Adjournment</u> : Th	ne meeting was adjourned	at 12:36 A.M.
ATTEST:	AI	PPROVED:
City Clerk		ayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.