

# CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting April 14, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:10 P.M.

Present: Berman, Burt, DuBois, Filseth, Holman, Kniss, Scharff, Schmid,

Wolbach

Absent:

**Oral Communications** 

None.

#### **Action Items**

8. Hearing on Buena Vista Mobile Home Park Residents Association's Appeal of Hearing Officer's Decision Relating to Mitigation Measures Proposed by Buena Vista Mobile Home Park Owner in Connection with Mobile Home Park Closure Application (continued from April 13, 2015).

Vice Mayor Schmid reported the Council would hear an appeal by the Buena Vista Residents Association of the Hearing Officer's determination in the Buena Vista Mobile Home Park closure matter. The Council's role was to determine whether the Hearing Officer's decision, as it might be amended by the Council, provided a package of mitigation measures that were adequate to mitigate the adverse impact on displaced residents, provided that the package did not exceed the reasonable costs of relocation. Once the Council identified mitigations that met the criteria, the Council had to approve the closure application. The Council was not present to discuss whether closure of the park was fair or the right thing for the community. The park was privately owned, and the owner had a right under State and local law to go out of business provided that he mitigated impacts to displaced residents to the extent required by law. The Council was not present to discuss the hope and aspirations of many of the community that Buena Vista could be preserved for affordable housing; that was not within the Council's jurisdiction at the current time. The Council was aware that other

community and neighborhood leaders were working toward that goal. The City Manager had informed the Council that he had set aside City funds; therefore, at the correct time the Council could hold that discussion. Before the Council could attend to those issues, it must consider the closure application. The Council had an obligation to be neutral, unbiased, and fair to reach a decision based on the evidence before the Council. Only after the closure process was concluded could the Council participate in the broader community conversation regarding Buena Vista.

Mayor Holman indicated that the Council would take no public testimony, as it was taken the prior evening.

David Beccaria, Beccaria & Weber Inc., Expert Witness for Park Owner, advised that the homes in the park could not be financed due to age and the lack of permitting for additions. Dated homes in the subject park and competing parks typically were not financeable. The history of the park demonstrated only one reported financed sale over more than 20 years. The typical transaction was an all cash sale. The park had small pad sizes, except for one section of the park. The infrastructure in the park was inferior and dated. Because of this, old homes could not be replaced with new manufactured homes. The few park model units located in the park were not manufactured and could not be financed. Space rent partially offset location. There was a lack of park facilities. The buyers' acceptance of these deficiencies was the location adjustment; it was embedded in the data. Homes in that price range provided the most basic and lowest cost housing, which was true of all comparable park locations. Buyers in that price range were concerned primarily with basic shelter. To reach that conclusion, he studied sales history for the prior 20 years as provided by the California Department of Housing and Community Development (HCD) through Santiago Financial. That data showed no correlation with the Palo Alto residential market at any time in the past. Comparing in-park sales with sales in competing parks did not show a premium for the Palo Alto location beyond the buyer acceptance of park deficiencies and space rent differences. He performed a median sale price comparison for mobile home parks in Santa Clara. Appraisers analyzed condominiums and townhouses in Palo Alto and single family residences in Palo Alto. Clearly, no correlation was noted between conventional housing and the mobile home park data, inside or outside the park. He attempted to survey park residents in both English and Spanish in an attempt to gather as much information as possible; however, very few questionnaires were returned. An appraisal report was based upon an effective date and based primarily upon all available market data as of the effective data. Since the time of the assignment in 2013, prices had increased. If appraisals were completed in 2015, the valuations would likely be significantly higher. He chose a

hypothetical condition that forgave the unpermitted additions. He would perform the appraisal reports in the same manner and fashion as previously performed. The only difference between appraisal reports performed in 2013 and 2015 was time. The issue of permitting seemed to be largely ignored by market participants, because the homes typically were not financeable, required cash from buyer to seller, and most importantly buyers in the price range were concerned mainly with basic shelter in an area sorely lacking affordable housing alternatives.

Nadia Aziz, The Law Foundation of Silicon Valley for Buena Vista Mobile Home Park Residents Association, requested two minutes to address comments made by Mr. Beccaria.

Mayor Holman agreed.

Ms. Aziz remarked that State law and the Palo Alto Mobile Home Park Conversion Ordinance (Ordinance) required the park owner to mitigate negative impacts of park closure. The State recognized that mobile home parks were one of the last bastions of home ownership for low-income Palo Alto's Ordinance specifically protected the park owner's property interest by allowing the park owner to request either a partial or complete exemption from relocation assistance if he could demonstrate that providing relocation assistance would substantially limit the park's reasonable use or economic value. The Ordinance specifically described park owner actions needed to mitigate negative impacts of park closure. The term reasonable costs of relocation was not defined in the Ordinance. The Ordinance anticipated that comparable replacement housing would be reasonable. State law and the Ordinance contemplated replacement housing as a reasonable mitigation cost. The park owner ignored the fact that the Ordinance considered what was needed to move to comparable housing rather than appraised value. The park owner advocated his responsibility to create a plan that would allow residents to move to comparable housing. HCD sales data was not provided as part of the relocation impact plan. If comparable housing did exist, then it needed to be identified within the plan. It was difficult to determine whether the proposed assistance would allow residents to move to comparable housing as the park owner did not report any figures for relocation assistance. The park owner provided photos of residences; however, those residences did not reflect the vast majority of housing available in Buena Vista. The Council was given not only the park owner's appraisals but also the residents' critique of the appraisals and methodology. The Council should use that information to determine the values of mobile homes in Buena Vista. The Ordinance specifically required the rent differential to consider the rent of new locations. The actual rent cost should be reflected in the rent differential. The relocation specialist

could revise moving costs, but not all relocation assistance. The City Council should find that the mitigation assistance was inadequate, because it would not allow residents to move to comparable housing or to purchase a mobile home in a comparable community. The Council could instruct the park owner to provide a specific plan; require the park owner to have a plan that specifically defined terms and comparable housing; and require the park owner to provide an analysis. There was no community similar to Palo Alto, because there were no mobile home parks remaining in Palo Alto. The City Council should instruct the park owner to develop a plan that specifically considered the amount of money needed for residents to move to a mobile home in a comparable community within 35 miles. She requested the Council require the appraised value be the floor amount rather than the ceiling amount. The City Council should require compensation based on actual rent for residents who chose to move into rental housing. The Council could require the appraiser to consider in-place value; allow residents to obtain a second appraisal; and allow a third-party to choose the amount that would most adequately mitigate negative impacts of park closure. requested the Council not approve mitigation measures without a third-party Residents should be able to appeal the proposed relocation assistance to ensure it complied with the Ordinance. After the park owner developed a plan, the City Council could require the plan be subject to review. If the Council rejected the mitigation assistance, it could instruct the park owner specifically to consider schools when considering comparable housing. The Council could and should provide concrete definitions and concrete topics for inclusion in the specific plan. The proposed relocation assistance would not allow residents to move to comparable housing in a comparable community.

Margaret Nanda, Attorney for the Jisser Family/Park Owner, reported the Hearing Officer did not find that the park owner must purchase comparable housing for Buena Vista homeowners. To require the park owner to purchase comparable housing would exceed the reasonable cost of mitigation per Government Code § 65863.7. The rent subsidy was calculated using market rate rents. Mr. Beccaria assumed all additions to residents' homes were legal. The Hearing Officer found that Mr. Jisser's allowing mobile home owners to expand their homes did not mean the park owner had to purchase homes that were bigger than residents' current homes. If the manufactured home itself contained only one bedroom, then the park owner was required to provide a market rate rent subsidy for a total of 15 months, including start-up costs. The park owner was found wanting, because he did not provide a housing relocation plan. The words housing relocation plan did not appear anywhere in the Ordinance. The park owner was not required to prepare or provide a housing relocation plan. If the Residents Association believed the park owner was required to provide a

relocation plan, then surely they would have stated that prior to the Council meeting the previous evening. The Ordinance required the Housing Relocation Specialist to assist residents with finding and moving to relocation spaces and comparable housing. The park owner paid the fees of the Housing Relocation Specialist, but did not instruct the Housing Relocation Specialist. The Housing Relocation Specialist created a plan after working individually with each resident. The park owner had to defer to the specialist but could not interfere in that process. Attorneys for the Residents Association stated the park owner failed to identify specific comparable parks and specific mobile homes for sale. The Ordinance required the park owner to provide data regarding mobile home parks in the first version of the housing Relocation Impact Report (RIR). That report was a snapshot in time. The date on which the park would actually close was unknown. Under State law, park residents were entitled to at least six months notice of closure after the Resident Impact Report and mitigation assistance were approved. During those six months, residents would work with the Housing Relocation Specialist to choose new housing. The City's Ordinance required a payment of lump-sum assistance. In her experience, the payment of lump-sum assistance contemplated that the homeowner and the Housing Relocation Specialist would explore and choose the best option of relocation for the homeowner. The Council must reject the argument that the appraised values of homes was not known now and; therefore, the park owner had not offered sufficient mitigation assistance. The park owner had exceeded Ordinance requirements by accommodating the residents' statements that appraisals were too low. The park owner stipulated that he would pay at a minimum the amount of the first appraisal and anything The existing appraisal was the floor. The Council should consider the experience of the Residents Association expert in weighing her opinions. The Residents Association expert was not a Housing Relocation Specialist and did not speak to any experience with relocation of mobile home tenants. The appointed housing relocation expert did have experience with relocating mobile home park tenants. The proposed lump-sum mitigation assistance did provide sufficient options for residents to relocate. Sixty-eight homes in Buena Vista were either RVs or trailers. RVs or trailers could be purchased for less than mobile homes listed for sale in Mountain View. The Housing Relocation Specialist stated a Buena Vista tenant could obtain financing of a mobile home in a traditional park, if the tenant The Council could offer Buena Vista residents a right of first refusal to affordable housing in the City of Palo Alto that the City would build. The California Relocation Assistance Act would require the City to purchase comparable housing for Buena Vista residents.

Council Member DuBois inquired whether Council Members could ask questions.

Mayor Holman responded yes, questions for either party or Staff.

Council Member Scharff believed the Hearing Officer was thoughtful and thorough. He referred to Page 15 of the Hearing Officer's decision regarding one-bedroom homes and unpermitted additions. The Hearing Officer did not support his decision for that with statute. A four-person family could not live in a one bedroom home.

Ms. Nanda indicated the U.S. Department of Housing and Urban Development (HUD) standard was two plus one per bedroom or three people per bedroom.

Council Member Scharff felt the park owner should provide a rental subsidy based on a two bedroom home if a family consisted of more than four people. The purpose seemed to be relocation of Buena Vista residents; however, moving four people into one bedroom housing was unrealistic.

Ms. Nanda suggested the Hearing Office was stating that residents had been given the benefit of living in a self-created, unpermitted, two or three bedroom home, because the appraiser was instructed to ignore the unpermitted nature of the additions. The appraisal provided a value based on the actual number of bedrooms in the homes even though second and third bedroom additions were unpermitted. The value did not need to be captured a second time through the rent subsidy. The rent subsidy was based on market rate housing in Palo Alto and surrounding cities. Rent at Buena Vista did not represent market rate housing, because it was rent controlled. The value of the unpermitted additions was captured in the appraisal rather than the lump-sum assistance. The rent subsidy was based on the market rate for a one bedroom apartment; however, residents could rent a two or three bedroom apartment at below-market rates.

Council Member Scharff asked if there were any legal impediments to the Council imposing an additional condition for the park owner to provide a rent subsidy for a two bedroom home.

Ms. Nanda understood multiple families were living together in one home. Under the HUD standard, a family of six or seven people would need three bedrooms. A family of eight people would need four bedrooms. The rent subsidy far exceeded the reasonable cost of relocation.

Council Member Scharff reiterated a condition for a two bedroom home for four or more people living in a mobile home. He was concerned that four people would not be able to move to a one bedroom apartment.

Ms. Nanda felt the only impediment was the Hearing Officer's decision for a one bedroom home and the park owner accepted the Hearing Officer's decision. That gave the park owner grounds to appeal the decision.

Council Member Scharff asked if the Council had a de novo review of the Hearing Officer's decision.

Ms. Nanda suggested he submit his question to the City Attorney. That did not eliminate the park owner's right to appeal to a Superior Court under a writ of mandamus.

Council Member Scharff inquired about possible grounds for an appeal.

Ms. Nanda would need to review the statute, but either they exceeded the terms of the Ordinance or the reasonable costs of relocation. The residents had benefited from the permitted additions, and the Hearing Officer recognized that fact.

Council Member Scharff requested Ms. Aziz explain her understanding of the 35 mile radius.

Ms. Aziz reported the Residents Association expert drew a 35 mile radius.

Council Member Scharff asked why the expert drew a 35 mile radius and how the radius related to the statute.

Ms. Aziz advised that the Ordinance stated the cost of physically relocating the mobile home within 35 miles of the park. Another section of the Ordinance limited the Relocation Impact Report to considering comparable mobile home parks within 35 miles of the park. The Ordinance contemplated a comparable community within 35 miles of the park.

Council Member Scharff indicated the Ordinance seemed to be broken into two parts. The first part pertained to residents whose mobile homes could be relocated to a space in a comparable park. The second part pertained to residents whose mobile homes could not be relocated to a space in a comparable park. Based on the record and testimony, he understood no mobile homes could be relocated. All residents were taking the lump-sum payment.

Ms. Aziz stated the vast majority of residents would not be able to move their homes.

Council Member Scharff believed the statute clearly applied only to moving a mobile home from Park A to Park B within a 35 mile radius. Page 7, Number 2, of the Ordinance did not mention 35 miles. The definition section also did

not mention comparable housing. He felt Ms. Aziz had misled the Council regarding a 35 mile radius. He requested Ms. Aziz address that.

Ms. Aziz advised that the Council had to review provisions that would mitigate the negative aspects of park closure. Residents stated they lived in Palo Alto in order to access community amenities. The definition of comparable housing contained an inclusive list of amenities.

Council Member Scharff inquired where the statute stated comparable to Palo Alto.

Ms. Aziz reported Section 9.76.030(j) referred to a list of comparable parks within a 35 mile radius.

Council Member Scharff reiterated that the statute stated mobile homes should be moved to a park within 35 miles. Residents who moved their mobile homes would receive a separate set of benefits. Part 2 of the statute contained no 35 mile radius and provided a different set of benefits.

Ms. Aziz indicated that part of the Ordinance discussed comparable housing and defined comparable housing as "the cost of purchasing a comparable mobile home in a comparable mobile home park." The definitions of comparable mobile home and comparable mobile home park did not exactly use the term 35 miles. The definitions mentioned a park with access to a community similar to Palo Alto and to similar amenities. The Ordinance as a whole considered parks within 35 miles. The purpose of the Ordinance was to allow residents to remain in a community similar to Palo Alto and to retain their jobs with the understanding that Buena Vista was the last mobile home park in Palo Alto. The intention of the Ordinance was to look at comparable housing within a limited area.

Council Member Scharff asked where that could be found in the record. He found comments by Council Members stating the park probably had a tenyear life and the City should create a development agreement and a development plan. He wanted to base his decision on the record.

Ms. Aziz advised that the definitions of comparable mobile home park and comparable community specifically stated a community that had similar access to shopping, medical services, recreational facilities, and transportation or a comparable mobile home in a comparable mobile home park. Other sections of the Ordinance discussing comparable mobile home parks limited the distance to 35 miles. The Ordinance did not intend to force residents to move wherever they could find affordable housing. The Ordinance intended to allow residents to move to a community similar to

Palo Alto. The Ordinance had to be read in light of mitigation of the negative aspects of park closure.

Council Member Scharff read Page 6, letter g, of the Ordinance. He asked what actions the Council could take within that structure of the Ordinance to support Buena Vista residents. The Ordinance did not seem to anticipate the Council preventing closure of the park.

Ms. Aziz remarked that the Ordinance did contemplate a plan. It did contemplate allowing sufficient relocation assistance so that residents could move to a comparable mobile home in a comparable mobile home park. The Ordinance specifically required the park owner to review mobile home parks within 35 miles. The park owner had to identify realistic options and had to state the amount of mitigation that would allow residents to move. The park owner provided an updated appraisal, but provided an estimate of the mitigation amount. The residents could not appeal the estimate if they were unable to find comparable housing in a comparable community.

Vice Mayor Schmid referred to the Palo Alto Code regarding measuring the value the mobile home would have if the park was not being closed. Mr. Beccaria stated one mobile home sale had been financed in the prior 20 years and only two sales were reported. Mr. Beccaria also stated information for sales was difficult to obtain. The report listed 27 listed sales at Sahara Village and 45 listed sales at Santiago Villa between 2011 and 2013. That seemed to indicate residents of Buena Vista did not want to move. Longevity was one of the characteristics of the park. Longevity for a community had value. He asked how Mr. Beccaria assessed the value of people wanting to remain in the community. He asked Ms. Nanda if, in her experience, it was extraordinary for longevity to be so high in mobile home parks.

Ms. Nanda clarified that Mr. Beccaria found only one Multiple Listing Service (MLS) listing of a home in Buena Vista for the past several years. Buena Vista was not a traditional mobile home park with landscaped spaces, wide streets, and uniform houses. Buena Vista did not look like Santiago Villa or Sahara Village. In her experience, sales in mobile home parks similar to Buena Vista were accomplished by word of mouth or through a for sale sign placed in a window of the home. HCD required a mobile home be titled or registered. The 30 mobile homes in the park would be titled by HCD and would be found on the personal property tax rolls of Santa Clara County. The other 68 homes were registered most likely through the California Department of Motor Vehicles (DMV), because they were a type of vehicle. Santiago Financial, a private data service, obtained HCD data and separated it by park, city, and county. Mr. Beccaria stated that information was often

delayed. In order to verify he had the latest information, Mr. Beccaria called Santiago Financial and discussed potential missing information. Mr. Beccaria could not simply call or visit the DMV to obtain information. An attorney could apply for information from the DMV to determine the ownership of a motor vehicle.

Vice Mayor Schmid asked if she found a difference in longevity for Buena Vista compared to the other mobile home parks with which she had worked.

Ms. Nanda noted Buena Vista was an all age park. In her experience, there was a difference in terms of longevity for a senior park. In her experience, seniors were most determined to retain their homes and did not want a park closure.

Vice Mayor Schmid requested a response from the Residents Association attorney.

Ms. Aziz believed many residents had lived in Buena Vista for 20 years or more. Mr. Brabant's report contained critiques of longevity and comparable sales data. The park owner's expert stated permitting of additions was ignored by market participants. However, most residents purchased their homes with existing additions and paid more for those homes with additions. The idea that residents received a windfall because appraisals assumed additions were permitted was incorrect.

Council Member Kniss referred to Packet Page 214 regarding schools. She inquired whether Ms. Nanda had dealt with the issue of schools in park closures in other cities or had those closures affected senior citizens only.

Ms. Nanda had closed both family and senior parks.

Council Member Kniss requested Ms. Nanda comment. Ms. Nanda could not know the reasons the Ordinance did not mention schools; however, her experience or observations regarding the inclusion of schools in closures would be helpful.

Ms. Nanda reported the six closures in which she participated did not raise the issue of valuing schools in the manner suggested by the Residents Association. She could not speculate as to reasons for omitting schools from the Ordinance. She respected the Hearing Officer's conclusion that the legislative intent to include schools was not present when the Ordinance was drafted. In other closures, she had faced the issue of schools as a barrier to finding another mobile home or other housing.

Council Member Kniss was puzzled by the Ordinance omitting schools.

Ms. Nanda recalled residents' testimony at the public hearings that they had lived in the community for many years and they moved to Palo Alto because of Palo Alto schools. She assumed schools would have been included in the Ordinance had they been a critical factor.

Council Member Kniss had directed her question to Ms. Nanda because of her experience with park closures, but requested Ms. Aziz comment if she wished.

Ms. Aziz advised that even without schools the Ordinance contemplated a community similar to Palo Alto.

Council Member Berman asked if rents were altered when residents constructed the additions.

Ms. Nanda replied no. Rents were not increased because of the additions.

Council Member Berman inquired about the number of Buena Vista sales used in Mr. Beccaria's comparisons.

Mr. Beccaria remarked that the number varied with each report. Each report contained at least one, sometimes two.

Council Member Berman clarified for the totality of appraisals.

Mr. Beccaria answered probably five altogether.

Council Member Berman asked if those sales occurred within 12 months of the appraisal.

Mr. Beccaria reported the most recent sale occurred in late 2011. He did use sales of a couple of trailers from 2012.

Council Member Berman asked if some of the sales occurred more than 12 months prior to the appraisal.

Mr. Beccaria advised that the last sale of a park model unit occurred in 2006, when it was located in the park as a new unit.

Council Member Berman inquired about Mr. Beccaria's dismissal of home sales that occurred more than 12 months prior to the appraisal.

Mr. Beccaria commented that time was a critical factor. Some of the cited sales dated back to 2010 when he could locate sales in 2011 or 2012 in similar parks or the same park. He had to use the most recent and most similar sales.

Council Member Berman inquired whether Mr. Beccaria would utilize more dated sales if two sales in the year prior to the appraisal were wildly different in terms of valuation.

Mr. Beccaria advised that he utilized a group of eight or nine parks in order to find more current data.

Council Member Berman did not understand why Mr. Beccaria dismissed concerns about time adjustments and a \$20 per square foot flat rate across all properties.

Mr. Beccaria reported 2011 sales showed up on the higher end of the value range while 2012 sales showed up slightly lower. If primary data conflicted with statistical data, then the primary data overrode other data. He did make time adjustments between late 2011 and January 2013. The \$20 per square foot adjustment was the minimum adjustment, because of substandard housing and because the average value was approximately \$18,000 or \$19,000. No higher adjustment was warranted. The \$20 per square foot adjustment did not work when analyzing all data simultaneously.

Council Member Berman recalled that Mr. Beccaria chose not to use a time adjustment, because the median sale price in 2012 for mobile homes in Santa Clara County was \$70,000 and the sale price in 2006 was approximately \$85,000. He inquired whether Mr. Beccaria could have utilized San Mateo County as a comparison, because Palo Alto was more similar to Menlo Park than to Gilroy.

Mr. Beccaria needed a great deal of good mobile home park data which was not available in Menlo Park. Locations in Redwood City were not the same as in Palo Alto. He preferred to use data from Sunnyvale or Mountain View, because those locations provided good data and park deficiencies offset the location issues.

Council Member Berman requested Ms. Aziz respond.

Ms. Aziz could ask her expert to respond in writing to Council Member questions, if the Council felt that was appropriate.

Council Member DuBois inquired about the sources for the chart contained on Page 10 of the Staff Report. They seemed to have different pricing.

Ms. Nanda reported the City Attorney requested she provide data for market rate apartments in cities surrounding Palo Alto when she was preparing the RIR. She used Sunnyvale, East Palo Alto, Mountain View, Redwood City, and Palo Alto. The Hearing Officer's Exhibit A directed the use of an average,

market-rate, one bedroom apartment to calculate the rent subsidy. The RIR data was old, because it was originally approved in April 2014. Therefore, she utilized the same internet sources to update the average rents for those cities.

Council Member DuBois asked if those were listing prices or actual rent prices

Sonya Welch, Attorney for Park Owner, advised that those were actual rent prices. Zillow.com, rentjungle.com, and rentbits.com provided rental data per city. She utilized multiple websites in order to obtain a comprehensive average rental rate. The average rate was most likely inflated, because the data that was easiest to track came from larger, luxury apartment complexes.

Council Member DuBois asked why she did not include Menlo Park, Los Altos, or Burlingame.

Ms. Welch utilized the same cities as in the RIR.

Ms. Nanda clarified that the City Attorney and Planning Staff directed her to focus on specific cities.

Council Member DuBois asked how the cities were determined initially.

Ms. Nanda did not recall. She may have initially tracked Palo Alto data, and then the City Attorney's Office requested surrounding cities.

Council Member DuBois was surprised by a \$300 monthly difference between one bedroom and two bedroom apartments.

Ms. Nanda noted an income qualification issue for residents. It was felt that apartments in Sunnyvale and Redwood City were likely more affordable than apartments in Menlo Park or Los Altos. There was a sense that these cities surrounded Palo Alto, but were more affordable.

Council Member DuBois inquired whether residents could expect infrastructure repairs and upgrades if the park was an ongoing concern. Mr. Beccaria factored the condition of the park into the appraisal.

Mr. Beccaria was making the point that currently an older home could not be replaced with a new home in Buena Vista, with the exception of park model units, because of old infrastructure,

Council Member DuBois understood the sewer hookups and such were substandard, and asked if that or amenities factored into the in-place values.

Mr. Beccaria did not entertain sewer hookups or anything like that, but did include amenities. Buena Vista did not have a pool or clubhouse or wide streets. Those types of issues were factored into appraisals. They were inherent in not making a location adjustment.

Council Member DuBois asked who was responsible for ensuring additions were permitted in a park.

Mr. Beccaria believed that fell under the jurisdiction of the HCD.

Council Member DuBois asked if the park owner had a responsibility to ensure additions were permitted.

Mr. Beccaria did not know.

Council Member DuBois inquired whether safety was specifically discussed as an aspect of comparable community.

Ms. Aziz advised that a comparable community was a community similar to the community in which the park was located with similar amenities. The list of amenities could include other aspects. The Ordinance contemplated a safe community, because it contemplated a community similar to Palo Alto. Safety should be a factor.

Council Member Filseth did not completely understand how location factored into the appraisal result. Mr. Beccaria stated the condition of the park, pad sizes, and infrastructure offset the location. He requested Mr. Beccaria explain the offset again. He requested details regarding the appraised value of one unit being lower than the price paid for it, according to the homeowner's testimony the prior evening. He understood the in-place value assumed the park would continue operating in perpetuity. However, the park owner had clearly stated for many years his intent for the disposition of the park. The knowledge that the park would close in a few years would seem to depress the value of units in the park. He asked if that was true and encompassed in the appraisal.

Mr. Beccaria noted Palo Alto schools were terrific. Families wanted to live in Palo Alto. Families were willing to accept park deficiencies in order to live in Palo Alto. He reached that conclusion by correlating the values of homes in Buena Vista over time to activities in traditional mobile home parks in surrounding communities. They did correlate. It was the closest and most practical means to develop a value. Residents in other mobile home parks were paying similar amounts as residents of Buena Vista paid, but Buena Vista offered considerably fewer amenities and lower quality infrastructure. The only variable was Palo Alto. Therefore, he equated the location issue

with a buyer's acceptance of park deficiencies. He studied and reviewed the market from every possible angle.

Council Member Filseth asked if Mr. Beccaria considered all types of other factors and attributed the difference to the location.

Mr. Beccaria stated the park deficiencies and location issue offset each other. Part of that were differences in space rents. Some parks charged much higher space rent. Those issues combined with relatively similar prices had to be the difference. People were willing to live in the park in order for their children to attend Palo Alto schools.

Council Member Filseth reiterated his question regarding a resident's statement that the appraised value of her home was less than the price she paid for it.

Mr. Beccaria did not have his files and was not in a position to address specific appraisals.

Council Member Filseth asked if the known closure of the park would impact the units in the park.

Mr. Beccaria was very careful about that issue. He could utilize data prior to the announcement of the park closure. All data after knowledge of park closure was tainted. He believed all data utilized from the park, perhaps five sales, was dated prior to the closure announcement.

Council Member Filseth believed it was a matter of public record that the park owner intended to close the park as early as 2001.

Mr. Beccaria was not aware of that fact, and did not believe residents in general were aware of that fact. If a resident provided him with sale information, he conducted a detailed interview of the resident to confirm the information. By and large residents provided accurate information.

Ms. Aziz advised that the value of a mobile home had to include the in-place value. The Council was being told that the in-place value should not matter, because of the condition of the park. The park owner's failure to maintain the park should not invalidate any value of the park being located in Palo Alto. The review of appraisals discussed the need to consider in-place value.

Council Member Filseth reiterated Mr. Beccaria's argument that in-place value was considered in the appraisal.

Ms. Aziz clarified that Mr. Beccaria was stating that it should not be considered, because the condition of the park was terrible. His statements

ignored in-place value and allowed the park owner to take advantage of not maintaining the park. Ignoring in-place value was not fair to residents. The price of housing in Palo Alto had increased exponentially. The park had a high value because it was located in Palo Alto. The Ordinance did not contemplate consideration of the appraised value. It did contemplate the amount needed for a resident to move to comparable housing. The Council should consider that measure.

Council Member Burt requested the City Attorney review information that was in the public record and public knowledge in 2001. He recalled the park being given approximately ten years of amortization of its infrastructure.

Molly Stump, City Attorney, was not employed with the City in 2001. People on the dais and in the room could have some recollection of those conversations in 2001. From reviewing the material in the record, she understood the primary focus or the instigation of the public conversation among the park owner, the residents, and the City involved a rent increase and the City's desire to regulate in that area. The Mobile Home Park Conversion Ordinance resulted from those conversations. Parties who had reviewed those records in detail could have additional comments.

Council Member Burt remarked that Ms. Stump did not address the ten years of remaining infrastructure life in anticipation of eventual closure of the park.

Ms. Stump had not specifically researched that question. There was some material in the record that was relevant to that topic. She knew the Council had reviewed that information.

Council Member Burt requested either party address park infrastructure.

Ms. Nanda explained that the Council's discussion of the Mobile Home Park Conversion Ordinance and the rent Ordinance was prompted by the park owner's notice of a rent increase published on October 1, 2000, which would become effective January 1, 2001. The Council began meeting about the matter in 2000 and enacted the Ordinance in 2001. The minutes of those Council meetings reflected that a Council Member acknowledged that the useful life of the park was ten years and that there had been discussion with the park owner about the life of the park and his continuing its operation. A Mobile Home Park Conversion Ordinance was enacted, because the Council and Staff foresaw the closure of Buena Vista. The Ordinance was enacted specifically with Buena Vista in mind.

Council Member Burt advised that was consistent with his recollection. The appraiser stated he was not aware of that circumstance. He inquired about the number of current residents who were living in the park in 2001.

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Ms. Nanda reported Mr. Beccaria did not know. Mr. Beccaria's point of reference was that in September 2012 the park owner wrote a letter to residents indicating he was considering closure of the park. In November an actual application was filed. Mr. Beccaria did not consider any data after those dates.

Council Member Burt stated that seemed reasonable. He wanted to know if the data between 2000 and 2012 should reflect that the useful life of the park was ten years and that buyers and sellers anticipated closure in 2012. He questioned reasons for a buyer paying the same amount for a residence with perhaps five years of useful life as a residence with a much longer useful life.

Mr. Beccaria related his experience with the closure of a mobile home park in Capitola. Capitola residents knew the closure was going to occur, but sales continued. Sales of homes in the Capitola park correlated with sales in the marketplace, because people had few alternatives.

Council Member Burt recalled Mr. Beccaria's offset of location and park condition. He suggested three elements comprised that offset: the park condition depressed pricing; the limited remaining life of the park depressed pricing; and the location offset both of those. He questioned whether the value of residents' homes should be discounted and whether that was an appropriate discount.

Mr. Beccaria explained that comparable sales were taken from other communities for traditional mobile home parks that had long-term life expectancies.

Council Member Burt asked how Mr. Beccaria would calculate the difference in price for Buena Vista homes if the park closure had not been announced.

Mr. Beccaria indicated Council Member Burt was making the appraisal assignment hypothetical. He had to appraise the homes and park based on the current reality.

Council Member Burt did not find a mention in the Ordinance regarding discounting home values because the park had a limited life. In discussing comparable physical conditions and comparable communities, the Council should not ignore the discounting that occurred because the park and homes only had a few years remaining.

Mr. Beccaria disagreed with Council Member Burt's view point.

Council Member Burt noted Section 9.076.030(D)(5)(v) of the Ordinance recognized pop-out rooms, porches, etc. However, there was an ambiguity as to whether non-permitted pop-out rooms should be recognized as part of the unit. For some reason, the Hearing Officer recognized them for purposes of the appraisal but not for purposes of the rent subsidy. He asked if the Ordinance provided guidance for treating pop-out rooms differently.

Ms. Stump advised that the park owner was required to describe what was physically present at the park. That was done in the RIR which included those porches, patios, pop-out rooms, etc. The Hearing Officer's decision was independent, and Staff had not consulted with him because it was not appropriate. In essence, the Hearing Officer did treat them differently. There was a complexity to the issue in that residents may have reported those additional structures as bedrooms. Nothing specific in the Ordinance dictated treatment of those structures. The issue was within the Council's discretion.

Council Member Burt inquired whether the park owner interpreted the Ordinance as excluding schools.

Ms. Nanda interpreted the term community as all aspects of the community. However, the Residents Association argued that appraisal values should specifically reflect and be increased by the park's location in Palo Alto and attendance at Palo Alto schools. The Residents Association also argued that schools should be a factor in determining comparability. Schools could not be a factor in appraisal or comparability as evidence in the record indicated by the Assistant City Attorney in 2001 reviewed other ordinances that included schools, yet schools were specifically excluded from the Ordinance.

Council Member Burt stated under Ms. Nanda's interpretation "such as" would have the effect of "limited to." In that sense, "such as" was exclusive.

Ms. Nanda argued that shopping, medical services, recreational facilities and transportation, as stated in the Ordinance, did not embrace the school system. The Council could not stretch that list of amenities to include schools. Drafters of the Ordinance failed to list schools as an amenity even after they reviewed other ordinances that did include schools. The Hearing Officer did not find legislative intent for including schools as an amenity.

Ms. Aziz responded that "such as" meant "for example." Real estate listings for Palo Alto listed the schools for each property. Prices were high in Palo Alto because of its schools. That factor needed to be considered when reviewing comparable housing.

Council Member Burt commented that including schools as a factor would require a value be assigned to Palo Alto schools. Palo Alto expended more per student than surrounding school districts. That could be a method to determine the value of a Palo Alto education.

Council Member Wolbach could not conclude that the exclusion of schools was intentional when the language of the Ordinance seemed inclusive. Hearing Procedures in the Ordinance specifically stated the Hearing Officer "... may condition the approval on additional conditions including but not limited to the following....". Sections of the Ordinance provided the Hearing Officer with the ability to exceed the examples given. He asked how the park owner justified the claim that the Council must assume the absence of schools was intentional, and how she reached the legal conclusion that the Council was precluded from considering schools.

Ms. Nanda explained that the definition of comparable housing (similar access to shopping, medical services, etc.) did not mirror the language of comparable mobile home parks (such as shopping, medical services, etc.). There was a difference in the wording. Because of the difference in language, she did not believe the use of "such as" allowed the inclusion of schools. The record of the Council minutes and the discussion in 2000/2001 indicated the Assistant City Attorney reviewed closure ordinances, specifically the Monrovia ordinance. The attorney for the Residents Association represented to the Council that he had reviewed more than 150 ordinances and that the language of the proposed Palo Alto Ordinance was as it should be. The language of the Hearing Procedures provided a plethora of possible additional conditions, but it did not necessarily mean additional conditions were related to or justified by the terms of the Ordinance. The Hearing Officer's finding of a lack of legislative intent to include schools dictated that the language should not be stretched to include schools. The Hearing Officer was allowed to include schools; however, he did not.

Council Member Wolbach referred to Section 9.076.020 wherein "such as" appeared in Subsection (B) but not in Subsection (C). Subsection (C) appeared to refer back to (B), thus leading back to the inclusive language. He inquired whether he was misinterpreting the language of the Ordinance.

Ms. Nanda was not saying that Council Members were misinterpreting the language. Council Members were saying "such as" led to an unlimited field. In her opinion and experience, "such as" did not lead to an unlimited field. The list of amenities following "such as" did not stretch to include schools. She and Council Members disagreed on the meaning of "such as."

Council Member Wolbach asked if the reference of Subsection (C) to Subsection (B) meant Subsection (C) included the flexibility of "such as."

Ms. Nanda remarked that it could be interpreted in that manner. It was interesting that the list of amenities was the same in both subsections; however, one subsection utilized "such as" and the other "access to." Because the list of amenities did not stretch to schools, Subsection (C) referring to Subsection (B) did not mean schools were included in comparable housing.

Council Member Wolbach asked if Ms. Nanda agreed that Subsection (C) referred to Subsection (B).

Ms. Nanda responded yes, to the extent that Subsection (C) stated a comparable mobile home in a comparable mobile home park and there was a definition of that in Subsections (A) and (B).

Council Member Wolbach agreed that the Ordinance did not explicitly state school, Palo Alto Unified School District, school district, or value of local education. He was unsure how the City Attorney's failure to include one specific example of a community amenity was evidence of intentional exclusion when the Ordinance utilized inclusive language. He inquired whether Ms. Nanda could agree that the purpose of expansive language was to allow consideration of other items which may have been omitted.

Ms. Nanda noted attorneys often utilized the phrase "including but not limited to" rather than "such as." She reiterated her argument that the City Attorney and the attorney for the Residents Association reviewed other cities' ordinances and still omitted schools from the Palo Alto Ordinance. The Hearing Officer reached the same conclusion as Ms. Nanda based on the lack of legislative intent to include schools in the definition.

Council Member Wolbach concurred with a clear absence of those words in the legislation. The purpose of including expansive language was to allow future consideration of items which may have been omitted from a specific list.

Ms. Nanda did not agree, because the schools were just as important and just as much a factor in the City of Palo Alto in 2000/2001 as in 2015. If schools were that important and contained in other cities' ordinance, then the City Attorney would have included schools in the Ordinance.

Council Member Wolbach wanted to understand how Ms. Nanda reached the conclusion that the absence of schools was intentional. He asked what

precluded the Council from considering schools in some way at the current time.

Ms. Nanda based her claim of an intentional omission of schools on the record of Council meetings. The Council should not rewrite existing law. Reading more into an Ordinance than was contained in the Ordinance was unusual.

Council Member Wolbach disagreed in that inclusive language allowed consideration of some things which might not be stated explicitly. However, he had not determined whether that would include schools.

Ms. Stump noted the parties contested the issue, and it could remain a topic of additional legal procedure. It was not helpful for her to comment publicly in the current forum.

Council Member Wolbach indicated the Residents Association had placed a great deal of emphasis on the importance of Palo Alto schools. He asked how Ms. Aziz proposed to modify or improve the relocation package to reflect accurately the presence of Buena Vista residents within the Palo Alto Unified School District. He wanted to hear specific actions that the Council could legally consider.

Ms. Aziz explained that intent should not be considered. The Ordinance specifically addressed community amenities. "Such as" allowed an exclusive list of amenities which should include schools. She had talked a great deal about the plan the park owner needed to develop.

Council Member Wolbach remarked that the park owner's need to develop a plan was debatable; however, he was not questioning that.

Ms. Aziz suggested the Council should require the park owner to include schools in the list of comparable communities and to assess comparable communities that provided comparable schools and a high quality education. Schools were the most important community amenity, especially for families with children. She requested the City Council instruct the park owner not only to offer relocation assistance that allowed residents to move to comparable housing, but also to include schools in the definition of comparable housing.

Mayor Holman was confused by the Hearing Officer giving residents credit for two to three bedrooms in determining value but not in determining relocation assistance.

Ms. Nanda explained that the unpermitted additions were recognized as bedrooms; therefore, the appraised value reflected the bedrooms and compensated residents for them. The Hearing Officer did not instruct the park owner to count the number of bedrooms created by the tenant in determining relocation assistance.

Mayor Holman was not aware of zoning that governed mobile home park additions, setbacks, or anything of that nature.

Ms. Stump understood those issues were regulated by HCD, which typically delegated inspection authority to the county. Although the park was located within the city limits, that type of activity was undertaken by the county.

Mayor Holman asked what constituted legal nonconforming use.

Ms. Stump understood construction work on the units would not be permitted in the same way as traditional housing in other residential zones within the City.

Mayor Holman commented that the discussion of schools included the terms "intention" and "intend". A prior City Attorney had stated that he could not interpret intentions.

Ms. Stump explained that the parties and Hearing Officer referred to intentions, because they were all lawyers. When a court reviewed a writing, the court asked what was intended by the language. It was not the same thing as looking into an individual's heart and mind. It was an attempt to ascertain what was meant by the language when it was drafted.

Council Member Scharff remarked that the definition of comparable mobile home park contained language different from the definition of comparable housing. Comparable mobile home park was important only when discussing residents physically moving their existing mobile homes from Buena Vista. Otherwise, the language was not important.

Ms. Nanda concurred. It was important to recognize that there were no other mobile home parks in Palo Alto.

Council Member Scharff felt that was irrelevant. "Such as" would only apply if someone was moving his mobile home from Buena Vista to another mobile home park. The lump-sum payment involved comparable housing which did not contain the "such as" language.

Ms. Nanda agreed.

Council Member Scharff believed that the only time schools could be included was if someone was physically moving thier mobile home. He inquired whether any Buena Vista residents would be physically moving their mobile homes. If so, perhaps the Council should consider schools in that instance. If not, then there was no argument for considering schools.

Ms. Nanda reported that moving units from Buena Vista was possible but highly unlikely or improbable, with the exception of park units. Other mobile home parks would likely not accept units from Buena Vista, because of the age of the units.

Council Member Scharff asked if residents would have to choose at some point whether to move their mobile homes.

Ms. Nanda advised that any vacant space in any park was available to Buena Vista residents, if the mobile home park would accept the mobile home. Park owners wanted to improve the overall appearance of their parks.

Ms. Aziz argued that the definition of comparable mobile home park did affect residents whose mobile homes could not be moved. She referred to Section 9.076.040(F)(a)(2) regarding residents whose mobile homes could not be moved. Schools were a factor for residents whose mobile homes could be moved and whose mobile homes could not be moved. Subsection (F)(2)(a) was expansive. The Council's role was to interpret the Ordinance as it felt appropriate. The Ordinance allowed the Council to conduct a de novo review; therefore, the Council did not have to accept all of the Hearing Officer's findings. If the Council believed certain issues were important and should be included in mitigation assistance, then it was the Council's responsibility to include those issues.

Council Member Wolbach agreed that the definition of comparable housing included the option of a comparable mobile home park.

Council Member Berman was attempting to determine methods to address the value of schools. He asked if the appellant intended to factor schools into rent subsidies or appraisals.

Ms. Aziz indicated schools could be factored into both. It was a good possibility that many residents would not move to a comparable mobile home; therefore, they would have to rent. In looking at rental opportunities as a source of comparable housing, the Council should also consider the ability to access schools of a quality similar to Palo Alto's schools.

Council took a break at 9:08 P.M. and returned at 9:22 P.M.

Council Member Berman remarked that his values were urging him to oppose closure of the park. More than 40 percent of Palo Alto residents were renters. Rental rates were steadily increasing. It was important to increase the affordable housing stock in Palo Alto. However, his responsibility in hearing the appeal was to determine whether State law and the City Ordinance were being followed.

Council Member Scharff concurred with many of Council Member Berman's comments. The Council was not in its usual role of a legislative body. The Council's role was to determine whether the Hearing Officer made the appropriate decision in the context of the law. He was looking forward to community efforts to save Buena Vista once the hearing of the appeal was completed.

Council Member Filseth remarked that many Buena Vista residents would not be able to find other housing in Palo Alto or the Bay Area. The root issue was the price of housing in the area surrounding Palo Alto. The socioeconomic diversity of the City of Palo Alto was not the responsibility of the park owner. If the park owner complied with the Ordinance, then he should be allowed to close the park.

Vice Mayor Schmid recognized Buena Vista residents as a key part of the City and critical to the City's future. The Council should consider adjustments that reflected the value of Buena Vista residents to the community. Those adjustments should consider the value of schools and safety.

Council Member Wolbach supported comments made by Council Members. He would be inclined to agree in a large part with the Hearing Officer's decision. He was eager for suggestions to modify the relocation package to reflect the value of owning a home in Palo Alto.

Council Member Burt commented that all parties had proceeded with a good faith effort and performed effectively. He was interested in reviewing the need for more than one bedroom with respect to comparable housing; utilizing a broad description of amenities; and reviewing the discounting of value through the knowledge of park closure. Any one of those factors would not radically change the appraised value, but they should be included.

Council Member DuBois noted the safety and stability of Buena Vista. Safety, City services, and schools should be considered as aspects of comparable housing. The unpermitted additions should be included in calculating the rent subsidy. He suggested the Council direct the appraisal methodology to place more weight on in-place value. The calculation of average rents utilized more comprehensive data sources and more cities on

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the Peninsula; and provided a process for residents, especially handicapped residents, to appeal proposed mitigation assistance.

Council Member Kniss felt the decision was difficult for the Council, but even more difficult for Buena Vista residents. She hoped others in the community would unite to assist the residents.

Mayor Holman stated Buena Vista was a community. People would unite to solve the problems for the Buena Vista owners and residents. Palo Alto schools should be considered in calculating the value of Buena Vista homes.

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

- 1) Approve the Hearing Officer's decision with the following modifications:
  - a) Updated appraisals of the on-site fair market value of each mobile home shall be completed within 6 months of the owner's relocation from Buena Vista, at the Park Owner's expense. Updates shall be prepared by Beccaria & Weber, according to the methodology utilized in the 2013 reports. If for any mobile home the updated appraisal amount is less than the appraisal calculated in the 2013 reports, the Park Owner shall pay the higher of the two appraisals, as may be modified by the Hearing Officer as described below; and
  - b) Within 6 months of the mobile home owner's relocation from Buena Vista, the Park Owner shall complete an updated market survey of average apartment rents in the cities surrounding Palo Alto, using the methodology in the RIR. This survey shall be the basis for calculating the 12-month rent differential and start-up costs described in the Hearing Officer's decision; and
  - c) Within 30 days of receiving the updates described above, any mobile home owner may submit a written objection, comment or supplemental data to the Hearing Officer. The Park Owner shall have 15 days to rebut any such submissions. The Hearing Officer shall make a determination regarding the appraisal amount and comparable market survey based on the evidence submitted. The Hearing Officer shall not award less than the amounts contained in the updated analyses of the Park Owner, or more than the amounts supported by evidence submitted by the mobile home owners. The Hearing Officer

shall not have jurisdiction to reopen any matter addressed by the Council's Decision or the Sept 30, 2014, Hearing Officer's Decision. The Hearing Officer shall issue a short written determination, which shall be final. The Hearing Officer's determination shall not be appealable to the Council. Any appeal shall be to the Superior Court, to the extent provided by law; and

- d) Final determination of actual moving costs and additional mitigations for disabled mobile home owners shall be determined by the Relocation Specialist, as set forth in the Hearing Officer's decision; and
- e) In addition where a one bedroom mobile home unit has more than one bedroom because of unpermitted additions, where family is greater than three people, the rental compensation will provide for a two bedroom rental unit.
- 2) Staff shall return to Council for adoption of written findings and decision consistent with this Motion.

Council Member Scharff believed the Hearing Officer addressed all issues. However, the Hearing Officer did not support the one bedroom issue with a reference to the statute. The park owner's attorney did not offer any impediments to the Council changing the rent subsidy. The purpose of the Ordinance was to ensure residents could obtain housing. He did not understand how families of four, five, and six people could move into a one bedroom apartment. The Motion added a measure of better planning if the park did close.

Council Member Kniss hoped this would be an opportunity for the community to unite and support Buena Vista residents. With regret, she supported the Motion.

Vice Mayor Schmid inquired whether it was appropriate to include "unpermitted additions" in the Motion. That language seemed to penalize any permitted additions.

Council Member Scharff understood a permitted addition counted as two bedrooms.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add "permitted and" to Section e) in the Motion.

Ms. Nanda reported the Hearing Officer found that if the mobile home originally contained two bedrooms, then the rental subsidy should be calculated for two bedrooms. If the mobile home originally contained one bedroom, the rental subsidy should be calculated for one bedroom.

Vice Mayor Schmid stated there could be some permitted additions to a one bedroom unit.

Council Member Scharff understood a one bedroom unit with a permitted addition was counted as a two bedroom unit.

Ms. Nanda concurred.

Council Member DuBois wished to clarify timing. Section (c) of the Motion did not specify a time period for the Hearing Officer to make a determination.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add "within thirty days or as soon as practical thereafter," to Section c) in the Motion.

Ms. Stump reported Staff would draft language such as "to the extent practicable" or "will make all reasonable efforts." The Hearing Officer would not know the number of matters he would have to review.

Council Member DuBois wanted to impose a time limit because the parties were given time limits. He suggested Section (d) provide disabled residents with a time period in which they could submit written objections, similar to the language of Section (c).

Ms. Stump would need to hear from both parties, because actual expenses were negotiated and perhaps paid on a "pay as you go" basis for needed expenditures for those individuals.

Council Member DuBois expressed concern that handicapped residents had no process to object.

Ms. Stump understood the amount could not be determined and paid in a lump sum or in advance. Relocation assistance for handicapped residents depended on documented, actual expenditures. The Hearing Officer found

that the relocation specialist was sufficiently independent to resolve those matters.

Ms. Stump clarified that the Motion was direction to Staff to return with specific written language documenting the Council's decision. As long as Staff understood the Council's intentions, they could provide a draft. The Council would have an opportunity and an obligation to review the draft and make adjustments as needed to conform with its intentions.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to remove "In addition" from Section e) in the Motion.

Council Member Burt expressed concern that the appraisal did not reflect a more complete definition of amenities in the community. The Motion did not provide any guidance for the considerations the Council discussed. If the Council proceeded in that direction, it would have no method to verify that occurred. The Council could direct that some form of reappraisal with the new methodology be presented to the Hearing Officer for approval and that the closure plan would not be officially approved until that act had occurred. He inquired whether Council Members were interested in including those two actions in the Motion.

Council Member Scharff explained that appraisals utilized various legal approaches. He was concerned that the Council would be telling an appraiser how to do his job, when none of the Council understood the business of appraisal. However, he would discuss the idea in order to understand Council Member Burt's intentions.

Council Member Burt was not proposing a methodology for an appraisal, but a scope for items to be considered. The appraiser would continue to utilize an established methodology. He questioned whether the existing scope captured the full breadth of amenities. If the scope was limited to those factors stated in the Ordinance, then the language of the Ordinance would have been different.

Council Member Scharff asked which factors Council Member Burt would want to include.

Council Member Burt answered schools and safety.

Council Member Scharff asked if the appraiser should consider only mobile home parks in communities which had good schools and which were safe. Those were value judgments.

Council Member Burt inquired whether an appraisal would utilize comparable properties or assign some value basis.

Mr. Beccaria would prefer to answer after thoughtful consideration and consultation with his partner. That scenario would exclude all park data completely, because it was tainted by the 2000 disclosure of park closure.

Council Member Scharff advised that knowledge of park closure was not part of the scenario.

Mr. Beccaria clarified that it was embedded in the scenario. Part of the usual analysis was considering all the sales history in the park and then sales in competing parks. The proposed scenario focused on Palo Alto. Off the top of his head, he suggested performing a median price comparison between single family residences in Palo Alto and single family residences in other communities to determine the percentage differential, and then studying that for all the different communities. He could then make a positive adjustment for the Palo Alto location that reflected what was being done for conventional housing among the various communities. There were no other mobile home parks in Palo Alto where he could extract information; therefore, he would have to build it with a mirror. That would likely be the best method; however, he reserved his final opinion until he had an opportunity to think through the scenario.

Council Member Burt felt that would be a reasonable methodology. However, if the Council was attempting to reach a resolution in the current meeting, it would have to give discretion to the appraiser. The Council did not need to address the issue of impending park closure in order to state that the value of other amenities would be reconsidered in a reappraisal.

Mayor Holman inquired whether Staff could draft language for a decision based on the Council stating its intentions in a Motion.

Ms. Stump would consider the logistics of drafting a decision based on Council intentions; however, the parties could have some input regarding those intentions.

Mayor Holman requested Council Member Burt provide language that would provide discretion to Staff with input from both parties.

Ms. Stump was suggesting the Council hear from the parties at the current time.

Ms. Aziz suggested the Council allow residents to submit their own appraisals and direct the Hearing Officer to utilize the appraisal that most

closely met the Council's concerns or utilize the higher value of the two appraisals. Disabled tenants should have a right to appeal the relocation assistance. Disabled residents would not learn the full amount of relocation assistance until after meeting with the relocation specialist. Not affording disabled tenants the same opportunities to appeal a final relocation package as nondisabled tenants raised fair housing issues. She requested Section (b) be clarified to mean six months before, and Section (c) clarify that the park owner's notice would be issued after the appeal process had been completed.

Council Member Scharff wanted to hear from both parties prior to Council Members offering suggestions. He had not planned on making changes based on input from the parties.

Ms. Aziz agreed with instructing the appraiser to consider schools and safety and other factors.

Ms. Nanda did not believe the Council was amending mitigation assistance, but rather the Ordinance. The Council could not do that in the appeal process. She preserved that objection for the record and a possible appeal. As she understood it, the Council was issuing a decision that stated the Council would approve the application to close the park with the mitigation assistance contained in Exhibit A of the Hearing Officer's decision in the Motion. If the park owner chose to accept the proposals, then on May 5, 2015 the park owner could issue a six-month notice of termination of tenancy under the Civil Code. That was the result of an approval of an application for conversion under the Ordinance. Ms. Aziz wanted the park owner to obtain all these new appraisals before issuing any notice of termination of tenancy. The amended RIR, as approved by the Hearing Officer, stated that the park owner would provide an updated appraisal within six months of the residents' relocation. She did not understand that logic given that the Council's Motion stated the Hearing Officer's decision was final. The Council wanted to affect the outcome of the appraisals which the park owner voluntarily agreed to update. If the Council approved the application for conversion on May 4, then the park owner had the legal right to begin the closure of the park the following day.

Council Member Burt did not believe comments from the appellant were intended to be incorporated into his proposed language for the Motion. The Motion stated that final appraisals would be performed in the subsequent six months. In revising the methodology, he assumed the appraiser would determine a factor that revised appraisals performed subsequent to the closure notification. The Council was not asking the appraiser to perform revised appraisals prior to approval of the closure plan. The appraiser would

review a broader notion of amenities as permitted by the Ordinance and present that methodology to the Hearing Officer as the appraisals would be adjusted upward by X amount as a result of additional factors. He would want to ask the Hearing Officer if that process was feasible.

Ms. Nanda asked if Council Member Burt was talking about the original appraisals or the appraisals performed within six months of relocation.

Council Member Burt advised that the factor could apply to both. The factor determined by the appraiser could increase the amount of the original appraisals. New appraisals would include the factor and reflect a value higher than the original appraisals.

Ms. Nanda advised that a change in the scope could only be legal if it applied to the future appraisals. Discarding appraisals contained in the record and using a new scope exceeded what could be done.

Council Member Burt was not sure why existing appraisals were important as the future appraisals would be the basis for compensation.

Ms. Nanda felt there was a problem with the entire proposal.

Mayor Holman understood Mr. Beccaria to say that the existing appraisals could be adjusted based on the percentage differential between housing prices in Palo Alto versus other communities.

Ms. Stump requested Council Members focus on the appraisals to be performed.

Council Member Burt did not understand the importance of the existing appraisals.

Council Member Scharff recalled Mr. Beccaria stating that he could include a different scope in the appraisal methodology. The Council had not agreed to Council Member Burt's proposal. This was the parties' opportunity to explain why the proposal was good, bad, legal or not legal. He wanted to know what legal argument the park owner would make in appealing the Council's decision to the Superior Court.

Ms. Nanda did not believe that a review of a Hearing Officer's decision was an opportunity to rewrite the Ordinance. The Ordinance contained language regarding the appraisals to be performed and how they were to be performed. The park owner amended the RIR to provide for an updated appraisal. The park owner did not agree to an updated appraisal based upon

a different scope. The Council was exceeding the provisions of the Ordinance.

Council Member Scharff requested an explanation of how the Council was exceeding the Ordinance.

Ms. Nanda indicated the Council was changing the terms of the Ordinance and the terms of the appraisal. Furthermore, the Council was providing a procedure, which was not contained in the Ordinance, for residents to individually contest to the amount of those appraisals. The Motion stated the Hearing Officer made the determination. That was not included in the Ordinance. If the park owner had not amended the RIR, updated appraisals would not be an issue, because the Ordinance did not provide for updated appraisals. The Hearing Officer stated in his decision that he did not have further jurisdiction.

Council Member Burt requested the City Attorney comment.

Ms. Stump reported there was some discussion amongst the parties before the Hearing Officer regarding the possibility of him retaining some limited jurisdiction to resolve any specific issues that might remain later in the From reading the record, she understood both parties were amenable to the Hearing Officer retaining some type of limited jurisdiction. She believed the park owner and his attorney requested the Hearing Officer retain jurisdiction for six months. In his decision, the Hearing Officer indicated he did not have that authority under the Ordinance. suggested the Hearing Officer believed the Council could craft a limited delegation of jurisdiction. That was proposed to respond to the concern that supplemental updates to the market survey and the appraisals had no further process or check. It was intended to be a limited delegation with bounded authority on that particular issue. If the parties felt the procedure was not consistent with State law, the Council should consider providing an opportunity for the parties to put their legal arguments in writing. Motion was silent as to the Council's view of when the park owner's closure application would be accepted. She believed, based upon her initial reading of State law, that the Council could have discretion to make that final approval decision on May 4 or at some point later in the limited return of jurisdiction to the Hearing Officer. If Ms. Nanda did not believe that was consistent with State law, she would like to understand specifically the basis for Ms. Nanda's belief so that the Council could be fully apprised before making a final decision.

Council Member Scharff inquired whether the City Attorney was suggesting the parties provide their legal arguments prior to May 4 so that the Council could modify the Motion if necessary.

Ms. Stump answered yes. The Council had a Motion and a second as well as additional ideas on which it was receiving input from the parties. Those additional ideas were not a part of the Motion at the current time.

Ms. Nanda stated the application for conversion was either approved or not approved. She did not understand how the Mobile Home Residency Law, the Government Code, or the Ordinance allowed some kind of "conditional approval" at some later date. The closer in time that the appraisal was performed to the park owner's actual purchase of the home in the closure process should represent its highest value. Now, reappraisal of the homes would occur and then this new process involving the Hearing Officer would occur and it was not within six months of the purchase. The purchase could not occur until the park owner issued the notice of termination of tenancy.

Council Member Burt explained that the appraiser would develop a revision to the scope that the Council believed captured the intent of the Ordinance. The Hearing Officer would approve that revision to the appraisal factor. Then the park owner had the discretion to proceed with the actual appraisals under the new revision to the scope.

Ms. Nanda clarified that three months later Mr. Beccaria, using the scope approved by the Hearing Officer, would appraise a resident's home. That appraised value would be the amount paid to the resident. That resident could not return to the Hearing Officer and declare his home was worth more money.

Council Member Burt believed Section (c) needed clarification. The City Attorney wished to hear Ms. Nanda's reasoning for that part not being allowed under State law.

Ms. Stump advised that the Council was asking the parties to respond to a fairly complex issue. Perhaps the parties did not fully understand the Council's intentions. The Council could clarify their intentions for the parties. The Motion provided one trip to the Hearing Officer within a narrow time period. Now, Council Member Burt was contemplating two trips to the Hearing Officer.

Council Member Burt noted Ms. Nanda had an objection to Section (c) of the Motion.

Ms. Stump understood Ms. Nanda's concern after the last few comments. The park owner agreed to an updated appraisal within six months of the tenant leaving. Under State law, that could happen six months after the park owner posted a notice of closure. If the appraisal was performed some weeks or months prior to the posting, then it did not meet the standard stated in the Motion, that it be within six months.

Council Member Burt understood Ms. Nanda objected to the language allowing a mobile home owner to submit a written objection.

Ms. Nanda was also objecting to that language. That language rewrote the Ordinance.

Council Member Burt suggested the parties recommend to the Council whether that should be a part of the Motion.

Mayor Holman requested Council Member Burt provide language for his proposal so that Council Members could determine whether they supported the proposal.

Ms. Stump heard multiple concerns from Ms. Nanda and some from Ms. Aziz. It was helpful and important to hear from both parties. Mayor Holman's suggestion was good. The parties would need to respond before the Council made any final decision. Staff wanted to see the response as well, so that they could fully advise the Council.

Council Member Filseth advised that the Council was discussing two issues: the scope of the appraisal and residents' appeal of the appraisals. The City Attorney seemed to be suggesting a simple process for the Hearing Officer to determine residents' appeals of the appraisals. The Council intended for the park owner to be able to issue a notice of closure as early as May 5, 2015. He requested Ms. Nanda comment on the potential for a simple process that allowed residents to provide input regarding appraisals.

Ms. Nanda was aware of many Ordinances that provided a process for residents to oppose appraisals. The City's Ordinance did not contain that language. To add that language now would amend the Ordinance after the process was close to finalized. She was not as concerned with the appraiser being instructed to utilize a different scope and the Hearing Officer approving or not approving that scope.

Council Member Filseth wanted to discuss the two issues separately.

Ms. Nanda advised that the Council had jurisdiction over the elements of mitigation assistance only. The appeal process for appraisals was not an

element of mitigation assistance. The Council was attempting to change the process and procedure of the Ordinance. She did not believe the Council could amend the Ordinance in the current stage of the process.

Council Member Filseth asked if she thought that was an unreasonable request.

Ms. Nanda answered yes. The discussion would not be occurring if the park owner had not agreed to update the appraisals. The appraisals and the methodology had been available to opposing counsel and the Residents Association since the beginning of the process. The purpose of the hearing was not to rewrite the Ordinance to allow residents a process to oppose appraisals. A process for appeal of appraisals did not address the sufficiency of mitigation assistance.

Ms. Aziz agreed with including Section (c). Allowing the Hearing Officer to make a final decision was reasonable. Section 9.076.030(B) specifically allowed the City to require conditions on approval adopted by the City. That was also noted in Section 9.076.050. A Hearing Officer could do that as well. If the Hearing Officer had that discretion, then the Council had that discretion.

Council Member Filseth felt the Council disagreed with the park owner regarding whether a mechanism for appeal of the appraisal value was available to residents.

Council Member Wolbach referred to Page 22 of the Hearing Officer's decision regarding an administrative process for contesting the appraiser's calculations. That seemed to state that the Council had the discretion to include a process for appeal of appraiser findings for individuals. He requested the attorneys comment on whether that language did or did not preclude Section (c) of the Motion. The Council was attempting to accommodate the concerns of both parties. The language on Page 22 seemed to authorize the Council to include Section (c) in the Motion.

Ms. Nanda believed the Council was discussing complex legal issues, and the parties should be allowed sufficient time to present their arguments.

Council Member Wolbach concurred with the City Attorney's suggestion for both parties to provide feedback in writing.

Ms. Aziz also concurred with the parties providing feedback in writing. Both the Residents Association and park owner suggested the Hearing Officer retain jurisdiction. The Hearing Officer provided parameters for the City Council to allow him to retain jurisdiction.

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Ms. Nanda believed the Hearing Officer was stating that the parties had adequately addressed the matter throughout the process and that due process did not require a further process. She stood by her opinion that the Council was amending the Ordinance by allowing a process for residents to oppose appraisals. To allow such a process because of the park owner's amendment was not appropriate or legal. She advised the City Attorney in January 2015 that she had scheduled a two-week trip beginning April 18. She was not sure she would be able to respond in writing under those time constraints. To proceed without the park owner's response was not supported by due process.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that the appraiser will revise the scope of community amenities to include things such as safety and schools.

**AMENDMENT:** Council Member Burt moved, seconded by Council Member DuBois to add to the Motion "The closure plan shall be effective upon approval by the Hearing Officer of the modified appraisal scope."

Council Member Scharff noted the Amendment contained two parts. The stated amenities were broader than just safety and schools. It was difficult for the Council to state "other factors."

Council Member Burt wanted to be suggestive rather than prescriptive.

Council Member Scharff would accept the Amendment with the clear understanding that he could change his mind based on the parties' briefs on the issue. He inquired whether the closure notice could have been issued the day after approval if there had not been an appeal of the Hearing Officer's decision.

Ms. Stump answered yes, because the park owner accepted the Hearing Officer's decision. If the appeal had not been filed, then the park owner could have posted the notice of closure.

Council Member Scharff expressed concern that the process was not fair. He asked why Council Member Burt proposed a modified appraisal scope.

Council Member Burt explained that the Hearing Officer acted as the arbiter of the process. The Hearing Officer could approve the change without holding another public hearing.

Ms. Stump noted the Motion provided a very limited additional process before the Hearing Officer. Section (c) indicated short timeframes for written submissions only, no in-person hearing. The proposed language

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seemed to suggest a description of a revised appraisal process before the Hearing Officer prior to the appraisals being performed. Mr. Beccaria stated he needed to contemplate the assignment and his compliance with it.

Council Member Burt indicated additional information would be presented to the Council at the May 4 meeting.

Mayor Holman suggested separating the two issues of the proposed Amendment.

Council Member Burt clarified that each Council Member could change his opinion regarding provisions of the Motion based on written arguments from the parties or advice from the City Attorney.

Ms. Stump noted Ms. Nanda's comments regarding the complexities of the issues and her time constraints to respond in writing. She suggested the Council allow her to work with the parties to determine an alternate date, not to delay the matter but to provide a reasonable opportunity for the parties to respond.

Mayor Scharff would accept Section (f) but not Section (g).

Council Member Kniss asked if Council Member Scharff was comfortable with excluding "other factors" in Section (f). "Other factors" was vague. The Council had discussed mostly schools and safety.

Council Member Burt requested the City Attorney's opinion regarding including "other factors."

Ms. Stump explained that appraising was subject to professional standards. The appraiser was contemplating methods to fulfill the assignment. The Council needed a response from the appraiser as to whether he could fulfill the assignment within professional standards.

Council Member Burt wanted the City Attorney's opinion as to whether it was better to include the broader language of "other factors."

Ms. Stump was concerned that it would not provide the appraiser with guidance of what the Council was seeking in a revised process.

Mayor Holman indicated the Maker and Seconder would accept Section (f) if "other factors" was omitted.

Council Member Burt agreed to omit "and other factors."

Mayor Holman noted the Maker did not accept Section (g).

Council Member Burt reported "such as" in Section (f) was no longer relevant because "and other factors" had been deleted. With respect to Section (g), allowing the Hearing Officer to have the final approval would be consistent with the process.

Council Member DuBois did not believe the process would require a great deal of time.

Council Member Berman asked when the closure plan would be effective if that was not approved.

Ms. Stump explained that the Council was indicating a preliminary direction that Staff would codify and on which the Council would receive feedback. The Motion was not a final decision of the Council. The Council was providing definitions so that parties could respond. The most straightforward assumption, which the Council could clarify, was that the Council's action to adopt a final decision would approve the closure application. At that point, the park owner could post the closure notice.

Council Member Berman asked if the Council would take action to adopt a final decision in May 2015.

Ms. Stump responded yes.

Vice Mayor Schmid felt the Council had discussed legal complexities, but not economic complexities. He favored capturing some of the value of Palo Alto property, especially schools and safety. Mr. Beccaria suggested the value of Palo Alto property could be captured through comparing current pricing of single family homes against neighboring communities and using that as an adjustment factor. The Council was provided with two data sources. Exhibit A indicated the difference could be 8-15 percent. Mr. Brabant indicated the difference could be 100 percent. The Council should achieve a number that was feasible.

Ms. Stump understood the Motion proposed changing the appraisal methodology, Mr. Beccaria developing a methodology including those changes, and the Hearing Officer approving the methodology.

Vice Mayor Schmid asked if the methodology would be presented to the Council.

Ms. Stump answered no.

Vice Mayor Schmid clarified that Mr. Beccaria and the Hearing Officer would go through the process during the appraisal.

Ms. Stump indicated the methodology would be approved in advance of the appraisals being performed.

Council Member Filseth reiterated that if the Council passed the Amendment, then the Hearing Officer would approve or deny the appraisal methodology. He inquired about the process if the Council did not pass the Amendment.

Council Member Scharff understood the appraisal methodology would be submitted to the Hearing Officer whether or not the Council passed the Amendment. The issue was the effective date of the closure plan.

Ms. Stump advised that additional details were needed.

Council Member Scharff did not accept Section (g), because he did not want to delay the closure plan when the park owner had agreed to obtaining updated appraisals.

Council Member Burt disagreed. With Section (f) alone, there would be no approval of the methodology. The final appraisal would utilize the new methodology proposed by the appraiser without any approval process.

Council Member Filseth felt Section (f) should be suggestive as opposed to directive. Mr. Beccaria stated earlier that the appraisals accounted for all factors relating to the community. The amenities discussion in the Ordinance was not part of the appraisal discussion. It was part of the definition of comparable mobile home parks. He was concerned by the Council's directing the appraisal methodology.

Council Member Kniss asked if it was important for the Hearing Officer to approve the methodology.

Council Member Scharff would agree to the Hearing Officer having the authority to approve the methodology, but he would not agree to delaying the closure plan.

Council Member Wolbach was worried that the Amendment placed an undue burden on the applicant and substantially changed and expanded the process. He would not support the Amendment.

**AMENDMENT FAILED**: 3-6 Burt, DuBois, Schmid yes

Council Member Wolbach believed Mr. Beccaria offered a good concept; however, Mr. Beccaria wanted to consult with others before ruling out other possible methods. Any Council guidance should align more closely with Mr. Beccaria's suggested methodology.

Mr. Beccaria did not believe he could reach a conclusion for the best methodology prior to May 4. The analysis was complex. Use of single-family homes, townhouses, or condominiums probably would not work well. More than likely it would be a comparison of apartment prices, because the economic groups would be similar.

Council Member Wolbach clarified that the date would not be May 4.

Ms. Stump suggested Mr. Beccaria would not need to provide a final methodology at that time. He should assess whether the methodology was a realistic approach for the appraiser to take.

Council Member DuBois asked if the timing of the actual payments needed to be stated. He asked if residents could receive the original payment amount, move, and then receive the differential.

Ms. Stump understood residents could move once the closure notice was posted. If there was an update to the appraisal at some point after that, then the payment amount would be clarified.

Council Member DuBois did not believe residents could move until they had received payment.

Ms. Stump explained that residents could move at any time should they decide to do so.

Council Member DuBois meant that residents could not afford to move without a payment. He inquired whether the Council could either pass the Motion or approve or not approve the Hearing Officer's decision.

Ms. Stump interpreted Ms. Nanda's comments as the Council could take or leave the Hearing Officer's decision; however, she did not read the Ordinance in that manner. In her opinion, the Ordinance allowed the Council to accept the park owner's proposed mitigation assistance with additional conditions. The Hearing Officer added some conditions, and the park owner agreed to most of those conditions. The Council had the ability to modify those conditions and, therefore, could accept the Hearing Officer's decision with some additional conditions provided they complied with State law. She expected Ms. Nanda to explain clearly in writing if that was incorrect.

Council Member DuBois asked if the Council could clarify those conditions should it vote not to approve the Hearing Officer's decision. He asked if the result would be the same even though an additional step was required.

Ms. Stump reported the Council's proposal was to accept the vast majority of the elements addressed by the Hearing Officer in the same manner that he addressed them with some modifications. It was logical to approve that decision with modifications.

Vice Mayor Schmid read the Motion as amended.

Mayor Holman indicated Staff would work with counsel for the park owner and Residents Association to determine an alternate date.

Ms. Stump would work with the parties and Mr. Beccaria to determine a date as soon after May 4 as possible.

Council Member Filseth noted the term "community amenities" did not appear in the discussion of appraisal in the Ordinance. It appeared in the discussion of comparable mobile home park and comparable housing. He inquired whether the language in the Motion modified the definitions of comparable mobile home park and comparable housing in the Ordinance.

Ms. Stump understood the concern was to ensure an appraisal was performed as the Ordinance referred to it.

Mr. Beccaria explained that the appraisal methodology was called the scope of work. He offered language of "the appraiser will revise the scope of work to include safety and schools." In that manner, the language was directed toward the appraiser.

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

Adjournment: The meeting was adjourned at 11:28 P.M.