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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 P.M.

Present: Berman, Burt, DuBois, Filseth, Holman, Scharff arrived at 6:57

P.M., Schmid, Wolbach

Absent: Kniss

Study Session

1. Study Session on Railroad Quiet Zones in Palo Alto.

Richard Hackmann, Management Analyst, explained that a guiet zone was a section of rail where train horns were not routinely sounded in or near atgrade crossings. Even in a guiet zone, a train horn could be sounded at the engineer's discretion. Quiet zones did not eliminate the use of train bells. Per the Federal Railroad Administration (FRA), if any one of four supplemental safety measures was implemented, an at-grade crossing was automatically eligible to become a quiet zone. Any city with an at-grade crossing had the right to establish a quiet zone or zones. The right of the city to implement a quiet zone was not dependent on the rail operators impacted by the establishment of a quiet zone. The process to establish a quiet zone was mandated by the FRA and involved a noticing and comment Stakeholders such as Caltrain and freight operators would procedure. receive a 60-day notice of intent that the City was seeking to establish a quiet zone and subsequently a 21-day notice of establishment for those operating in the corridor. Following the 21-day notice, operators would be expected to adhere to the guiet zone. He played videos of a non-guiet zone and a quiet zone. Caltrain was willing to work with local municipalities if one sought to establish a guiet zone; however, if a guiet zone was established, then the city would assume liability for any incidents that occurred within the quiet zone. According to the FRA, the courts would ultimately determine who would be held liable if a collision occurred at a grade crossing located The City Attorney's Office concluded that the within a quiet zone. establishment of a quiet zone could increase the City's exposure to potential liability. If the City were to pursue one or more quiet zones, it was likely the City would incur costs for design and implementation of improvements.

The principle policy issues of quiet zones were a real or perceived relationship between train horns and safety and the cost of improvements versus reduced horn noise. Staff requested Council input regarding the prioritization of quiet zones within all other Caltrain and High Speed Rail initiatives.

Council Member Burt requested public comment prior to Council Member questions and comments.

Mayor Holman suggested a few Council Members comment while public speakers submitted their speaker cards.

Council Member Filseth inquired whether a municipality had been sued over an accident that occurred in a quiet zone.

Molly Stump, City Attorney, could not respond in relation to accidents across the country. Within the region, she had not identified any lawsuit that raised that question.

Council Member Berman inquired about potential costs for implementing a quiet zone at the Alma Street crossing.

Mr. Hackmann advised that installation of median barriers would cost less than \$100,000. Costs for quad gates would likely range between \$500,000 and \$1 million.

Council Member Berman asked if quad gates were required.

Mr. Hackmann explained that quad gates were one of four options. At Churchill Avenue, Meadow Drive, and Charleston Road, it would be difficult to install median barriers of the required length. The Alma Street crossing had median barriers. On the west side of Alma Street, the median barrier measured 90 feet. On the east side, the median barrier measured 55 feet and 9 feet because of a break for bicycles. If the median barrier was lengthened to 60 feet, the City could likely obtain an exemption because the break allowed a turning movement for bicyclists. A quiet zone could be implemented with minimal physical improvements; however, a safety analysis would be needed.

Vice Mayor Schmid asked if the City was responsible for funding costs of crossing improvements.

Mr. Hackmann responded yes. Staff could inquire whether Caltrain would provide funding. Caltrain had implied that a quiet zone was not a safety improvement; therefore, it was unlikely Caltrain would contribute funds to a project that did not improve the safety of the corridor.

Vice Mayor Schmid inquired whether the \$500,000 to \$1 million cost for quad gates would be the cost for each crossing.

Mr. Hackmann replied yes. That estimate included design, construction, and implementation. The City would need Caltrain approval to work within the

Caltrain right-of-way. The California Public Utilities Commission (CPUC) and the FRA would inspect and approve work before a quiet zone was established.

Vice Mayor Schmid asked if barriers would be installed on both sides of the road.

Mr. Hackmann responded yes.

Vice Mayor Schmid asked if barriers would hamper traffic.

Mr. Hackmann explained that vehicles caught on the tracks as gate arms lowered would have to drive under or through one of the gate arms.

Vice Mayor Schmid referenced correspondence regarding liability insurance, and inquired about the cost for that.

Ms. Stump reported the City maintained excess liability insurance of over \$1 million. Neighboring communities reported the cooperative that carried the insurance wished to either carve out quiet zones or negotiate a separate policy for quiet zones.

Vice Mayor Schmid asked if Staff had an estimate of the cost for such policy.

Ms. Stump answered no. Staff could not negotiate an insurance policy without Council direction. The City's current insurance coverage included liability in excess of \$1 million. A lawsuit involving significant property or physical injury and involving a train could fall within that range. Should the insurance carrier change the policy, then the City would have to contract for separate insurance or bear costs through self-insurance.

Council Member Burt inquired whether median barriers were located uprail and downrail of an intersection.

Mr. Hackmann indicated they were perpendicular to the intersection and would be located over existing yellow stripes.

Council Member Burt asked if installation of both quad barriers and median gates was viable.

Mr. Hackmann replied yes. The FRA supported that type of installation.

Council Member Burt inquired about data regarding the safety of horns and dual gates versus no horns and quad gates and versus no horns and quad gates and median gates.

Mr. Hackmann advised that Staff briefly researched the issue; however, it was difficult to analyze what had not happened.

Council Member Burt assumed data existed for times before and after installation of changes. In aggregate that would be meaningful.

Mr. Hackmann could provide some data for other locations.

Council Member Burt assumed that such data had been collected at a higher level.

Mr. Hackmann added that one of the complicating factors was the unique characteristics of quiet zones. Staff wanted to ensure data was obtained for corridors with characteristics similar to those in Palo Alto.

Council Member Burt assumed data would pertain to national or international quiet zones. He asked if Staff discussed with Caltrain the contradiction between Caltrain's statement regarding liability and the FRA's statement.

Mr. Hackmann requested Caltrain's legal team provide a written statement of Caltrain's position on quiet zones. Staff had not been able to obtain a written statement.

Council Member Burt asked if Atherton installed quad gates.

Mr. Hackmann responded yes.

Council Member Burt asked if the City of Atherton established quiet zones along with installation of quad gates.

Mr. Hackmann answered no.

Council Member Burt inquired about the rationale for train engineers sounding the horn a second time after the train passed an intersection.

Mr. Hackmann explained that the second blast should sound as the train traveled through the intersection. The first blast should sound 15-20 seconds before the train reached the intersection, and the second blast as the train approached the intersection. Engineers often held the second blast as the locomotive and a substantial number of cars traveled through the intersection.

Council Member DuBois was interested in learning the cost of insurance coverage specifically for quiet zones. He inquired about the timeframe for the process.

Mr. Hackmann reported the timeframe would depend on whether quad gates or median barriers were utilized. If the Council wished to move expeditiously, it could be done in 12-24 months with quad gates. Median barriers would result in a slightly shorter time period. The process required 60-day notice and 21-day implementation periods and FRA and CPUC approvals.

Council Member DuBois asked if median barriers alone would not be sufficient at some crossings.

Ms. Hackmann explained that the Alma Street crossing was the only location where median barriers would be allowed.

Mayor Holman inquired about Atherton's funding of barriers.

Mr. Hackmann believed Atherton self-funded installation of quad gates.

Mayor Holman asked if Staff had any data that measured the change in noise at crossings over the past 5, 10, 15 years.

Mr. Hackmann reported trains were required to sound a horn between 96 and 110 decibels in the corridor. For reference, 100 decibels equated to the sound of a jackhammer.

Mayor Holman asked if the sound level of horns increased a few years previously.

Mr. Hackmann did not know.

James Keene, City Manager, advised that the estimated cost of quad barriers would total approximately \$2-\$4 million. Staff could obtain the potential cost increase for liability insurance. This project was not included in the Infrastructure Funding Plan and, therefore, would be a consideration for the future.

Martin Sommer asked the Council to support a quiet zone and to extend it to University Avenue. Approximately 90 trains per day crossed at University Avenue between 5:00 A.M. and 1:00 A.M. He had contacted Caltrain, but it remained silent.

Elizabeth Alexis, Californians Advocating for Responsible Rail Design (CARRD), advised that low frequency train horn noise was disruptive to sleep. The FRA wanted cities to establish quiet zones to make crossings safer. An FRA study reported 313 accidents had occurred in quiet zones since implementation, which was 25 fewer accidents than reported prior to

implementation. No liability issues had been associated with quiet zones in those 313 accidents.

Zouhair Mahboubi remarked that liability issues were uncertain. He understood the FRA would file an amicus brief in a lawsuit. Freight trains traveled and sounded horns all through the night. A quiet zone at the Alma Street crossing would be sufficient; however, other crossings should have grade-separated crossings.

Robert Neff requested a description of Caltrain's requirements to improve safety at crossings in Palo Alto and the costs of establishing a quiet zone at the Charleston Road crossing.

Olga Miroshnychenko concurred with comments regarding the health effects of train noise. Numerous studies concerning the importance of non-interrupted sleep were occurring.

Council Member DuBois inquired whether quiet zones could be established at train stations.

Mr. Hackmann advised that quiet zones were required to extend at least a half mile. A quiet zone could extend through a station; however, an engineer had discretion over use of a horn.

Council Member DuBois believed horns were sounded at stations to alert passengers on the platform.

Mr. Hackmann added that engineers utilized bells unless passengers were standing too close to the edge of platforms.

Council Member DuBois remarked that Caltrain proposed placing horns underneath trains in order to muffle the sound; however, freight train operators were not proposing that. Caltrain's statement that quiet zones were not a safety improvement was interesting in that quiet zones included additional safety measures.

The Council should focus on trenching at-grade crossings as a better, long-term solution and on a proposed transportation ballot measure in 2016 for funding of grade separations. He would not support quiet zones on their own.

Council Member Wolbach wanted to find methods to economically and feasibly grade separate at-grade crossings. The City should explore quiet zones in the interim.

Council Member Burt did not view quiet zones and grade separations as separate issues. Grade separations would cost hundreds of millions of dollars and would require many years to construct. He requested additional information regarding train noise as a health issue, the safety of quad gates, and the safety of quad gates plus median barriers at the Alma Street crossing. Track safety had two elements: safety and security. He wanted to learn more about the function of a wayside horn. The number of trains had increased and would continue to increase. Staff should provide information concerning the increased decibel level of train horns. Funding of quiet zones should not be purely local funding. He did not believe Atherton fully self-funded its quad gates. He would support evaluation of quiet zones.

Council Member Filseth was less concerned about the legal exposure to the City after the discussion. Some crossings could not feasibly be grade separated or trenched. To the extent quiet zones would not have a large financial impact to the City, he would support them.

Council Member Berman concurred with Council Member Filseth's comments. It was not possible to grade separate the Alma Street crossing. Perhaps Staff could investigate funding sources for quiet zones.

Vice Mayor Schmid believed the City's priority should be trenching or grade separations in the long-term. In the interim, quiet zones seemed feasible, realistic, and affordable.

Mayor Holman stated noise and sleep disruption were health issues and should be a focus in light of the Council Priority of Healthy City/Healthy Community. The Council should investigate alternatives for the Alma Street crossing as grade separation was not viable. She was interested in the costs and funding sources for quiet zones in other communities. Safety at the Churchill Avenue rail intersection would benefit from the installation of quad gates.

Agenda Changes, Additions and Deletions

Council Member Burt expressed concern about having sufficient time for all Agenda Items. Agenda Item Number 11: Discussion and Direction to Staff Regarding Establishment of an Office/R&D Annual Growth Limit (Item Continued from January 26, 2015), would likely require more than the allotted time. He requested the Council consider continuing either Agenda Item Number 13 or 14.

Mayor Holman proposed the Council take up Agenda Item Number 11 with Council Members offering a series of Motions and carry the remaining conversation to the second scheduled time. No later than 9:15 P.M., the

Council should consider whether to take up Agenda Item Numbers 13 and 14.

James Keene, City Manager, noted Agenda Item Number 14 was time sensitive.

Mayor Holman inquired whether the Council could agree to a check-in no later than 9:15. Staff was not present for either Agenda Item Number 13 or 14.

Mr. Keene advised that he and the City Attorney would be present for Agenda Item Numbers 13 and 14.

Mayor Holman announced Staff requested Agenda Item Number 15 be removed from the Agenda.

<u>City Manager Comments</u>

James Keene, City Manager, announced the City received a notice from the California Department of Housing and Community Development regarding funding available for the Affordable Housing and Sustainable Communities Program. VITA tax assistance for qualified individuals would begin February 7, 2015 at Mitchell Park Library. The Palo Alto Art Center and Palo Alto Art Center Foundation were selected for a two-year arts management, training, and consultancy program. The City was seeking applicants for the Human Relations Commission, the Public Art Commission, and the Utilities Advisory Commission.

Mayor Holman inquired about the reopening of Rinconada Library.

Mr. Keene reported Rinconada Library would hold its reopening on February 14, 2015.

Oral Communications

Jerry Underdal stated that to the extent legal and financial issues could be resolved, the Council should provide political support for retaining Buena Vista Mobile Home Park. Various organizations explicitly called for support of Buena Vista Mobile Home Park. Hundreds of families had benefited from existing affordable housing in Palo Alto. Government assistance was necessary to providing affordable housing.

Bob Moss suggested Council Members read their packets early and provide questions to Staff in advance of meetings.

Wynn Greich reported the State allowed oil companies to dispose of waste water from fracking operations in aquifers holding potable water. Fluoride was poison. Fluoridated water should be banned from store shelves.

Omar Chatty noted three people had committed suicide on Caltrain tracks. The cost to extend Bay Area Rapid Transit (BART) along the Peninsula would be equivalent to the cost of grade separations for train tracks. The Council should disclose the vote regarding the Caltrain Electrification Project.

Hamilton Hitchings was alarmed by the large number of office buildings constructed in Downtown and by the number of projects in the pipeline. He implored the Council to limit the number of office buildings being approved and to encourage development of multi-unit residences. He hoped the Council would reject the 441 Page Mill Road Project based on an accurate financial analysis.

Rita Vrhel felt the Council should take as much time as it needed to consider each Agenda Item carefully and thoroughly as the Council was the final arbiter of many community concerns.

Paul Machato advised that the City could not sweep the streets of Evergreen Park because of parked vehicles. Residents of Evergreen Park needed assistance with parking and street sweeping.

Consent Calendar

James Keene, City Manager, noted Agenda Item Number 10 concerned the appointment of Rob De Geus as Director of the Community Services Department.

Rob De Geus, Community Services Director, believed the City of Palo Alto was a great place to visit, work, and live because of Council investment in community services, parks, arts, and recreation facilities. It was an honor and privilege to be appointed as Director.

Mr. Keene reported the City conducted a national research for the position and received applications from candidates with years of experience. Interviews were conducted with department heads, the Executive Leadership Team, and a community panel. Mr. De Geus exited those interviews as the top candidate to lead the organization.

Mayor Holman congratulated Mr. De Geus on his appointment and thanked him for his prior service.

Council Member Burt appreciated the appointment of Mr. De Geus. In addition to his regular duties, Mr. De Geus acted as co-chair of Project Safety Net during its first year.

Council Member Scharff had been impressed by Mr. De Geus' work. Mr. De Geus' commitment to youth was genuine.

Council Member Berman related a Palo Alto Unified School District Board Member's praise of Mr. De Geus and the City's good fortune in employing him.

Council Member Wolbach was impressed by Mr. De Geus' willingness to talk with him during a very busy and sad weekend recently. He could not imagine anyone better suited for the job.

Vice Mayor Schmid was continually impressed with maintenance of City parks. Mr. De Geus' work with the Parks and Recreation Commission had been outstanding.

Council Member Filseth was delighted to see talent within City Staff advance to a leadership position.

Council Member DuBois recorded a no vote on Agenda Item Number 7.

MOTION: Vice Mayor Schmid moved, seconded by Council Member DuBois to approve Agenda Item Numbers 2-10.

- 2. Finance Committee Recommendation to Accept Macias Gini & O'Connell's Audit of the City of Palo Alto's Financial Statements as of June 30, 2014 and Management Letter.
- 3. Adoption of an Ordinance Authorizing the Closing of the Fiscal Year 2014 Budget, Including Reappropriation Requests, Closing Completed Capital Projects and Authorizing Transfers to Reserves, and Approval of the Fiscal Year 2014 Comprehensive Annual Financial Report (CAFR).
- 4. Approval of a Contract Amendment in the Amount of \$63,000 to Contract No. C14149978 With Dyett and Bhatia Urban and Regional Planners for Additional Data Collection and Analysis Related to Downtown Retail and Residential Uses.
- 5. Authorization to Operate the Golf Course from March 1, 2015 to June 30, 2015 and Adoption of a <u>Budget Amendment Ordinance 5303</u> entitled "Budget Amendment Ordinance of the Council of the City of Palo Alto to Increase Golf Course Revenues Estimate in the Amount of

- \$106,000, Provide Additional Appropriation of \$289,424 in Budget for Expenses, and Reduce the Operating Loss Reserve by \$183,424."
- 6. Policy and Services Committee Recommendation of Changes to the Board and Commission Recruitment Program Including Adoption of an Ordinance Re-aligning Terms on the Architectural Review Board, the Historic Resources Board, the Parks and Recreation Commission and the Planning and Transportation Commission; Resolution 9491 entitled "Resolution of the Council of the City of Palo Alto Re-aligning Terms on the Storm Drain Oversight Committee; Allowing for Remote Board and Commission Interviews; Limit Applicants to One Board or Commission Each Recruitment."
- 7. Ordinance 5304 entitled "Ordinance of the Council of the City of Palo Alto Increasing Council Salary From \$600/Month to \$1,000/Month, Effective January 1, 2017 (First Reading: January 20, 2015 PASSED: 6-3 DuBois, Filseth, Scharff no)."
- 8. Approval of Technical Amendments to the Below Market Rate Housing Agreement, Exhibit C-3 to the Mayfield Development Agreement Between the City and Stanford University.
- 9. Resolution 9492 entitled "Resolution of the Council of the City of Palo Alto to Amend and Correct Salary Schedules for: Management, Professional and Confidential Employees (M&P), Fire Chief Association (FCA), and Utilities Managers of Palo Alto Professional Association (UMPAPA); Adoption of an Ordinance to Update the Fiscal Year 2015 Table of Organization.
- 10. Confirmation of Appointment of Rob De Geus as Director of Community Services Department.

MOTION PASSED FOR AGENDA ITEM NUMBERS 2-6 and 8-10: 8-0 Kniss absent

MOTION PASSED FOR AGENDA ITEM NUMBER 7: 7-1 DuBois no, Kniss absent

Action Items

11. Discussion and Direction to Staff Regarding Establishment of an Office/R&D Annual Growth Limit (Item Continued from January 26, 2015).

Hillary Gitelman, Planning and Community Environment Director, reported Staff was seeking Council direction. Staff viewed this as part of a dual track approach that the Council articulated for the Comprehensive Plan Update and some critical zoning questions that the Council wanted to discuss concurrent with the Comprehensive Plan Update. Growth management was a policy issue that had a place in the Comprehensive Plan Update. A mechanism such as a cap had a place in Zoning. Therefore, it was appropriate to discuss growth management in both those realms. The idea of an annual limit on office space came up in Comprehensive Plan Update workshops held in the summer of 2014. The idea was to moderate the pace of office/research and development (R&D) development because it generated job growth. The discussion should be framed by the problem to be solved. The City had the most potential to effect growth and change in the community through new development. The question was whether moderation of new development would effectively address growth in employment, growth in traffic, and growth in parking demand. The Staff Report provided examples from other jurisdictions that had utilized a pacing mechanism. The Staff Report also provided two different data sets. The first data set was derived from Comprehensive Plan Policy L-8, which established a Citywide cap on nonresidential development. institutionalized a study performed in 1989. That study did not differentiate the types of nonresidential space and only reviewed nine planning areas mapped in the Comprehensive Plan. The second data set derived from the Congestion Management Plan reporting requirement. The disadvantage of the second data set was its lack of longevity; it was instituted in 2001. The Council could utilize other data sets that were not maintained by the City. Staff had produced some data related to the Downtown CAP and the Existing Private industry reports related to jobs, rents, and Conditions Report. Survey data was submitted by Downtown vacancies were available. businesses. Establishing a pacing mechanism or an annual limit was guite complex and raised many questions. She reviewed nine such questions outlined in the Staff Report. Staff offered two recommendations.

One recommendation related to receiving Council input regarding ideas that could be assessed as part of the Comprehensive Plan Update. The second recommendation concerned measures that could be enacted on a short-term basis.

Council Member Scharff did not understand how the City could produce an interim Environmental Impact Report (EIR) for an Ordinance.

Ms. Gitelman advised that it would be difficult to identify the level of environmental review required until Staff understood the Council's direction for a growth limit. Staff believed the Council would want to consider a long-term strategy that could be analyzed through the Comprehensive Plan Update along with interim measures. It would not be feasible to analyze interim measures that during the course of analysis Staff identified as requiring a full EIR. The Council could pursue interim measures which required a lesser level of environmental review.

Council Member Scharff asked if Staff would identify interim measures for the Council. If interim measures required 18-24 months to implement, then the Council should consider a long-term strategy within the Comprehensive Plan Update as the Comprehensive Plan would likely be completed in that timeframe.

Ms. Gitelman indicated Staff's recommendation included topics that were long-term and could be analyzed within the Comprehensive Plan Update and other topics that were short-term and could be implemented with a lesser level of environmental review.

James Keene, City Manager, remarked that a follow-up discussion for the Agenda Item was scheduled for March 2, 2015 should the Council require a second discussion. Staff could review EIR issues and report prior to the March 2 discussion.

Council Member Scharff requested Mayor Holman reiterate the process for Council Member comments and questions.

Mayor Holman requested Council Members first ask high-level questions. Following that, the public could offer their comments. Next Council Members could offer comments or Motions. She wanted to avoid having one Motion that covered many topics in case the discussion was continued to a second meeting.

Council Member Scharff suggested Motions should direct Staff to explore ideas and report to the Council.

Mayor Holman concurred.

Council Member Scharff wanted to understand the parameters of what the Council should attempt to achieve.

Ms. Gitelman suggested the Council direct Staff to explore some basic parameters or ideas that addressed the issue.

Council Member Scharff noted Staff identified interim steps to slow the pace of development. One interim steps was funding for a Transportation Management Agency (TMA); however, the Council could not impose fees. He requested Staff explain how that interim step would work.

Ms. Gitelman stated this was a topic about which Staff could return with more detailed information. Staff would have to perform a nexus analysis to determine the relationship between new development and the impacts addressed by the approach. Staff could explore what that looked like and how long it would take if the Council was interested.

Council Member Scharff asked how a temporary reduction of allowable office density would work.

Ms. Gitelman reported Staff could probably perform that without an EIR, but the Council would need to provide more details. Staff reserved the right to return with a more detailed analysis.

Council Member Scharff inquired whether an interim measure would expire when the Comprehensive Plan was complete.

Ms. Gitelman answered yes.

Council Member Scharff wanted to know the objective of a development cap.

Ms. Gitelman explained that pacing new development related to the community's perception that traffic and parking demand and development had increased much faster and the impacts were more severe in the post-recession economic period than in the past. The question was whether metering the pace of new development would address those underlying community perceptions. Employment densities and the use of existing building space was identified by many as the primary driver of traffic congestion. The City could regulate new development. The question for the Council was whether the idea was worthy of consideration given the concerns articulated by the community.

Council Member Scharff asked if Staff identified community objectives other than traffic and parking.

Ms. Gitelman believed the community's objectives were primarily traffic and parking and the pace of development.

Council Member Scharff had heard community concerns about the pace of development along California Avenue and in Downtown. He asked if Staff had heard concerns about other parts of the City.

Ms. Gitelman had heard concerns about Downtown, California Avenue, and the El Camino Real corridor.

Mayor Holman requested Council Member Scharff ask his most pressing questions as other Council Members were waiting to speak.

Council Member Burt remarked that this was the first time the Council was presented with the idea that increases in impact fees might be significant enough to alter the pace of new development. He inquired about the basis for that idea.

Ms. Gitelman believed it would be possible to construct a nexus that would allow the City to increase impact fees by quite a bit. Until Staff conducted the study, they could not test that idea with any specificity. Developing a nexus for a much higher rate than could be politically accommodated was typical in preparing a nexus study. It would not be surprising to conduct a nexus study and learn a higher fee could be charged.

Council Member Burt recalled in the latter part of 2014 the Council received an update regarding impact fees. At that time, the consultant did not indicate that the Council had a great deal of latitude with respect to increasing fees.

Ms. Gitelman understood the scope of work for that consultant was limited to anticipated infrastructure improvements. In the Comprehensive Plan Update, there was an opportunity to identify additional capital improvements that possibly could be funded through impact fees. In addition, Staff was currently reviewing housing impact fees. As a result of that, there could be an opportunity to increase those fees such that they would affect the cost of development.

Council Member Burt asked how the Council could obtain information about the amount of fee increases that would affect the pace of development in order to make a policy decision.

Ms. Gitelman did not believe the Council would make a decision on any one mechanism at the current time. Staff was interested in which mechanisms the Council felt would be worthy of further exploration.

If the Council was interested, then Staff could pursue it further. A nexus study for housing impact fees was underway, and Staff could present that in the next few months.

Council Member Burt inquired about other community problems resulting from development and whether those problems could be addressed through a cap or other means. Presumably a cap would result in some sort of a competition among projects. The community expressed concerns about architectural quality and public benefits. He assumed those would be included in selection criteria for cap projects.

Ms. Gitelman had not jumped to the conclusion of a competitive process. If it was a competitive process, then Staff would have the opportunity to ensure selected projects were of the highest quality. Those could go on the list of community concerns to be addressed.

Council Member Burt referenced the December 8, 2014 Staff Report addressing the issue of whether an EIR would have to accompany an Interim Ordinance. He asked if Interim Ordinances had a good chance of not requiring environmental review.

Cara Silver, Senior Assistant City Attorney, explained that in general an Interim Ordinance of 12-18 months was more likely to be adopted without performing environmental review based on the premise that it would not actually change the physical environment. That was the basis for Staff's analysis that Interim Ordinances of short duration generally did not require a full EIR.

Council Member Burt noted the Staff Report referred to a period of up to two years. If the Comprehensive Plan process required approximately two years for completion, then an Interim Ordinance could align with a permit measure. He asked if up to two years was the correct timeframe.

Ms. Silver indicated no specific time period was stated in the statute.

Council Member Berman noticed that an Interim Ordinance for a hard cap was one of multiple interim measures the Council could choose. The Staff Report referred to a current and immediate threat to the public health, safety, or welfare. He inquired about the level of additional traffic or parking impact that could be considered a threat to public health, safety or welfare.

Ms. Silver reported that in terms of the Interim Ordinance definition of health and safety threat, the bar was fairly deferential to legislators. Courts had found severe parking and traffic impacts to be a sufficient finding.

Mr. Keene asked if an Interim Ordinance applied in conjunction with parallel efforts by the governing body to move toward a long-term decision would aid a court in determining the Interim Ordinance was in reality an Interim Ordinance.

Ms. Silver replied yes. There were two different statutory schemes for Interim Ordinances. One was the City Council's ability to adopt an Interim Ordinance, in which case the Council generally specified a timeframe. The other legislative scheme, a moratorium, contained more specific statutory requirements where the Council could only impose a moratorium for a maximum of two years. In those cases, the courts looked closely at the time period and the context of other actions taken by the Council in connection with General Plan updates.

Council Member DuBois had heard community concerns about conversion of basement retail space to office space. He inquired about protections the Council could enact for retail in those situations.

Ms. Gitelman indicated protections for retail were a whole other subject. The City could introduce a requirement for a Conditional Use Permit for office development, which many jurisdictions did. Imposing a requirement for a Use Permit for office development would create a potential to impose conditions related to office employment densities.

Council Member DuBois asked if basement conversion would also be a Conditional Use.

Ms. Gitelman was not speaking to basements specifically. If there was a conversion from one land-use category to another land-use category and if that new land-use category required a Use Permit, then it would have to submit to the process and the Council could impose conditions.

Council Member DuBois inquired whether the City could enforce a new occupational permit when a new tenant moved into a building.

Ms. Gitelman would need to analyze that in detail. Staff had not found an easy way to impose a new requirement on tenancy rather than use. Zoning was generally around land uses, not tenancies.

Council Member DuBois asked if the Fire Code could be used in some cases.

Ms. Gitelman would need to review those issues in more detail.

Council Member Scharff suggested public speakers be allowed three minutes because of the importance of the topic.

Mayor Holman agreed to allow public speakers three minutes.

Vice Mayor Schmid recommended adding 20 minutes to the discussion, such that it would end at 9:35 P.M.

Steven Baker commented that the proposal attempted to limit job growth because Palo Alto apparently had too many jobs and too much development. The issues should be addressed through increased impact fees, Transportation Demand Management (TDM) strategies or additional public transit. Office growth should not be capped.

Tiffany Griego, Stanford Research Park, shared quotes from Research Park tenants regarding business growth. The proposed cap would have unintended consequences that would compromise the ability to attract companies that created long-term economic viability. Research Park companies were willing to mitigate any negative impacts that their growth could cause.

Whitney McNair, Stanford University Land Use and Environmental Planning Senior Associate Director, expressed concern that the effort to implement interim measures was rushed and without proper supporting analysis. A one-size-fits-all approach would be ill advised. Tools other than a growth cap were available.

David Van Atta did not see any evidence that a cap in and of itself would lead to resolution of problems. The Staff Report was extremely well done in laying out the complexities of the issues. The Council should first identify the problem, and then determine how to resolve it with workable and fair solutions.

Jean McCown, Stanford University, encouraged the Council not to take precipitous actions regarding Citywide development caps or interim measures without first defining the problems. After considerable engagement and consideration, the City adopted the Downtown CAP in 1985 and the Citywide Land Use and Transportation Study Limit in 1989. Those programs achieved their intended effects.

Norman Beamer remarked that banning new office space should be the underlying theme of Council deliberations. In formulating policy, the Council should demand TDM Programs, demand adequate parking, eliminate exceptions to current zoning, and impose development fees to discourage development.

Bob Moss stated that traffic, parking, and jobs/housing imbalance issues would continue even if no more office space was built. Every 1,000 square

feet of office space cost the City approximately \$2,500 more per year in services than it paid in taxes. The City should enact a retail-only requirement for existing retail spaces and should encourage broadband service that allowed workers to telecommute.

Herb Borock advised that the Council had set a limit on office space in Downtown in the 1980s, but it was based on conditions existing at that time. Conditions had changed; therefore, there were reasons to change the limit. Some areas of town were impinging on neighborhoods and required action. The Council should review areas separately to determine limits specific to each area.

Rita Vrhel supported an annual limit for office and R&D space. Residents opposed development because projects received exemptions for height, setbacks, parking, and zoning. Perhaps a two-year moratorium on office and R&D projects would provide the consistency Research Park requested.

William Monroe did not believe a flat cap on development was the best solution. Office development should be used as a bargaining chip for housing and transportation changes.

Cheryl Lilienstein commented that Caltrain was causing traffic congestion and was a longstanding problem. Traffic problems would continue because the population continued to grow while commensurate transit improvements did not occur and because Caltrain bisected the City. The City should halt office space development and ask developers interested in office space to apply pressure to Caltrain to trench the tracks.

Dan Garber indicated the City should focus on cars and their traffic and parking impacts rather than a cap on or limited growth of office and R&D development. He did not support those strategies as solutions to a problem that had no definition. The impact of development on traffic was miniscule compared to the impact of the forecast population growth in the Bay Area. Setting limits on growth would drive small businesses from the City.

Neilson Buchanan felt the discussion of a cap on growth had been successful in that it had elicited input from business people. The Council should focus on caps for specific land uses. A visionary and in-depth TDM Program was needed.

Peter Stone, Palo Alto Chamber of Commerce, supported a full debate and assessment of proposals. Any interim measures would impact all businesses throughout Palo Alto. He urged the Council to proceed deliberately with regard to interim measures.

Cedric De La Beaujardiere remarked that the Council would need information such as annual office growth in square feet, number of jobs, residential population changes, and changes in the number of housing units. He supported the use of impact fees and zoning changes.

Mayor Holman noted the time of approximately 9:00 P.M. with the current item scheduled to end at 9:30. If the Council continued with the Agenda, the meeting would end at approximately 11:00. She suggested the Council take up Agenda Item Number 12. She inquired about the timeliness of Agenda Item Number 14.

Council Member Berman advised that a large group of community supporters were planning to attend the Council meeting. The item coincided with an opinion-editorial piece in the *Palo Alto Weekly* and a nationwide event scheduled for the weekend.

Mayor Holman suggested continuing the discussion of Agenda Item Number 11 and then taking up Agenda Item Numbers 12 and 14.

Council Member Burt suggested moving Agenda Item Number 12 to the end of the Agenda as members of the public were present for Agenda Item Numbers 13 and 14.

Mayor Holman understood that would commit the Council to taking up Agenda Item Number 13 and would limit the time available for discussion of Agenda Item Number 11.

Council Member Scharff inquired about the time to end discussion of Agenda Item Number 11.

Mayor Holman answered 9:30.

Mr. Keene felt that was appropriate. The Council could give Staff sufficient direction in that amount of time to prepare for the subsequent meeting on March 2.

Mayor Holman reiterated her wish for Council Members to offer a series of Motions rather than one Motion covering multiple topics.

Council Member Scharff recommended Council Members defer Motions in the interest of time.

Council Member Wolbach commented that the negative impacts of offices were traffic, parking, housing demand, and loss of retail space. Palo Alto did not need a great deal more office space. Limiting office development limited supply without limiting demand, thus costs would rise and small businesses

would be displaced by larger companies. He expressed concern about driving small professional offices out of the City. One cap for large offices and another cap for small offices was worthy of consideration. A cap should be paired with protections or incentives for small businesses. He did not believe a cap would significantly reduce office development, but it could provide a level of safety against a large spike in the near future. It could modestly address the harms of unbalanced planning. it could buy time to increase the housing supply, to fix parking problems, and to improve noncar transportation options. Specific plans were an excellent tool to help the community achieve the results it wanted. With respect to conversions, the Council should identify ways to make it easier to convert office and R&D space to housing and retail and to make it harder to convert retail and housing to office and R&D. Perhaps the Council should mandate TDM Programs for offices and for housing as well. Several of the largest companies in Downtown were doing good work with TDM Programs. A TMA could work with smaller companies to reduce car trips. The City's parking permit system was incredibly bureaucratic resulting in low utilization of parking spaces in Downtown. Perhaps private parking garages could lease their spaces to the public. The jobs/housing imbalance could not be addressed solely through increasing the number of housing units or solely through limiting office development. The jobs/housing imbalance was a central contributor to high median rents. The Council should explore a variety of options.

Council Member DuBois agreed with Council Member Wolbach's comments regarding the relationship between commercial space and housing. issues were maintaining the aesthetic appearance and function of Palo Alto while allowing growth. The City had to slow the growth of non-retail office space. The Staff Report indicated the Comprehensive Plan process was 12 months, but the Council did not need to be driven by that schedule. The new process should provide clarity and consistency for residents, developers, and Staff resulting in more efficiency. The community should not assume an annual cap would modify existing caps; the City should test an annual cap prior to removing the existing cap. He wanted Staff to evaluate a range of 10,000-40,000 square feet under an annual cap. A project competition with clear criteria was key, and points could be awarded to projects utilizing a lower Floor Area Ratio (FAR). If the Council considered geographic regions, then it should review parking shortfall and level of service intersections rated D and F as part of the geographic definition. He opposed rolling over unused allocations.

The Council should consider evaluating the assumption of 1,000 square feet per employee. The Council should review exceptions in current Ordinances and consider closing some of them.

MOTION: Vice Mayor Schmid moved, seconded by Council Member Filseth to direct Staff to present the Comprehensive Plan Update to explore limiting Office/Retail and Development (R&D) each year within 10,000 to 45,000 square feet.

Vice Mayor Schmid provided four reasons a growth cap was logical. The National Citizens Survey ranked parking, traffic, planning and the quality of development in the 40th percentile for the second consecutive year. Residents paid \$3 for every \$1 paid by commercial enterprises; yet, the commercial sector was growing two or three times as fast as the residential sector. Residents paid three times as much sales tax as workers. Between 2001 and 2015, commercial office space grew by 517,000 square feet. Retail space declined by 37,000 square feet. The Council and the community should address the issues and decide what Palo Alto should be in the next 10-15 years.

Mayor Holman noted the time was 9:30; however, she would allow Council Member Filseth to speak to his second. She inquired whether the Council should offer Motions to table the pending Motion and to continue the item. She asked if there should be separate Motions for both items.

Molly Stump, City Attorney, stated yes.

Council Member Filseth believed many of the issues were affected by the jobs/housing ratio. TDM Programs were a partial solution. New concrete and steel building construction added 70-80 pounds of carbon dioxide per square foot of commercial space. Office development had multiple dimensions, and the Council needed to consider all of them. For a majority of Palo Alto residents, the incremental benefits of office expansion were outweighed by the incremental costs. Many buildings had an FAR that did not match the statutory FAR limit. The Council should proceed deliberately and discuss a time horizon component.

Mayor Holman asked if two Motions were needed.

Ms. Stump replied no. Only a Motion to Continue the item was needed.

MOTION TO CONTINUE: Mayor Holman moved, seconded by Council Member Wolbach to continue this item to March 2, 2015.

Mayor Holman advised that Council Members who did not provide comments would be allowed to speak first on March 2.

Council Member Burt was displeased by the process. He understood the half hour allotted for comments would be divided among nine Council Members

rather than four. The Mayor requested Council Members not offer a complex Motion; yet, that had occurred. Tabling the Motion was premature. He believed the Council should hold a deliberative and thoughtful discussion prior to debating recommendations that were not well thought out.

Mayor Holman explained that that could occur at the second meeting.

Council Member Burt indicated that five Council Members had not discussed the substance of the topic. He preferred the Motion be withdrawn. These were important issues that would require a great deal of consideration and deliberation before providing Staff with guidance regarding interim measures and the Comprehensive Plan. The initial Motion was premature and out of order for the guidance that was provided. When the item reconvened, he wanted the Maker and the Seconder to reconsider their Motion before the Council held deliberative discussion.

Mayor Holman reported the Council was tabling the Motion and continuing the meeting.

AMENDMENT: Council Member Scharff moved, seconded by Council Member Burt to continue this item to March 2, 2015 and the Motion on the floor be withdrawn.

Mayor Holman felt the Motion and Amendment did not affect the proceedings. Council Members could vote the Motion down at the meeting on March 2. The Council could discuss the Motion and Amendment for the next half hour or continue with the Agenda.

Council Member Scharff disagreed.

Mr. Keene did not believe the Council should be divided at the initial phase of the discussion. Nothing was lost by approval of the Amendment.

Council Member Burt clarified that the March 2 discussion would not be framed around a specific Motion if the Motion was withdrawn.

AMENDMENT PASSED: 6-2 Filseth, Schmid no, Kniss absent

Mayor Holman reiterated that Agenda Item Number 11 was continued to March 2, 2015 with the Motion on the floor being withdrawn. Earlier comments indicated a desire to move Agenda Item Numbers 13 and 14 forward.

Council Member Burt understood the intention was to move Agenda Item Number 12 to the end of the Agenda.

Mayor Holman agreed. The Council would take up Agenda Item Number 14.

Council Member Berman suggested taking up Agenda Item Number 13 first would align with the timing of the Agenda.

Mayor Holman had not understood that members of the public were present to speak to Agenda Item Number 13.

13. Colleagues Memo from Council Members Berman, Burt, DuBois, and Wolbach Regarding a City-Wide Minimum Wage Ordinance.

Council Member Burt reported several cities in the subregion had enacted minimum wage Ordinances based on the subregion's significantly higher cost of living than the state as a whole. Income from the present minimum wage was significantly substandard for the amount required for survival in the region. The proposal was to refer action to the Policy and Services Committee for vetting.

Council Member Berman added that the goal of the Colleague's Memorandum was to refer the topic to the Policy and Service Committee for a robust discussion. A minimum wage employee working 2,000 hours a year earned \$18,000 a year. A recent local study showed that the average self-sufficiency standard in Santa Clara County in 2014 for two adults with one preschool and one school-aged child was almost \$82,000 a year. The wage disparity in Silicon Valley had risen dramatically. The City should have a serious discussion about increasing the minimum wage in an attempt to alleviate some of that disparity.

Chris Lundin, Multi Faith Voices for Peace and Justice and Saint Thomas Aquinas Catholic Parish, supported adoption of an Ordinance to raise the minimum wage. The current minimum wage was not sufficient.

Paul George, Peninsula Peace and Justice Center Director, hoped the Council would approve a thoughtful discussion of increasing the minimum wage. He read a letter signed by 200 Palo Alto Residents and endorsed by 13 organizations comprising the Raise the Wage Coalition.

Ryan Larkin, First Presbyterian Church of Palo Alto, asked the Council to approve an Ordinance that would bring the City's minimum wage closer to a number that would allow Palo Alto workers to live in Palo Alto. The California minimum wage, though higher than the Federal minimum wage, was not adequate.

Wynn Greich stated minimum wage earners worked double shifts in order to feed and house their families. If minimum wage earners lost their jobs, they often became homeless.

Jeff Weaver asked the Council to exercise leadership in addressing the issue of minimum wage. Any debate should include all aspects of compensation. Studies reported no negative impacts from increasing wages for low-income families.

Carol Lamont urged the Council to increase the minimum wage. It was a moral issue.

Paula Rugg wanted minimum wage earners to continue in their jobs. She supported raising the minimum wage. The Council should align its actions with the Priority of Healthy City/Healthy Community.

Aram James suggested the Policy and Services Committee hold a public hearing on the issue. A city could not function without minimum wage earners.

MOTION: Council Member Berman moved, seconded by Council Member Scharff to refer the matter to the Policy and Services Committee supported by appropriate Staff as determined by the City Manager, to analyze and make recommendations to the Council on a Citywide Minimum Wage Ordinance.

Council Member Scharff noted the Santa Clara County Cities Association made the topic a priority for 2015. Other Peninsula cities were considering raising the minimum wage. The Policy and Services Committee should consider Ordinances from other cities.

Council Member Filseth did not believe raising the minimum wage would result in fewer service jobs.

MOTION PASSED: 8-0 Kniss absent

14. Colleagues Memo From Council Members Berman, Burt, Holman, and Kniss Recommending Adoption of Resolution 9493 entitled "Resolution of the Council of the City of Palo Alto Urging CalPERS Divestment from Fossil Fuel Companies."

Council Member Berman advised that the Resolution was a request for the California Public Employees' Retirement System (CalPERS) to divest its funds from the top 200 fossil fuel companies. Peninsula Interfaith Climate Action's

(PICA) idea and Council Members' request was a logical extension of many of the City's policy decisions.

Annie Kaskade stated divestment of fossil fuel investments was one of the most important actions cities could take. She encouraged the Council to proceed as quickly as possible in urging CalPERS to divest its funds from fossil fuel companies.

Wynn Grcich did not believe people should invest in fossil fuel companies if they wanted climate change.

Debbie Mytels, PICA, advised that removing investments from fossil fuel companies was an important symbolic step in recognizing that business could not continue as usual. To protect employees' pensions, CalPERS should divest their investments in fossil fuel companies.

Susan Chamberlain, First Presbyterian Church, reported multiple studies showed that portfolios without fossil fuel investments could perform as well if not better than those with fossil fuel investments. Decreased demand for fossil fuels would result in stranded assets, and shares would become grossly over-valued.

Rev. Eileen Altman, First Congregational Church of Palo Alto, had studied the issues of climate change. Policy changes were needed to address the threat to the climate. She encouraged the Council to adopt the Resolution.

Shelton Ehrlich believed the Council should work to overturn the CalPERS model and invest retirement funds in 401(k) accounts. The Memo was misguided in its instrument to CalPERS and was pernicious in its impact on families.

Cedric De La Beaujardiere supported the Colleague's Memo. Climate change was an issue. Individuals, companies, and local municipalities had to act.

Steve Ramy presented letters of support from congregations of various local churches.

Council Member Berman noted one of Palo Alto's values was protection of the environment. Palo Alto's vision was carbon neutrality. Palo Alto's investments should reflect its values. Studies had shown that divest fossil fuel investments would not have a negative impact.

MOTION: Council Member Berman moved, seconded by Council Member Wolbach to adopt the Resolution urging CalPERS Divestment from Fossil Fuel Companies.

Council Member Wolbach remarked that climate change was a top tier threat to global economic, social, political, and agricultural stability. Palo Alto was vulnerable to flooding from sea level rise and at risk of water insecurity. Divestment sent a political and financial message. He favored divestment of fossil fuel investments.

Mayor Holman had often said that values should determine spending. The same applied to investment of funds.

MOTION PASSED: 8-0 Kniss absent

12. Public Hearing: Proposed Changes in Development Impact Fees: Adoption of Resolution 9494 entitled "Resolution of the Council of the City of Palo Alto Setting New Public Safety Facility and General Government Facility Impact Fee Levels as Approved by Council on December 15, 2014."

James Keene, City Manager, reported the Council had previously adopted an Ordinance that established Public Safety Facility and General Government Facility fees. A Resolution setting fees at a maximum amount of 75 percent was also required. He recommended the Council adopt the Resolution.

Public Hearing opened and closed without public comment at 10:22 P.M.

Vice Mayor Schmid inquired about the source for the assumed numbers of employees per 1,000 square feet. Numbers in the table were dramatically below the current assumptions.

Lalo Perez, Chief Financial Officer, explained that those numbers had been revised and could be found on page 824.

MOTION: Council Member Scharff moved, seconded by Council Member Berman to adopt the Resolution, setting new Public Safety Facility and General Government Facility Impact fees at 75 percent of maximum levels, as directed by Council on December 15, 2014 when it adopted the implementing Ordinance.

MOTION PASSED: 8-0 Kniss absent

Closed Session

15. CONFERENCE WITH CITY ATTORNEY/LEGAL COUNSEL
ANTICIPATED LITIGATION (as defendant)
Subject: Claim of Eileen A. Staats, filed January 5, 2015
(Telephone User Tax)
Authority: California Government Code section 54956.9(d)(2)

<u>Adjournment</u> : The meeting was adjourn	ned at 10:26 P.M.
ATTEST:	APPROVED:
 City Clerk	 Mayor

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02/09/2015