



# CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting  
September 26, 2016

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:34 P.M.

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

Absent:

## Special Orders of the Day

### 1. Proclamation Honoring Cybersecurity Awareness Month.

Mayor Burt: Our first item is two Special Orders of the Day. The first is a Proclamation honoring Cybersecurity Awareness Month. Council Member Wolbach will be reading the Proclamation.

Council Member Wolbach read the Proclamation into the record.

Mayor Burt: Thank you. I believe that we have Jonathan Reichental and other members of your Staff here. I'd like to come forward and present you with the Proclamation. I'll just say that behind the scenes there's a lot of hard work that goes into this. I just want to acknowledge that it's not just something that happens automatically. Congratulations and thank you to your whole team, Jonathan.

### 2. Proclamation Honoring The Christmas Bureau's 60th Anniversary.

Mayor Burt: Our next item is a Proclamation in honor of The Christmas Bureau of Palo Alto. Council Member Kniss, would you like to read that?

Council Member Kniss: I'd be delighted. This deals with The Christmas Bureau of Palo Alto. Would you wave your hand if you're one of those? Thanks. Council Member Kniss read the proclamation into the record. Great for you guys. I think Pat's going to come down and deliver the Proclamation.

Mayor Burt: Yes. I'll meet you there.

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Pat Einfalt, The Christmas Bureau President: Thank you, Mayor Burt. On behalf of the 16 volunteer members of The Christmas Bureau of Palo Alto Board, many of whom are here this evening, I want to thank the City Council for this important recognition of the work of The Christmas Bureau on this, our 60th anniversary year. You can be sure that your testimonial to the importance of our work on behalf of those in need in our community will become an important part of our annual brochure as we begin our 2016 fundraising campaign. As a community organization, we are thankful to those school nurses and social service workers who saw a need for this service 60 years ago and started what became The Christmas Bureau of Palo Alto. We are also grateful for the many, many volunteers who believed in the importance of this mission and kept the organization going for so many years. It is that perseverance and the annual receipt of many, many, many wonderful thank you notes from recipients keep us on the Board today determined to raise over \$100,000 each year and then turn 98 percent of those funds into monetary gifts in order to provide some holiday cheer to our neighbors in need. Thank you for this special recognition. We invite you to join us on Sunday afternoon, November 6th, when we will be telling and showing more about our organization when The Christmas Bureau of Palo Alto is the featured presentation of the Palo Alto Historical Association program on that afternoon. Thanks again. I would beseech you as individuals in the community to join us in our celebration of 60 years by donating to our fundraising campaign. Thank you so much.

Mayor Burt: Thank you. Thank you to all of your Board and everyone who contributes to this great community contribution.

## Agenda Changes, Additions and Deletions

Mayor Burt: Now we will move on to the regular portion of our Council meeting. The first item is Agenda Changes, Additions and Deletions. We have none. Our next item ...

Council Member Kniss: (inaudible)

Mayor Burt: I'm sorry. Council Member Kniss.

Council Member Kniss: If I get a second to this Motion, I would like to speak to it. Because I am recused on Number 9 and it may run a little late, I have to confess I'd love to be done a little earlier. The one that I cannot vote on is Number 9, and I would like to politely ask if those of you who are sitting here would be willing to switch and do Number 8 before Number 9, allowing a couple of us to go home.

Council Member Berman: You mean Number 10 before Number 9?

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Council Member Kniss: No.

Vice Mayor Scharff: Yeah, Number 10.

Council Member Kniss: Yes, to reverse the two of them. To make Number 9 Number 8, and to make 10 Number 9 and vice versa.

Mayor Burt: Do you mean to make Number 9 the last item on the agenda, is that what you mean?

Council Member Kniss: Yes, please. Yes, thank you. Thank you for correcting me.

Mayor Burt: Did someone else want ...

Council Member DuBois: (crosstalk) second that.

**MOTION:** Council Member Kniss moved, seconded by Council Member DuBois to hear Agenda Item Number 9 - Review and Direction Regarding Interpretation of Planned Community (PC) Ordinances ... as the last Action Item tonight.

Mayor Burt: Council Member DuBois. Council Member Kniss.

Council Member Kniss: My speaking to it is in terms of self-preservation primarily, thinking it would be great to go home. We've already discussed it in Policy and Services. I think that we're well prepared for that, but we're also recused from Number 9, which regards the four City parking garages. That is on advice from our City Attorney, because of property located nearby.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Just remember this, Liz, next time I have to recuse myself. Thanks.

Mayor Burt: Vice Mayor Scharff.

Council Member Scharff: I also have to recuse myself from this, so I actually also would appreciate support for this item.

Mayor Burt: Council Member Berman.

Council Member Berman: The concern that I have—I haven't actually been in consultation with anybody about it, so I don't know if it's a valid concern or not—is a lot of people or some people came to speak to Item Number 10

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at Policy and Services. They might have been planning to come to speak to it tonight, or even more people might have been coming to speak to it tonight. We're now at the last minute moving that item up an hour and a half, which might mean that they'll miss their opportunity to speak to the item they care about. As much as I would love to do my colleagues a favor, I'm going to vote against this, because I am concerned that there might be people that want to come speak. This is just not enough notice to them to have the opportunity to come speak.

Council Member Kniss: I hope there's a roomful.

Council Member Berman: Now, that I've said that, I hope there's a roomful also because I'll feel very guilty if there isn't. Maybe we can just get through Item Number 9 really quickly and this won't be a big issue.

Mayor Burt: Council Member Schmid.

Council Member Schmid: One thing the Mayor could do is have two times for inputs on Item 9, at the beginning and maybe halfway through the discussion. It would allow people who came late to participate. Also I guess I want to clarify is the Motion also to move 8 after 11. With three recusals, it might be good to make sure that the three Council Members are here during 11.

Council Member Kniss: I think it's up to the Mayor as to how he wants to ...

Mayor Burt: Eight after 11.

Council Member Kniss: ... do them.

Council Member Berman: (inaudible)

Mayor Burt: Eight would still occur at its designated time.

Council Member Berman: I think he meant 9.

Mayor Burt: Nine after 11, is that what you meant?

Council Member Schmid: Yes. Before we lose the three Council Members, they could vote on 11.

Mayor Burt: Eleven. That's why I clarified Council Member Kniss' Motion to say 9 would be the last item. I'll just say that I actually concur with Council Member Berman and would add that we would have—if we move 9 out, we have people who are also potentially coming for 9 at 7:45 P.M. or thereabouts. I think most importantly is that we could have significant

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members of the public who do want to participate on Item 10 and would be precluded from doing that. It's nice when we can accommodate colleagues who have a conflict without it impacting how we do the business of the people. In this case, I think it potentially does. I'm not going to support this agenda change.

Council Member DuBois: I'm sorry ...

Mayor Burt: Yes.

Council Member DuBois: Could you just clarify if you'd be willing to do what Council Member Schmid suggested though?

Mayor Burt: I already did at the outset. The Motion would be to move Item Number 9 to the end.

Council Member DuBois: If the Motion passes, could we allow the public to speak (crosstalk).

Mayor Burt: That part. No, I think that's convoluting it unnecessarily. I think we should just stick with the agenda. A vote in the affirmative would be to move Item Number 9 to the end of the agenda. That passes on a 5-4 vote. We will now move Item Number 9 to follow Item Number 11.

**MOTION PASSED:** 5-4 Berman, Burt, Filseth, Wolbach, no

## City Manager Comments

Mayor Burt: Our next item is City Manager Comments.

Lalo Perez, Acting City Manager/Chief Financial Officer: Thank you and good evening, Mr. Mayor, members of the Council. Lalo Perez, Chief Financial Officer, Acting City Manager tonight. City Manager James Keene is at a City Manager's conference. Our Transportation Staff will be holding a workshop at the Downtown Library on Thursday, October 6th, from 6:30 P.M. to 8:00 P.M. to hear feedback from residents and commuters about their concerns about Middlefield Road North, the residential arterial corridor between Menlo Park City Limits and Channing Avenue. Staff has completed a one year evaluation of the time of day turn restriction signs that were added to the intersection last year. The overall effectiveness of the turn restrictions and other traffic and collision data will be shared at the workshop. Staff will also present lane configurations and seek public input on the concept plans. The City has dedicated a website, [cityofpaloalto.org/middlefield](http://cityofpaloalto.org/middlefield), where updated information is posted. Last September, the White House launched a Smart Cities initiative to make it easier for cities, Federal agencies, universities and

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the private sector to work together to research, develop, deploy and test new technologies that can help make cities more inhabitable, cleaner and more equitable. Today, the kickoff of Smart City Week, the White House announced an expansion of their support with more than 80 million in new Federal investments and doubling of the number of participant cities and communities, now totaling more than 70. These new investments and collaborations will help cities of all sizes in a number of key areas, including climate, transportation, public safety and transforming city services. As part of this effort, Palo Alto has joined more than 20 other cities to launch the new initiative focused on ensuring responsible and equitable deployment of Smart City technologies. The effort led by the City of New York looks to provide a common set of guiding principles and collaboration about how cities use technologies with consideration of privacy, security, sustainability, resilience, equity and efficiency. Earlier this year, we announced a concerted effort to get out the word about the City's leaf blower Ordinance. It is often one of the things that we hear complaints about most often from the community. Since April 1st, we have received more than 200 reports about leaf blowers, with more than half reported directly to our Police Department and about 35 coming through Palo Alto 311. There were 172 property owners that were notified and advised of the violations. We issued 6 citations and closed 92 cases. Code Enforcement has devoted more than 250 hours of Staff time to the leaf blower campaign with substantial support from the Police Department to the program as well. Last week, several City Staff participated in the (inaudible) conference in Santa Clara that focused on technologies and systems that accelerate sustainability solutions. Our goal was to share Palo Alto's innovative programs and to learn about trends, technologies and best practices to enhance our own work. Topics included mobility as a service that included the City's partner from the Finland Ministry of Transportation and Communication as well as Joint Venture Silicon Valley; a half-day transportation summit; discussion about the utility of the future; and the next gen building summit also took place. Since September is National Preparedness Month, Palo Alto Office of Emergency Services is hosting a personal disaster preparedness and crime prevention training class tomorrow, September 27th, from 7:00 P.M. to 8:00 P.M. This will take place at the Mitchell Park Library, Midtown Room. It's free and everyone is invited. Now, there's a couple of free and fun events this weekend that I'd like to let you know about. The first one, just a reminder that this Sunday is the 7th Annual Bike Palo Alto that will start at 1:00 p.m. at El Carmelo School. The brand new Bike and Roll Expo will be on the Civic Center Plaza. The Expo will be a highlighted destination on Bike Palo Alto's northern route map and will showcase innovative bicycling and car-free options for residents to get around Palo Alto. This should be a really fun event for the community, and we have more than 40 local vendors of all kinds of alternative transportation as well as food and music. For more

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information, go to [bikepaloalto.org](http://bikepaloalto.org) or to the City's website. Finally, it is the 21st consecutive year of the Great Glass Pumpkin Patch, and it begins tomorrow, September 27, and continues through Sunday, October 2nd, at the Palo Alto Art Center. This is the largest glass pumpkin patch of its kind in Northern California, and it features a wide range of colorful pumpkins and gourds, glassblowing demonstrations and much more. During this free event, visitors are invited to wonder through an outdoor installation of more than 10,000 unique glass pumpkins. Pumpkin sale dates are this Saturday and Sunday, the 1st and the 2nd. The Great Glass Pumpkin Patch is the only sale of glass pumpkins to support the presenting local arts, a nonprofit organization. It's always a great community event. Thank you.

Mayor Burt: Thank you.

## Oral Communications

Mayor Burt: At this time, we proceed to Oral Communications. I see no speaker cards. We'll move forward to approval of Minutes.

## Minutes Approval

3. Approval of Action Minutes for the September 12, 2016 Council Meeting.

Mayor Burt: We have Minutes from City Council meeting of September 12th, 2016. Do we have a Motion to approve?

Council Member Schmid: So moved.

Council Member Wolbach: Second.

**MOTION:** Council Member Schmid moved, seconded by Council Member Wolbach to approve the Action Minutes for the September 12, 2016 Council Meeting.

Mayor Burt: Motion by Council Member Schmid, second by Council Member Wolbach. Please vote on the board. That passes unanimously.

**MOTION PASSED:** 9-0

## Consent Calendar

Mayor Burt: Our next item is the Consent Calendar. We have Items 4-7. Council Member Filseth.

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Council Member Filseth: Can I ask a question about the Consent Calendar, an item? Am I allowed to do that?

Mayor Burt: You have to remind me on that.

Molly Stump, City Attorney: Your procedures provide for an opportunity to explain a no vote, but not to discuss items on Consent unless they're removed from the Consent Calendar. The alternative there is the procedure to ask factual questions before to the Staff through email.

Council Member Filseth: I think I'm going to vote no on Item 5. The reason is, if I read it right ...

Mayor Burt: Let's see. You get a chance after the no vote. I see no speaker cards. We'll now return to the Council for a vote on the Consent Calendar, with Council Member Filseth registering a no vote on Item Number 5. We will ...

Council Member Filseth: (inaudible)

Vice Mayor Scharff: We need a Motion.

Mayor Burt: I'm sorry. We need a Motion to approve the Consent.

Council Member Kniss: So moved.

Council Member Berman: Second.

**MOTION:** Council Member Kniss moved, seconded by Council Member Berman to approve Agenda Item Numbers 4-7.

4. Approval of the Termination of a Funding Agreement With the City of East Palo Alto for the East Palo Alto Shuttle Route at the Request of the City of East Palo Alto; Approval of an Exemption Under Section 15301 of the California Environmental Quality Act Guidelines; and Approval of a Budget Amendment to the General Fund.
5. Approval and Authorization for the City Manager or his Designee to Execute two Energy Efficiency Program Contract Amendments: (1) Amendment Number 3 to a Contract With BASE Energy, Inc. for the Administration of the Third-Party Non-residential new Construction Program Contract Number C11141002 Extending the Term for two Additional Years; and (2) Amendment Number 1 to Eagle Systems International, Inc. DBA Synergy Companies Contract Number C15159125 for the Multifamily Residence Plus Program Increasing



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Compensation by \$500,000 From \$450,000 for a Total Not-to-Exceed Amount of \$950,000.

6. Approval of Change Order Number One to Contract Number S16159273 With Penhall Company for Concrete Saw Cutting Services to Extend the Contract Time to Three Years (2015-2018) and to Increase the Total Not-to-Exceed Amount From \$168,705 to \$506,115 Over Three Years; and Finding That Approval of the Contract's Change Order is Categorically Exempt From California Environmental Quality Act Review Under Section 15301(c) of the CEQA Guidelines.
7. Approval of a Contract Amendment With Global Learning Solution Inc. to Extend the Term Through June 30, 2017 and add \$125,000 for a Total Not-to-Exceed Amount of \$375,000 for the Support of Human Resources SAP Modules and Business Processes Improvements.

Mayor Burt: Motion to approve by Council Member Kniss, second by Council Member Berman. We'll be voting, and Council Member Filseth is recording a no vote on Item Number 5.

**MOTION FOR AGENDA ITEM NUMBER 5 PASSED:** 8-1 Filseth, no

**MOTION FOR AGENDA ITEM NUMBERS 4, 6-7 PASSED:** 9-0

Mayor Burt: Council Member Filseth, you're welcome to speak to your no vote.

Council Member Filseth: Just very briefly, it looks like—I apologize for not having asked this in advance. It looks to me like it's about \$500,000 of City money to subsidize outreach, marketing and buying LED light bulbs for two areas. One is a medical center expansion, which I assume is the Stanford Med Center, and the other is multiunit apartment complexes. I think I would feel differently if it were limited to below market rate housing or Palo Alto Housing Corporation housing, but it looks like anybody. I think those folks should buy their own LED light bulbs. I don't think the City should buy them for them. Thank you.

Mayor Burt: Thank you.

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## Action Items

8. Direction to Expand Community Use of Upcoming Space at Cubberley Community Center Following Foothill College's Planned Move and Approval of Exemption Under California Environmental Quality Act.

Mayor Burt: We will now move to our first Action Item, which is Item Number 8, the Foothill College termination of the lease of the Cubberley Community Center and future leasing of the available upcoming site and approval of an exemption under California Environmental Quality Act (CEQA).

Rob de Geus, Community Services Director: Good evening, Mayor Burt, Council Members. Rob de Geus, Director of Community Services. Glad to be here this evening. I'm joined here by Hamid Ghaemmaghami, Real Estate Manager from Administrative Services Department (ASD). We also have Adam Howard in the audience, who's the day-to-day manager of the Cubberley Community Center. We also have Lisa Hendrickson, who's the capital campaign manager and longtime Executive Director of Avenidas, in the audience this evening. Community Services and Administrative Service, Community Services Department (CSD), has worked closely together on this project of Foothill College leaving Cubberley. This evening, we're asking Council to do three things. One is to amend the 1991 Cubberley Master Plan to provide additional public benefit uses in the spaces that Foothill College occupied. They're designated as education spaces; we'd like to see that expanded to other nonprofit and public uses. We're also asking for authorization of approval for a rate of \$1 per square foot for Avenidas for a temporary teen center during the time of their construction. The last action is to adopt a finding that these actions are exempt from CEQA. We have several overriding goals related to Cubberley, and I put four of them here that are important, I know, to the Council. The first two relate to Foothill College leaving, and that is the first bullet, to continue to provide valued community services in the spaces formerly occupied by Foothill College. The second is to maintain existing lease payments and generate sufficient revenue to continue those payments to the School District, which I know is important to both the Council and the School District. The second two goals relate to longer-term planning of Cubberley, to continue to strategically invest in Cubberley infrastructure and set aside funds for future potential rebuilding of the site, and finally to develop a Master Plan for the entire campus in partnership with the Unified School District. This evening, we're really focusing on Foothill College leaving, but we'll provide a brief update on the long-term planning of Cubberley as well. Some background for orientation. Foothill College leased 39,000 square feet exclusively and 18,485 square feet nonexclusively. Foothill College moves out of Cubberley

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at the end of September, and their annual lease revenue was \$1,094,940 annually. Cubberley campus, you're all familiar with how it looks. It's 35 acres, 27 acres owned by the School District, eight acres owned by the City. The eight acres the City owns is in the northern section of the campus, and it's in the red border on that map there on the screen. Foothill College, as seen on this map in the spaces colored green, represents about 35-40 percent of the indoor building space at the campus. You can see Buildings A, B, C, D, I, J and K and also P; these are designated currently as education services. That brings us to the first action, which is asking Council to broaden the designation of those spaces. In this space, you see the buildings on the left have the current designation of education, and Staff is proposing that we expand that to be education as well as nonprofit community organizations, recreation and childcare. The process that Staff used to look for new tenants for the Cubberley campus was to release an RFP over the summer and take some time to evaluate and select new tenants. We're in the process now of the third bullet, preparing lease agreements, and hopefully have new tenants move in, some in October hopefully but certainly all in November. The criteria that we used. First and foremost was additional public benefit to Palo Alto residents, followed by the financial capability to pay the lease revenue that we know we need. The RFP results yielded 28 organizations, 17 of those organizations were selected. As you saw in your Staff Report and as mentioned earlier, Staff is preparing those lease agreements as we speak. The new tenants or tentative new tenants are listed in this graph here. You can see it's a mix of organizations providing a wide variety of services to the public including education, but also tutoring and health and fitness, rehabilitation, dance and local nonprofit organizations. I put an asterisk next to Avenidas, because that brings us to the second action we're asking of Council this evening. Avenidas is anticipating to renovate the building at 455 Bryant Street, where they run the senior center, the City-owned building. The renovation timeline is anticipated to be in Fiscal Year 2018 and 2019. During that period, they will not be able to use the 455 Bryant Street building and will need to have a temporary senior center at some location. We've been in discussion with them about Cubberley being a possible site for that. Avenidas is very interested in that and responded to the Request for Proposals (RFP) and would like to use up to 10,000 square feet for their temporary center. The minimum nonprofit rate in the Municipal Fee Schedule approved by Council is \$1.31 per square foot. Avenidas is proposing \$1 per square foot. They did initially propose \$0.75 per square foot. We talked about our need on the revenue side, and they raised that to \$1. They feel like that they can manage, but more than that will be difficult during their major campaign. Staff is supportive of this request. Avenidas is a wonderful partner, providing very important services to our senior community. We recognize that during their rebuild they still need to remain relevant and offer

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programs and services during that time. The bottom line lease revenue picture with Foothill leaving. We have this table here that shows three rows. The first row, Row A, shows the projected Foothill College lease revenue had they remained at Cubberley. Row B shows the estimated lease revenue from the new tenants. Row C shows the difference between what Foothill College would have paid in lease revenue compared to the new tenants and what they will pay. What you can see here is in Fiscal Year 2017 we anticipate a decline in revenues from what we would have received from Foothill College of about \$149,000. This decline in revenue will be shared with the School District 50/50. It's important to note that in the adopted Fiscal Year '17 budget we included a more conservative loss of \$500,000. This is to the positive; although, not as far as we would have liked to be. It's still pretty good news, I think. In Fiscal Year '18 and '19, the new lease revenue is anticipated to be very close to reaching the former Foothill College lease revenues. We hope actually we can reach that. We're still a little bit conservative here, but after several months into the new leases we'll be able to report back with some more fine-tuned projections. Just a brief update on the Cubberley infrastructure fund. As you recall, we put aside \$1.8 million for future Cubberley planning and infrastructure when the covenant not to develop was removed from the lease. The balance of that fund is \$2.6 million. We have some capital improvement plans for the coming years, certainly even this year, including a restroom out by the athletic fields, roof replacements throughout the 5-year capital plan, general repairs related to health and safety as needed, and of course the Cubberley Master Plan is in the Capital Improvement Program (CIP). As we conclude the presentation, just an update on the Master Plan. In March, the Superintendent, Dr. Max McGee, and Jim Keene, our City Manager, signed a compact to commit themselves and both organizations to really get going on a plan for Cubberley. The City has explored a couple of design thinking options with Ideo and the Stanford D School and SAP; although, we don't have any agreement in place yet. City and School District Staff are meeting regularly. We certainly want to build on the work of the Cubberley Community Advisory Committee that was done a couple of years ago. Not a lot to report on the Master Plan. I feel like we're behind; we need to be doing more here. It's a bit of a challenge to put a tentative timeline in terms of next steps, where we think we're headed with the Master Plan. There's an important meeting happening tomorrow evening at the School Board. They've been discussing their enrollment and school size and class sizes. There's an item on the agenda that talks about a new school and what that might mean and a variety of options. We really do need to know what the School District wants to do at Cubberley. If it's some type of school, that impacts what we might do with regard to a Master Plan, very different than if they want to use Cubberley as their administrative buildings, which they've also talked about. We're trying to get a little more direction from the School

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District as to their hopes for the Cubberley campus. If we can get that in the next month, we'd like to prepare a scope of services to get some design support from a consultant, which we would go out to bid for and then start in earnest in January of '17, which leaves us three years left on the lease with the School District. That's the brief update on the Master Plan. To get back to the Council action at hand here, to amend the 1991 Master Plan lease; to provide additional public benefits in those rooms that Foothill occupied; the Staff recommendation to approve a \$1-per-square-foot lease for Avenidas for a temporary senior center; and the exemption from CEQA. We're available to answer any questions.

Mayor Burt: Thank you. Colleagues, we will now have an opportunity for questions. Once again, these are not rhetorical questions; these are genuine questions. Council Member Filseth.

Council Member Filseth: I want to make sure this is not rhetorical. I see big value in Avenidas. I think they're an asset to the community, so they're certainly worthy of our support. We've got a couple of million dollars or something towards their renovation. There's a bunch of other nonprofits in there as well. Can you talk a little bit about the thinking behind all the other nonprofits pay \$1.31 and Avenidas pays \$1? Are they buying in volume or is there any thinking behind that?

Mr. de Geus: Thank you, Council Member Filseth. It's a good question. We did think about that. Avenidas is unique in the sense that their need relates to their renovation of a City-owned building. They're raising some \$13-plus million to refurbish that building. The City has contributed \$5 million actually to their total campaign, which is not insignificant. Still, they're working very hard to raise a lot of money for a service that we all care about. They're essentially our senior service provider in this community. Also, we did go back and talk them. We didn't just accept the rate that they proposed. We asked if they could do a little more, and they took some time to really think about what they could do. They came back with a number that we felt was fair. As we looked at the overall revenue picture for Cubberley with Avenidas and being able to do this for Avenidas, we still get very close to reaching the target of what Foothill was paying.

Council Member Filseth: Understand, but the difference—in their case, they have 10,000 square feet. The difference is going to be like \$3,000 a month, which is like \$36,000 a year or something like that. It's not a huge amount of money either to the City or to them. It's more of a policy issue here. That's my question.

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Mayor Burt: Policy issues are not questions of Staff then. They're for Council. Council Member Kniss.

Council Member Kniss: I'm also the liaison to Avenidas and have served on their Board. Just full disclosure. I know there have been some hiccups along the way with Avenidas' plans. I guess the question would be—you have down 2018. That's roughly when you think they would come in, Rob?

Mr. de Geus: That's when they would hope to come in, in the beginning of Fiscal Year '18, in the fall. They still are working through the process of getting their plans approved. As you know, that can be a bumpy process. They're working hard on that. They're still hopeful that they can be able to begin in that timeframe. I should also mention related to Avenidas, in the time that they don't occupy that 10,000 square feet, Staff will do our very best to rent out that space on an hourly basis to continue to generate additional revenue.

Council Member Kniss: That answers it. That was my next question. I'm sorry they've had these bumps along the way. I think it's important that we're keeping it filled. Making it a question, I guess, Rob, it will be filled with something else during that period of time.

Mr. de Geus: We hope so. We don't have anything locked in yet. The space that they hope to have is the second story of the I building. If you're familiar with that building, it's a big open space. It's not a typical room rental. The space is not as easy to rent on an hourly basis. Space is at a premium. We're confident we'll get some folks in there.

Council Member Kniss: Thanks.

Mayor Burt: Council Member Schmid.

Council Member Schmid: Just a question on the Cubberley Master Plan. We are two years into a five year lease, which means it's well under way. We've got a decision to make in three years. You've done a great job of filling in. You note that tomorrow night PAUSD is going to discuss their enrollment report. That report has been stating that pupil growth will be on the order of 0.1 percent per year over the next decade. Every single population demographic report that the City uses says population growth is going to be 1.1 percent per year over the next 15 years. That's such a gap between these two bodies that are working on a long-term Master Plan. What plans does the City have to sit down and have a serious discussion with the School District about demographic forecasts and what it implies for the Cubberley Master Plan?

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Mr. de Geus: That's a tough question about what kind of growth we'll experience in terms of populations and even how many people work in Palo Alto as we're struggling with the Comprehensive Plan and the different scenarios that are being considered at a City level. I think you're right we ought to be on the same page and hopefully have similar projections. My recommendation would be to get the best thinkers on the City side on that topic and the same on the School District side and make sure they're talking and understanding if there are different perspectives on projections, why, what's causing those differences. Some of those conversations are happening, but perhaps they could happen more deeply. We can look into that.

Lalo Perez, Acting City Manager/Chief Financial Officer: Council Member Schmid, I think it's not on the agenda. The other area that is also on our radar is Ventura. We want to encompass the two sites in our discussions.

Council Member Schmid: I guess that's my question. I'll make comments later.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I think you said you got 28 applications, and you're trying to work with 17. Can you tell us a little bit about the other nine, like who applied and was not accepted?

Mr. de Geus: We had a panel—Hamid is just reminding me that two of them dropped out after the RFP closed and we went through our evaluation process. As we looked at the different groups, we looked at how many Palo Alto residents would be impacted or served. We looked at those types of things and what they need for their space. There was a couple of groups that needed major renovations for it to work for them, additional bathrooms to be built and that type of thing. There was a number of preschool or childcare-type programs—I think three—that would have been interested. It was a very interesting proposal. In fact, the long-term future of Cubberley may in fact be able to serve more preschool and childcare programs. That wasn't something that could work here. We had a couple of groups like the Friends of the Palo Alto Library wanting additional space. They already have a lot of space there but weren't able to pay any rent. I think there was only one group that wanted the whole lot, the 39,000 square feet. It was some type of public television group, I think. Minority Television Project was their name. Just on balance of being able to have a number of different organizations providing a variety of services, we felt, was a better benefit for the residents and (crosstalk).

Council Member DuBois: Nobody that's there today is being forced to leave?

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Mr. de Geus: No. In fact, some of the groups that are there now are getting additional space.

Council Member DuBois: It looked like on the dates listed there might be a gap. Is anybody there—do they have to move out and then move back in or can they basically just transition smoothly?

Mr. de Geus: There is a gap. That's really the reason we have this deficit in 2015. Could you ask your question again? Maybe I didn't understand it.

Council Member DuBois: I forget. I think Reach was one of the people there now and is going forward. It looked like Foothill moves out in September, and new people can't move in until a couple—I'm just wondering. The people like that, do they need to move out for a month?

Mr. de Geus: No. No, they don't. If they're there, they stay there and continue.

Council Member DuBois: Nobody's going to be disrupted?

Mr. de Geus: They won't be disrupted.

Council Member DuBois: Council Member Schmid said we have like three years left on the lease. I thought it was more like 4.

Mr. de Geus: It's until the end of calendar year 2019, December 2019.

Council Member DuBois: These leases we're signing with these new groups, are they for that period of time?

Mr. de Geus: Yes.

Council Member DuBois: In your forecast, the 2018 numbers look like the revenue jumped up quite a bit. I wondered where that was coming from.

Mr. de Geus: From Fiscal Year '17?

Council Member DuBois: Yeah.

Mr. de Geus: That was the question I was probably answering earlier. We have this lag between September and November. At the end of September, Foothill College leaves. It's going to take these new tenants some time to move in, the new ones. Most of them, we anticipate, will move in closer to November 1st or into November a little bit. We lose a whole month of revenues.



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Council Member DuBois: It's not like we're raising rents, and then next year it's just a full year's rent?

Mr. de Geus: No.

Hamid Ghaemmaghani, Real Property Manager: Also, I'd like to add that Avenidas will move in too, so we are kind of projecting that rent revenue when they move in as well.

Council Member DuBois: Thank you very much.

Mayor Burt: Council Member Holman.

Council Member Holman: Did you say of the potential tenants that Friends of the Palo Alto Library (FOPAL) had wanted more space but couldn't pay more rent? Is that right? Did I understand that correctly?

Mr. de Geus: That's correct. They offered no rent.

Council Member Holman: Now they're paying \$1.31, is that right? It's what the Staff Report says everyone's paying, \$1.31.

Mr. de Geus: I think that's right.

Council Member Holman: How much money a year does FOPAL donate to our libraries?

Mr. de Geus: I don't know the number. I don't know how much that is. I know it's ...

Council Member Holman: If Leesa is going to speak, maybe Leesa has an answer to that, perhaps.

Mayor Burt: Not at this time.

Council Member Holman: I'll leave it at that for the moment. Thank you.

Mayor Burt: I wanted to follow onto Council Member Schmid's question about how the School District demographic projections impact their decision-making as it relates to our joint use plan for Cubberley. Given that, at a high level, I think they switched demographers around five years ago, I think. The previous demographer had generally underestimated school growth projections for the better part of the previous 15 years. The current one has been overestimating it until now, and they're making an adjustment. They have their future projections going up. Given the poor track record of their demographer and how much it affects our community

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planning, is there a way that we can more deliberately collaborate on trying to get best projections on School District growth? How would we actually formalize that better, if that's what we wanted to do?

Mr. de Geus: Mayor Burt, good question. I think we probably want to think about that internally. I go back to my comments earlier about getting the right people in the room from both sides to really understand how we're getting to the projections from the City perspective and from the School District perspective, and then challenge those assumptions that are being made to see if we can come to a greater consensus. I'm not aware that that formally is happening, those kinds of meetings. It seems to me they ought to happen, particularly if we're thinking about the future of Cubberley and what to build there. It's in both of our benefits, the City and School District.

Mayor Burt: Agreed. Thank you. Council Member Wolbach.

Council Member Wolbach: I was just hoping we could get maybe a little bit more of a preview about the Junior Museum and Zoo. I saw that you mentioned it in the Staff Report and said we were going to be getting an update this fall. Is there anything more that you can tell us at this point as it relates to our discussion tonight?

Mr. de Geus: Thank you, Council Member Wolbach. The Junior Museum and Zoo, Staff are working closely with the Friends of the Junior Museum and Zoo to rebuild that building. Those negotiations are going well, but a little bit like Avenidas perhaps that the design goes back and forth in terms of size and scale. We're not quite there with the final design to present. That's what's holding us back a little bit at this point. It's certainly moving forward. We hope to rebuild that site. The Friends of the Junior Museum and Zoo have committed to raising the full amount of cost to do that. When they do it, if we get to that point, we will close that building. Like Avenidas, we'll want to have a temporary facility of some type to continue to remain relevant as a program in the community. The current thinking is perhaps Cubberley could serve as that space. The auditorium where the temporary Mitchell Park Library was is being looked at as a possible site for the Junior Museum and Zoo. That is not a space that Foothill College occupies.

Council Member Wolbach: I just want to be clear that nothing that we're being asked to approve tonight would foreclose those opportunities in the future. Correct?

Mr. de Geus: That's correct.

Council Member Wolbach: Also, we received a letter from a member of the public who I don't see in the audience at the moment, Herb Borock, who was

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asking about the possibility of having maybe housing on the site in the future, perhaps as a joint project between the School District and the City. Other people have talked about this as a possibility. I was just wondering if Staff had had a chance to see that letter or if you had any thoughts about that or, again, if anything we're being asked to approve tonight would foreclose those kind of future opportunities.

Mr. de Geus: I haven't seen the letter. We haven't done the Master Plan for the site yet. At this point, everything could be on the table.

Council Member Wolbach: As a follow-up to that, I'm just trying to get a better sense of how this does relate to the Master Plan. Just again want to get your—hoping to get real assurances that nothing that we do tonight will again foreclose opportunities with the Master Plan. Sorry for being didactic about this, but I just want to be very, very explicit about this.

Mr. de Geus: I understand. It won't. These lease agreements are for a short period of time, three years, to the end of the lease agreement with the School District. It does not foreclose any opportunity for future planning.

Council Member Wolbach: Thank you for helping me be very clear about that.

Mayor Burt: We will now turn to the public for comments on this. I have one card from both Jim Phillips and Lisa Hendrickson. If you both would like to be able to speak, this would allow you to somehow speak three minutes total. If you each want to speak, one of you would need to fill out another card. Our first speakers are Jim Phillips and Lisa Hendrickson. Welcome.

Jim Phillips: Good evening, Mayor Burt and Council Members. We're here in support of the Staff's proposal to you. Before I do that, Lisa is here. Lisa's our former Chief Executive Officer (CEO) and now the director of our project to expand. Amy Andonian, our current CEO, is on vacation today; otherwise, she would be here. This area in Building I at Cubberley will enable us in a couple of ways. First off, it'll provide us continuity with our program offerings with the building totally closed. We're using a construction schedule to evacuate the whole area, come in and do all the construction on the new building and retrofit the old simultaneously. We absolutely need to move and operate our programs somewhere else. This proposal here is absolutely enabling. The other enabling part about it is the \$1 per square foot, which we urge you to approve. I just want to insert here that we have a number of programs. We have programs that are growing. One specific one is called Care Partners which has to do with caregivers and their support. We will need the space. We have other program proposals,

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several strategic proposals. We need a good foothold to stay established and continue to grow the organization. With that, Lisa.

Lisa Hendrickson: Thank you. My colleagues from Avenidas join me tonight in also thanking Staff for its recommendation of a rent subsidy for us. It may be helpful to remember that part of our partnership with the City for over 40 years has been that the City has provided us a facility at no rent. The rental expense, although maybe not a big number, is an incremental cost to our operations and one for which we're going to have to fundraise at a time when we're already asking the community for a lot of money specifically \$13 million to renovate the old building. We watch our fundraising dollars very closely. We feel that it's necessary for us to shepherd them and steward them carefully. We very much value the lower rent if you do approve that tonight, which we hope you will.

Mayor Burt: Thank you. Our next speaker is Diane Reklis, to be followed by Stephanie Munoz.

Diane Reklis: Hi. I'm still Diane Reklis, and I still live at 3410 Janice Way. There seems to be kind of a disconnect between what this body is talking about, what the School District's talking about, what the paper's talking about and what we talked about in our committee, the CCCAC in 2013. Our conclusion was that we didn't have to choose. We can build a thoroughly modern community center at Cubberley. When the time is right, we can build a school, a full-sized school. I hear all sorts of other, much less things, but this can only happen if we work together and if we plan together. On that basis, I call for the following actions regarding the Cubberley property. The City of Palo Alto and Palo Alto Unified School District must get serious about joint planning for the site including a community needs survey as called for in our report. Just having a couple of Staff people talking leaves the whole community out. It leaves out the whole idea of new ideas coming forth. We didn't think that we had any business saying we know what needs to go in a community center. We could tell you what is there now. There may be other uses for that center that we didn't even dream of. That's why we asked for a community needs assessment. We still think we need a community needs assessment. The second key thing is that no permanent structures should be built on that property by either organization or anybody else until such a plan is agreed to by all sides, until we have a map of where the driveways should be, where the fields should be, where the buildings should be, where the City's 8 acres should be. We can't build anything. The only exception I would make is please put bathrooms out by the fields. It's crazy that we don't have that right now. My last point was thank you, Rob, for making it clear that none of these leases are longer than three years. That was my third concern. Thank you.

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Mayor Burt: Thank you. Our next speaker is Stephanie Munoz, to be followed by Leesa Bouchard.

Stephanie Munoz: Good evening, Mayor Burt and Council Members. Thank you for this opportunity. I've written to you before, and I've talked to you before. It can't be yellow already. Guys. We have to have teacher housing. My daughter, the last time I talked to you she was living in a tent in her brother's backyard in Los Altos. She's a teacher. Now she's moved to Emeryville, and it's not all that cheap in Emeryville either. We have got to keep the asset we have. All the talk about community facilities and the art and the dancing and the childcare, the talk is irrelevant. There's no reason you can't have them there. Even if you have 101 Alma there, you've still got the entire first floor of this teacher housing facility for all these community facilities. You can charge whatever you want or not charge them anything. It doesn't matter. What matters is you've got to have housing for the teachers. That's the soul of the community. That's what for hoping on, to bring up all these little yuppies, to help the economy and buy stuff and do Science, Technology, Engineering and Mathematics (STEM) stuff, everything. You've just got to have teacher housing. You have the right to build up. On Cubberley, you'll have the same situation that you have at 101 Alma, that is, you'll have the FAR, the Floor Allowance Ratio, because those schools—Cubberley was a school—have tons of space, lawns and soccer fields and tennis courts and lots and lots of space. It would fit very appropriately with the City and with what you want. You'd love it. It could be gorgeous. You could make money. All you have to do is figure out how much money you want to get from this facility and put that many units in it, which you have a right to do. Nobody else has the right to do it. You can get that teacher housing, and you've got to get it. As for the firemen and policemen, you build firehouses. You have property there too. You want a police station, you could have housing there too. All I'm asking for is the teacher housing. It's crazy. That's how you got this in the first place, because the School District was letting these properties go in a rising market. It's always going to be a rising market. You don't expect a crash in land values, do you? No. It's always going to be going up. It's crazy to let go of it. I did talk to somebody. I talked to Mr. Powers at the Palo Alto Unified. I said, "I've talked to them." He said, "Now that Foothill's gone, it's a different conversation." Thank you very much. Thank you.

Mayor Burt: Leesa Bouchard to be followed by our last speaker, Penny Ellson.

Leesa Bouchard: Good evening. Thank you, Council Members. My name is Leesa Bouchard, and I am an artist in the Cubberley Artist Studio Program and also was involved in the Community Advisory Committee of a couple of

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years ago with Diane Reklis. I would like to second her reminder of our pretty unified agreement that we need a community needs assessment for that part of town. Hearing a bit of the history from a number of Council Members recently has reinforced the understanding of how the area has developed north and south. Because of the way that the City developed, a number of the buildings and to address community needs were a little bit more centralized on the northern part of the City. I think that kind of falls right in line with the need to—now that that other side of the City has been so developed over more than 20 years, 30 years, 40 years, 50 years, we have an increased population and need of services, particularly for the elderly and young in the community. There are all sorts of childcare needs that are very specific to Cubberley. There are childcare services for six months and under that are provided there, that are not available very easily in other parts of either Mountain View or Palo Alto. It's very critical that we look at all of these issues just as was stated in our report of a couple years ago. I'm very encouraged to hear what's been happening with Avenidas. There was a comment made about the amount being not a big deal to the City or to them. As somebody who has worked in nonprofits for a very long time, I would like to just state that I'm sure that money means a great deal to Avenidas. The question about the Friends of the Library. During 2004 to 2012, Friends of the Palo Alto Library donated over \$2 million to purchase much-needed library books, media, online resources, equipment and unique programs for Palo Alto's five public libraries. That was from 2004 to 2012. Since then, they've increased their online sales. Thank you.

Mayor Burt: Thank you. Our last speaker is ...

Council Member Holman: Mr. Mayor, could she finish the statement she was going to make, because it was in response to a question that I had posed? Could she finish her sentence?

Mayor Burt: Sure. If you have something substantive to add.

Council Member Holman: If it's more information in it.

Ms. Bouchard: The substance of that was pretty much state the amount that's readily available. Their website needs updating because all of their focus goes to dealing with the vast swarms of materials that the place is inundated with. They are swimming in books. They have nowhere to put them. Thanks.

Mayor Burt: Thank you. Our final speaker is Penny Ellson. Thank you. Welcome.

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Penny Ellson: Thank you and good evening. I'm Penny Ellson. I'm speaking as an individual. Not to waste time, I just want to say ditto on the community needs assessment. Let's really consider carefully where this very important site fits into the vision that's unfolding in our revised Comprehensive Plan and the needs of the community. I'm reassured by some of the things I heard Staff say tonight. I want to just thank you for the time you spent asking questions and answering them earlier. I just have a couple of questions. I value very much the important work that Avenidas does in our community. In the not too distance future, I'll probably be one of their clients. I want to say that I wonder what this lower rent—what message this sends to our current valued nonprofit tenants at Cubberley. They all suffer from the same problem. They all have to fundraise. They all have trouble making their rent. This is not a problem unique to Avenidas. They're all struggling with it. I wonder, first of all, what's the message we're sending to them. Secondly, what does this mean for future negotiations with nonprofit tenants? I think we need to think about that. I'm thinking about Cubberley needing revenues. This is a facility we're watching. It's in my backyard; I watch it get more rundown every year. I also worry about this becoming a serial staging area for public facility expansions and renovations in other parts of the City as Cubberley falls into greater and greater disrepair. I think previous speakers and you have spoken eloquently to the importance of this facility for all of Palo Alto, but particularly for the southern part of Palo Alto. I just hope that, as you consider this, you will think about and start putting some energy behind developing that vision for this important facility for our future. Thank you.

Mayor Burt: Thank you. That concludes our public comments. We'll return to the Council for discussion and action. Who would like to go first? Before we do, let me do two things. One is I want to make sure any members of the public who are watching know that we have had an agenda change. What was formerly Item No. 10 has been moved forward. That's the minimum wage discussion that is scheduled to begin at 7:30 P.M. and perhaps sooner. Item No. 9 has been moved to 11B basically. That would be commencing in the vicinity of 9:30 P.M. , perhaps sooner. Mr. de Geus, do you have any response to any of the issues raised by members of the public or would you like us to just ask those questions if there's a follow-up?

Mr. de Geus: I think it best to have the Council ask questions, and we'll respond.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Definitely not ready to make a Motion yet myself. I'll defer that to others. I actually did want to pick up the hint from the

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Mayor. I was going to ask about some of the things that were raised by members of the public, particularly those by former School Board Member Reklis. On bathrooms near the playing fields, to start with that one. I did see that in—that was mentioned actually in our presentation on Slide 13 as a planned capital improvement for Fiscal Year 2017. I'm sorry; I should remember that because I was on Finance. Just want to be really clear. Is that already moving forward? Do we have the money and the plans to do that? Is there anything that we need to do to move that forward or is that already on the way?

Mr. de Geus: It's funded in the Fiscal '17 Capital Budget. I think at some point—we're not at that point where we've got a design and a contract, but that will come to Council for approval sometime this year.

Council Member Wolbach: We've got the money, but we will still need to sign off on that. I appreciate Diane Reklis for making sure we're paying attention to that one. I appreciate Staff for including it in the presentation, so we could keep an eye on that one. Also, I'll kind of second in a way what she was mentioning as well about not having a lot of new permanent structure until we do have a better plan. I do think that we can step up a little bit more as far as how the City works with the School District to start really moving things forward with the planning. I don't want to say I'm frustrated with the progress we've made so far. I know that there's a lot on Staff's plate and a lot on the School Board's plate. I do want to make sure that we are moving forward with the long-term planning as well and that that doesn't fall by the wayside. One of the key questions that was raised by the Staff Report, one of the key things we'll have to consider tonight is this—Council Member Filseth pointed it out earlier. Staff used the word in the Staff Report, if I remember correctly, that it is really a policy question of whether we want to support the negotiated rate of \$1 per square foot per month for Avenidas. Right now, we help them by providing essentially no rent. \$1 would be more than they'd originally hoped, but less than what other nonprofits at the site would be paying considering what they're used to paying in rent and how integral they are to the community, the origin of Avenidas as something sponsored by the City. I think I'm going to be comfortable with the \$1 per square foot per month rate. I'm happy to hear from my colleagues if they have any objections. I'm currently leaning towards supporting that when it does come time for motions. On the flexibility of what kinds of things can go in which buildings, I like where Staff is going with this. I like the idea of creating neighborhoods of different—if I understood correctly, it's basically trying to create proximity of like and compatible uses near each other within the larger site. Of course, we want to make sure there's compatibility across the entire site. Within that, trying to group them in ways that make sense and working with them to try and



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facilitate that, I think that that's actually really smart. I appreciate the Staff work on that one. I think I'll be supporting that component as well. I guess actually that's my comments for now. Except just to say kudos to Staff for working hard to try and close the funding gap. We're losing a major tenant, a very, very significant tenant. Staff seems to have been working very, very hard to try and find and secure tenants and starting to get those locked down so that we won't have two substantial hiccups in our cash flow from the site. I think that's very important. I appreciate the Staff work on that.

Mayor Burt: Council Member Holman.

Council Member Holman: Thank you to Leesa Bouchard for coming up with that number. I don't think it's on our agenda this evening. Since it's been mentioned a number of times, I'll just briefly comment on it, the community needs assessment. I absolutely support that. I think the Citizens Committee recommended that too. I think Parks and Rec Commission recommended that. I certainly support that. Like I said, it's not on our agenda tonight to forward that, but just as a comment. It's an interesting question; it is a policy question. I guess I come down a little bit differently than Council Member Wolbach on this. Avenidas provides great services to the community, but show me one of these groups that doesn't. I think it is a policy question and a policy equity. Friends of Palo Alto Library, FOPAL, donates—that pans out to be about \$250,000 a year to the City's libraries. Why are they not getting \$1 a year rent? It gets complicated and convoluted, I think, if we start making exceptions. I guess I would move that we would—if you're ready for a Motion, Mayor Burt? I would move that we amend the 1991 Cubberley Master Plan to provide additional uses in Buildings A, B, C, D, I, J, K and P currently occupied by Foothill Community College as educational uses and apply for necessary planning entitlements to allow additional community-oriented uses. Those uses are on a table somewhere in the Staff Report. I can't find it at this moment, but they're in a table somewhere. Authorize the City Manager to accept a lease rate—skip 2, skip 2, sorry. Three, adopt a finding that these actions are exempt from the California Environmental Quality Act under Section 15301 of the CEQA Guidelines.

Mayor Burt: Do we have a second? That fails for lack of a second.

Council Member Holman: Where'd you go?

Council Member Schmid: Second.

Mayor Burt: Sorry?

Council Member Schmid: Second.

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**MOTION:** Council Member Holman moved, seconded by Council Member Schmid to:

- A. Authorize Staff to amend the 1991 Cubberley Master Plan to provide for additional uses in Buildings A, B, C, D, I, J, K, and P currently occupied by Foothill Community College (educational use) and apply for necessary planning entitlements to allow additional community oriented uses; and
- B. Adopt a finding that these actions are exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the CEQA Guidelines.

Mayor Burt: We have to speak up here. That's a Motion by Council Member Holman, seconded by Council Member Schmid. Council Member Holman, would you like to speak to your Motion?

Council Member Holman: Only just briefly. I don't mean to be unsympathetic to the plight of fundraising. Yes, it's always difficult to do a fundraising project. From my perspective, it seems like this should be part of a budget that's established to plan for a project. The main thing is the policy situation. Where do we draw the line? We have all these valuable and valued community organizations. I just don't know where we draw the line. The one that really drew my attention to it was the one with FOPAL which actually makes donations of significant measure to our libraries every year. From a policy statement and a policy standpoint, it gets too twisty, windy. What is our policy? That's why I made the Motion the way I did.

Mayor Burt: Council Member Schmid.

Council Member Schmid: Clarification of the Motion. It's the one on the board, is that right? The one in front of us?

Council Member Holman: Yes. It is "A" and "B," but in the Staff recommendations it's actually "1" and "3" on the Staff Report. It's correct the way it is on the screen.

Council Member Schmid: You talked about qualifications about Avenidas. It's not a part of your Motion.

Council Member Holman: Because Number 2 just says to accept a lease rate of \$1 per square foot. I guess I'm looking to Lalo or Rob ...

Mayor Burt: Council Member Schmid, I believe that Council Member Holman deliberately omitted Number 2 as the means to (crosstalk) ...

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Council Member Schmid: Okay.

Mayor Burt: ... the additional subsidy.

Council Member Schmid: I withdraw my second.

## **SECOND WITHDRAWN BY THE SECONDER**

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

Council Member Holman: Let me clarify with Rob or Lalo. Do we need Number 2 but just delete the \$1 per square foot? We don't want to ...

Mayor Burt: I'm sorry. Council Member Holman, I believe that Council Member Schmid is withdrawing his second because he doesn't support the substance of the Motion.

Council Member Holman: I was thinking he needed clarification on the location of Avenidas.

Mayor Burt: No. Now that he has clarification, he's withdrawn.

Council Member Schmid: Right.

Mayor Burt: Council Member Kniss.

Council Member Kniss: All respect due to you, Karen, on this one, I disagree. Again, I think it's institutional memory. I can remember that there has been a discussion about Avenidas for many years. I see John Sink in the audience, with whom I worked on the senior health program that was down at one of the churches way back when. This is a unique offering to the community. I don't know how long you think you'll be there. I'm looking at Jim and Lisa. I'm guessing probably a couple of years. I think it also will open it up about the time that we're looking at what do you do with that next. I'm hoping that you're—I didn't get a second. Excuse me. I'm moving the recommendation. Excuse me.

Vice Mayor Scharff: Second that.

Mayor Burt: You not only didn't get a second, you didn't move the recommendation.

Council Member Berman: You got so excited by it.

Council Member Kniss: I did.

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Mayor Burt: You're moving the Staff recommendation?

Council Member Kniss: I am moving the Staff recommendation. Let me mention that.

Mayor Burt: Let me just pause. Who seconded it?

Council Member Berman: Scharff.

Mayor Burt: Vice Mayor Scharff. Go right ahead and speak to your Motion.

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

- A. Authorize Staff to amend the 1991 Cubberley Master Plan to provide for additional uses in Buildings A, B, C, D, I, J, K, and P currently occupied by Foothill Community College (educational use) and apply for necessary planning entitlements to allow additional community oriented uses; and
- B. Authorize the City Manager to accept a lease rate of \$1.00 per square foot for Avenidas to occupy up to 10,000 square feet at the Cubberley Community Center to operate a temporary senior center during the renovations at 450 Bryant Street; and
- C. Adopt a finding that these actions are exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the CEQA Guidelines.

Council Member Kniss: This authorizes the Staff to amend the '91 Cubberley Master Plan, to accept the lease rate of \$1 per square foot and also to adopt a finding regarding the exemptions from CEQA. To go back to my comments on Avenidas. As I said, they offer something truly unique to the community. They won't be there for a long enough time, I think, to not allow some other groups to come in, in the relatively near future. 2020 being relatively near. I think the contribution that you make to the community is quite unique. It also will be very interesting because those who live near or in that area have often said they would really like to have a senior center, they would like to have healthcare programs nearby. Avenidas offers many, many healthcare programs in addition to programs in yoga and nutrition and so forth. I don't know how many programs you offer, but I think it must be about 100 by the time you get done with what you offer in a week. I'm delighted to see this opportunity for an exchange and especially for the area close to Cubberley to have this opportunity to interact with the senior center.

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Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. I also enthusiastically actually support this Motion. Avenidas does so much for the community and in many communities. In fact, the City actually pays for a lot of the services that Avenidas does. I have absolutely no problem doing this. Avenidas is special. I wasn't sure I was going to say this. I actually remember when I first got on Council, we had stuff before the Finance Committee. I remember hearing from Larry Klein for at least 30 minutes about what a special relationship the City has with Avenidas, the long history of Avenidas in the community, why we provide it rent free, all of those things. I think that's something we're honoring tonight by doing this. I'm very pleased that we're moving forward on this. I actually did have a couple of questions that I want to get in while I have the floor. The first is we're going to have 17 new leases, which we haven't had before. That seems like a large administrative burden in some ways, if it's not handled correctly. I wanted to get a sense of what Staff is planning so that there won't be a huge administrative burden on Staff or if I'm wrong and it's not going to be a problem.

Mr. de Geus: That's a good comment, Vice Mayor Scharff. It is more of an administrative burden from one tenant to 17 different organizations that we now need to cultivate a positive relationship and support a relationship. The leases are being written in such a way that most of the administrative burden is on the new tenant. The small improvements, custodial, all of those types of things, it's on the tenant not the City. No question it will be more work for Staff.

Vice Mayor Scharff: I would just encourage you to figure out the easiest way to streamline this on an ongoing basis. To Ms. Ellson's question or comment, which was about Cubberley falling apart continually, every year it looks a little worse kind of thing. We actually did negotiate with the School District, and we're getting what? \$1.8 million a year roughly that we're supposed to put towards Cubberley. I think we're going to be reversing that. There is the issue that you we don't want to do stuff that we're going to then tear down. I thought maybe you could just, for the benefit of everyone, explain what we're thinking about doing, the rationale behind it and put that in context for us.

Mr. de Geus: There's not a great deal of activity planned at this time. As we mentioned earlier, the roofing and the bathroom and some of the health and safety-type activity. There is a list of other improvements we'd love to make on the tennis courts and athletic fields and some of the buildings. To your point earlier, we want to be very careful about that and not put money

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into something that won't be there for the long term. We want to be sure we get that balance correct.

Mr. Perez: That's correct. Assuming that we get through and there's a balance left, our recommendation to you is that we use that towards the Master Plan ideas. The funding is not going to just disappear. It's going to go for purpose of the Cubberley site.

Vice Mayor Scharff: Do we have a timeline or a sense of how we're moving forward on the Master Plan yet? I think that's probably a good idea to fleshing that out.

Mr. de Geus: We're looking to write a scope of services that effectively at least describes what we think we would like to see happen in the next three years and for the School District to do the same, to write that scope, which may include some type of needs assessment as part of that work. Again, what is holding us back a little bit is this very big question that the School District is grappling with as to what they want to do with respect to adding potentially an additional school or not. We feel like that's an important question to answer in advance of bringing someone on to do a needs assessment.

Vice Mayor Scharff: Absolutely. Thank you.

Mayor Burt: Council Member DuBois.

Council Member DuBois: First of all, I just want to say I'm happy to see we can serve so many organizations, getting those 17 new people in there. I think you guys did a great job of balancing the request and figuring out the right allocations. Thank you, guys, for that. I'm pretty happy that not only did we fill the space but we're really helping some community organizations. I don't want it to get lost. I'm excited that we're starting the Master Plan process. Several members of the public spoke about maintenance of the building. I'm really looking forward to starting that joint planning process. You guys are talking about getting the RFP out before the end of the year. Would I like to see it happen faster? Sure, but I'm glad it's moving forward. Hopefully next year it'll be a key priority for Council to really get this plan done. I think our goal really needs to be shovel-ready plans before this lease expires. The clock is ticking. On Avenidas, I do think it's been a partnership with the City. They have been providing services that many cities have to otherwise pay for themselves. I think that's why we provide a building for no rent. I think they are a unique nonprofit. They've had this unique relationship and history with the City before it was even called Avenidas. Again, I don't have a problem with the lower rent for an

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organization that's really been a partnership with the City for such a long period of time. I'll be supporting the Motion.

Mayor Burt: Council Member Berman.

Council Member Berman: I'll be supporting the Motion as well and won't dive into too many of the comments that colleagues have already made. I do want to give kudos to Staff. When this issue first came up, we were all worried that there would be a budget gap, and we were all nervous about Foothill leaving. I think the fact that Staff really got on this early, got the RFP out early and did a lot of the leg work early means that you guys can execute a lot of these new lease agreements as soon as possible. We don't have the six month lag time that we anticipated and the budget gap, if I recall correctly, that both the City and the School District would have had to cover. This is not only saving the City money, but this is saving the School District money, which just further exemplifies the collaboration that Cubberley is between the City and the School District. I agree with the members of the public that we desperately need to get moving on a Master Plan and a community needs assessment for that part of town. I'm sure we'll do that. The fact that these lease agreements are only for a couple of years gives us that good target timeline for maybe by that time we can actually have a plan for the future of the Cubberley, and that being a flexible future that can meet the needs of the School District if those needs arise. I remember one of my first meetings on Council was the community meeting with the School District on Cubberley. I had a lot of questions about their student population projections. I was just a new Council Member, so I didn't push too hard. Their projections didn't make sense to me then. We're realizing that our school-age population is going down in Palo Alto. Let's not let Cubberley languish for another two decades to wait until the school-age population goes back up. I'm eager to see that project move forward. Let me see if I had any other. In regards to the subsidized lease for Avenidas, I agree with my colleagues who have discussed the benefit that Avenidas provides. This is also a unique situation, I think. Avenidas is redeveloping their home. They need a spot to land for a year and a half, I think it is. We happen to be in a place due to luck that that space is available. We already pushed Avenidas to increase their rent by 33 percent from the \$0.75 a month that they wanted to the \$1 a month that we're requesting. I think that both parties are doing their bit. Avenidas does more than their bit in the services they provide to the region and to our seniors. I'm glad that just by happenstance we're able to provide a place for them to continue to operate during their construction.

Mayor Burt: Council Member Schmid.

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Council Member Schmid: It's a great step forward. I think we were worried, as my colleagues have said, what would happen when Foothill left. You've done a great job of filling in, both in dollars and providing options for a wide range of programs in the area. I think even with Avenidas there, we're very close to replacing the dollars that Foothill gave us. I guess to go to the Master Plan. The time period is short now. It's three years; it's not five years. We have to work together to reach something, not just say we'll work together but actually operate together as a body. We need agreement on basic assumptions. The most basic one is how many pupils will there be in the School District, how many young people will there be in the City. Both our plans are based upon those assumptions. Right now we're working at opposite poles. If the School District is right that the yield for new households in Palo Alto will not provide young people, we have to rethink a lot of our base programs. What are our Community Service programs if there are no youth or fewer youth as a share of the total population? What about the capital options we want for Cubberley? What about the programs that will have a long-term viability there? We need to rethink what our City will need. The School District is making an assumption the yield per household will provide less children than San Francisco currently is. San Francisco has a yield of children one-half of what all the other cities in the Bay Area has, including Palo Alto. Are we going to pretend to be San Francisco? That is a big assumption. I think that's step number one in having an effective collaboration with the School District. We need to sit down and have serious conversations about demographics and what our City and our schools will look like.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Having had a chance to hear the Motion and those speaking to it, I'm definitely going to be supporting this Motion. I just want to make sure I'm very clear. This is the full Staff recommendation, correct? With no variances? Excellent. As I mentioned before, Palo Alto's relationship with Avenidas goes back to Avenidas' founding. We talk about and we've made over the last couple of years a real priority focus on having a healthy city and a healthy community. Central to that is the service that we provide for seniors, especially with a "graying" population as Palo Alto's average age is expected to rise over the coming years. What Avenidas does for the community still is critically important. It speaks to the foresight of our predecessors on this Council in creating, supporting, etc., Avenidas until today. I won't spend half an hour talking about it as Scharff said Larry Klein did. It is really important. I think that we've reached, through Staff's appropriate negotiation, a compromise with Avenidas, which I know Avenidas is not thrilled with, but they're willing to accept. Even if we're not thrilled with it being a compromise, that's politics. It's the art of the



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possible. I think we've struck a good deal here that's acceptable to both parties. Nobody got exactly what they wanted; nobody got their first pick. That's why you negotiate. That an organization that is so important to our community is willing to negotiate with us and not just walk away from the negotiating table I appreciate. I think that the renovations that will happen while Avenidas is in south Palo Alto are important. I also think it's worth noting that there's been a lot of talk about having Avenidas or something like Avenidas or in the long term having a satellite of Avenidas in south Palo Alto. I think this will be a great opportunity to see what that's like. I think it'll be a very instructive, educational experience for south Palo Alto, for the City as a whole to see what it's like having Avenidas located in my neck of the woods, in south Palo Alto. I'm looking forward to having that there for my neighbors and friends and family who can avail themselves of that more easily with that greater proximity. I'm excited to see that. I hope we don't lose sight of that as one of the benefits to this. Again, I think the negotiated price is perfectly reasonable. I spoke earlier to my desire, but I forgot to mention—echoing Council Member Holman that I also think the community needs assessment is going to be important. I'm not going to include that in the Motion. It's not really agendized tonight. I just want to put that out there, that I think that's going to be important. I also just wanted to give a shout-out to those who have worked from the community and the School District on the enrollment committees for the School District side trying to suss out this tricky question that we've been discussing here of what we expect as far as the enrollment needs for elementary and also for high school kids in Palo Alto. Because of the assurances that we've heard from Staff that the actions we're taking tonight won't foreclose those future opportunities, I will be supporting this. I also agree with those who have said the clock is ticking. We do need to move towards a better long-term solution.

Mayor Burt: First, I have a question on the community needs assessment. Where do we stand on that?

Mr. de Geus: We haven't begun in earnest to look at a community needs assessment. What we would look at doing and what we plan to do is in the fall draft a scope of services to begin the Master Plan process which would begin with outreach to the community and do some type of meaningful needs assessment. What that looks like exactly still needs to be defined.

Mayor Burt: I think there's a real—it would behoove us to think through this process well enough to determine at what point in time we should do the needs assessment. I suspect that it's quite early in the process. We could lose more time if we really wait until this thing goes through more process before we begin that and then we go out for an RFP and all that. The next

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thing we know we've lost another year. I think we should be looking at that. Second, when the Staff went through and narrowed the new tenants, other than Avenidas was there any qualitative assessment of how we distinguished one prospective technically nonprofit from another? When I look at these, they're really different types and categories. What process did Staff use or was it really just any nonprofit that applied who could pay the rate we were asking?

Mr. de Geus: The process we used was we had a panel of Staff, Community Services Staff primarily. We included the Office of Management and Budget and Facilities Maintenance not to be scorers on the panel but to give advice to the panel about the impact of facility needs that an organization may have, just to be informed by that. We all reviewed each of the proposals. We met numerous times to discuss the completeness of the proposal and the likely benefits to Palo Alto residents. We evaluated if they had existing space at Cubberley, what they were able to pay. Each of the criteria had a score, and it was a weighted score with the public benefit being the highest weight. We ultimately independently all scored and then came up with a top list. We negotiated with those top groups.

Mayor Burt: I've heard that we had one perspective which was the physical needs that a prospective tenant would have and the impact that might have on the City and the City resources. Another was some sort of qualitative assessment of the degree or the way in which a given nonprofit would serve the community. I don't have any visibility as to how that was done. When I look at the tenants, I see a very broad range of how they serve the community, all the way from a group that I would put in a category of critical needs providers of some sort, Avenidas and perhaps Reach and perhaps Cardiac Therapy and maybe some of the others that I'm less familiar with. Others are a broader range of nonprofits, all the way from certain athletic-related clubs to afterschool supplemental academics. I'm sure that these all qualify as technically nonprofits, but I have a hard time distinguishing how the service provided, for instance, is of lower cost or whatever. When we have supplemental academic programs that we have in a lot of storefronts throughout Palo Alto, how do these differ? Are they lower cost, serving a different community that couldn't otherwise participate? Are they ones that just have decided to incorporate as a nonprofit and, therefore, they get a great rent break? I even see we have a faith institution. It's not apparent to me how we categorized these different nonprofits according to their community benefits. I think we need a better methodology and a more transparent methodology for doing that. I thought we were going to do this. A few years ago we had discussions around this. What I've seen here doesn't provide me with transparency that lets me understand that. When I look at the results, it concerns me that we're not

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making those distinctions. Even if we would have the space to allow different levels of nonprofits offering a range of criticality to the community to all be there, I don't know that they should all be paying the same rent. We may have a category of a certain subgroup that are essentially City-sponsored or essential need nonprofits that would fall into a category similar to what we believe Avenidas warrants, and then others that might be on the other end of the spectrum that we're not offering them at the rate of space if we were opening it up to for-profit use, but perhaps a higher rate than what we would provide for these critical ones and then maybe a group in between. I wish we had done that, and I would like to see a methodology that is better defined, that distinguishes comparative community benefits and is transparent. I think those are my concerns. I'm going to support the Motion. I do think that Avenidas falls in that category of being the most critical one. I think we need to look at this process going forward in a different way. That looks like it concludes our discussion. Please vote on the board. That passes unanimously. Thank you to everyone who has participated. We look forward to both our new tenants and commencing the Cubberley Master Plan process in the near future.

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

Mayor Burt: We are now at 7:20. We are running ahead of schedule a bit. I would just like to say that I would hope that one of the members of the Council who voted to reschedule Item No. 10 would be open to a Motion to reconsider. I really think that this has been a mistake to schedule an important policy item an hour and a half before it was tentatively agendaized. We risk having members of the public who consider this a very important item not being here, because we're working to the convenience of a couple of Council Members over the benefit and the interest of the public. Barring that Motion to reconsider, we'll take a 10-minute break.

Council took a break from 7:21 P.M. to 7:32 P.M.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Actually Council Member Scharff asked if he could make the Motion.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: I'd like to make the Motion to reconsider the Motion earlier, that we move Item—what was it? Nine? Was it 9 before 10?

Council Member DuBois: I'll second that.

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Vice Mayor Scharff: Ten before 9.

Council Member DuBois: I'll second that. Basically to go back to the original order.

Vice Mayor Scharff: Correct.

**MOTION:** Vice Mayor Scharff moved, seconded by Council Member DuBois to hear Agenda Item Number 9- Review and Direction Regarding Interpretation of Planned Community (PC) Ordinances... at this time.

Mayor Burt: I see no more—did you want to speak further to it?

Council Member Dubois: I'll just say I did speak to a few members of the restaurant association that are here. They did say that they had more people that were expecting it to happen at 9:00 P.M.. I think you're right. This is a big issue. We should allow people to come.

Vice Mayor Scharff: I wanted to speak to it too.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: I also thought the same thing. I also noticed that we really just have members of the restaurant association. At Policy and Services there were a number of people from the public. I think it's important that they get to speak as well.

Mayor Burt: Vice Mayor Holman. I mean Council Member Holman. Sorry.

Council Member Holman: Just a quick question, just to make sure that we're ...

Male: (inaudible)

Council Member Holman: Just a quick question to make sure we're playing by the rules here. I can't remember if Vice Mayor Scharff voted in favor of the Motion last time, because it has to be a prevailing member who makes the Motion.

Mayor Burt: Yes. Of course he did.

Council Member Holman: That's all I need to know. Thank you.

Mayor Burt: I'll just say I'm glad we are reconsidering this. I think it was ill advised the first round and bad precedent. We should be flexible on our agenda changes when they do not impact public participation in a significant

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way. Otherwise, we're here to fulfill our obligations. Please vote on the board. That passes unanimously. That means we will now be following the original agenda sequence.

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

9. Review and Direction Regarding Interpretation of Planned Community (PC) Ordinances Governing Three of the Four City Parking Garages Proposed for Rooftop Solar Installations at 445 Bryant Street, 520 Webster Street, and 275 Cambridge Avenue and Regarding the Architectural Review Procedure for the Three PC Zoned Garages and the Fourth Parking Garage at 475 Cambridge Which is Zoned Public Facilities (PF), Including a Finding That the Project is Exempt From Review Under the California Environmental Quality Act (CEQA).

Mayor Burt: That takes us to Item No. 9, which is review and direction regarding interpretation of Planned Community, PC, ordinances governing three of the four City parking garages proposed for rooftop solar installations, 445 Bryant Street, 520 Webster and 275 Cambridge Avenue, and regarding the architectural review procedure for three PC-zoned garages and the fourth parking garage at 475 Cambridge, which is zoned Public Facilities, including a finding that the project is exempt from review under the California Environmental Quality Act. Mr. Lait.

Jonathan Lait, Planning and Community Environment Assistant Director: Thank you, Mayor. Good evening ...

Vice Mayor Scharff: (crosstalk) recuse ourselves?

Mayor Burt: I'm sorry. We have two recusals. Council Member Scharff.

Vice Mayor Scharff: I own property within 500 feet of one of the garages, so I need to recuse myself.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I have the same issue. The City Attorney has advised that I be recused; therefore, request to recuse.

Mayor Burt: Vice Mayor Scharff and Council Member Kniss will not be participating. Mr. Lait.

Council Member Kniss and Vice Mayor Scharff left the meeting at 7:37 P.M.

Mr. Lait: Thank you, Mayor. This evening Staff is before you to essentially check-in with the City Council. There are four rooftop solar panel projects

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that are going forward in the City. Two of these projects are located in Downtown parking structures and the other two are for parking structures on Cambridge. The Council may recall an RFP that went out to receive requests from vendors that would be interested in participating in the City's CLEAN program and providing solar power energy. The Council did select a vendor and agreed to a 25-year lease agreement. That vendor is proposing to put solar panels on four parking structures in addition to a few EV chargers and electrical infrastructure as well. The four sites, two of them are Downtown. One is at 520 Webster. Three of the four properties are PC-zoned and subject to the zoning set forth in those documents. The one that is not is on Cambridge. I'll point that out to you in just a moment. Here's an illustration showing the existing condition on the left and the proposed configuration with the solar panel structure in this lower panel above. On 445 Bryant, that's the other Downtown PC-zoned parcel. Here's a similar structure where the existing is on the left and the proposed on the right. I'm understanding that the solar panels and the structure and up to the solar panels is just under 10 feet above the height of the existing garage structure. On Cambridge, we've got some lower profile structures. This one at 275 Cambridge is also a PC-zoned structure. Just incidentally, those two in Downtown would exceed the 50-foot height limit that the City has. On Cambridge here, this is a "before" on the left with a photo simulation on the right. These are, I believe, below the 37-foot height limit. On Cambridge, at 475 Cambridge, this is the PF-zoned property. This is one of the four. There's really not much of a conversation associated with this one other than we wanted to include this one together with the others that we were presenting. There's two basic reasons why we're here. One is to get the Council's agreement, if it's there, that these projects do not require amendments to the PC zoning; that in fact they are consistent with those PC ordinances for those parking structures. Two, provided that's the case, Staff was anticipating approving these at a Staff level, which is called a minor architectural review. A decision made at that Staff level, a request for hearing could be made, and that would go to the Architectural Review Board and then that in turn could be appealed to the City Council if there was a need for that. At this time, I'll conclude my presentation. The vendor and architect team, I believe, is here in the audience as well as Staff from different departments that have an interest in the solar panel program. Thank you.

Mayor Burt: Thank you. Council Members, do you have questions of Staff at this time? Council Member Filseth.

Council Member Filseth: Thanks very much. I have two questions. The first one is if we declare this to be a minor project and also that installing solar panels on a rooftop sort of qualifies under the same kind of exemption from

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the 50-foot height limit as elevator shafts and mechanical structures and stuff like that, are we setting a precedent and establishing a policy that for future projects of other kinds than we have today, that the addition of a solar canopy qualifies as a minor issue like a elevator shaft and then any project that comes along automatically gets to do that. Is it just for these buildings?

Mr. Lait: Thank you, Council Member. We've asked that question ourselves. We believe that, because of the PC zoning of these particular properties, we're not establishing a precedent for future solar panel arrays. It's a bit unique because they are parking structures, and we're trying to preserve the parking on the top level. That's why we have these support structures. For many commercial buildings, they would likely be placed along the roof deck itself. We don't anticipate that we'd have a similar type of scenario. If we do, we believe that the PC zoning does make this distinguished from other properties.

Council Member Filseth: Got it. Thank you very much. That clarifies that. My second question is if we were to decide that it takes a PC amendment to do this, is there any way to fast track these things and it goes on consent and stuff like that, so it doesn't really take the total process that's in the Staff Report?

Mr. Lait: Let me be clear on this answer. No.

Council Member Filseth: That's pretty clear. Thank you.

Mayor Burt: Council Member Schmid.

Council Member Schmid: It's sort of a follow-up to the same question. The PC Ordinance 18.38.150 says the max height shall be equal to the most restrictive adjacent zone district. We have a 50-foot height limit on the buildings around there. The one on Bryant is going from about 50 feet to almost 60 feet, and it is a structure of steel beams and so on. Now the request is that the solar tower be treated like elevator shafts or staircases, isolated little pieces; although, it does cover the whole floor. It does raise the issue of use of that top floor or any of the floors. I refer to Packet Page 264 where it quotes the Ordinance 46.11 which establishes use of 445. There it says the use shall be limited to multistory parking facilities. The second sentence says other uses that may be made from space deemed unusable for parking include office use above the ground floor. My question is if the owner of that property at some point in the future—say, the restrictions on SOV work and they don't need all the parking spaces. They say, "I need office space." Could they put in office space on the sixth floor

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which in essence would mean we are approving a potential breaking of the 50-foot height limit?

Mr. Lait: I just wanted to clarify ownership of the parking structure. It is the City's parking structure. Any request for office would be approved by this Council.

Council Member Schmid: The Ordinance that set it up said other uses that may be made from space deemed unusable for parking include office space above the ground floor. Unfortunately for 445 Bryant, the Ordinance says office use can be used at the discretion of the owner.

Mr. Lait: The City is the owner. I guess I'm not understanding the question. If you want office on the parking structure, there's a dialog that would take place about that. If you don't want office on the structure, then this Council would be the ones endorsing that.

Council Member Schmid: I'm just saying five or 10 years from now, new Council, new issues, will look back on what we voted. It seems to me what we're voting is that if they wanted to use that space for something else, they could put in office above the ground floor. We are breaking the height limit for potential office space.

Mr. Lait: I think I understand the concern. There's nothing about the conversation today that would, one, alter the PC that's been in place since 2000. The vendor that is seeking the solar panels doesn't have an agreement with the City to create an office space underneath the panels or anywhere else.

Council Member Schmid: Could I ask the Legal Department? Are we voting the potential for something to take place that we're not anticipating?

Cara Silver, Senior Assistant City Attorney: Thank you. Cara Silver, Senior Assistant City Attorney. The action you are taking today does not authorize in any way the conversion of the parking spaces to office. There are several precautions in the existing PC Ordinance and existing laws that would prevent that conversion. The most obvious is that the parking spaces are part of the assessment district, and they're all accounted for. We can't take any parking spaces out of the assessment district unless those spaces are replaced. Second, the lease agreement with the tenant, who is going to be operating the energy facility, does not permit the parking spaces to be used for office. That's really what is before you tonight. The lease agreement simply does not allow for that.



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Council Member Schmid: Would it be easier to accept if we offered an amendment to Ordinance 46.11 dropping the option to use the space for offices?

Ms. Silver: If you wanted to amend the PC Ordinance to effectuate that amendment, you would of course have to go through the process for amending the PC Ordinance. It's not noticed for that this evening.

Council Member Schmid: This isn't the PC Ordinance. This is the Zoning Map. Packet Page 262.

Mr. Lait: Ordinance 46.11 is the legislative action that establishes the PC Ordinance. As Cara Silver has indicated, the actual language of this Ordinance is not before the Council today.

Council Member Schmid: I guess I don't want to be voting something that future Councils can look at and say, "They approved an increase in the height limit that could be used for office space."

Mr. Lait: I cannot foresee a scenario where the conversation today would necessitate a conclusion where office would be allowed without a conversation and removal of parking spaces and amendment to the PC Ordinance and other considerations.

Mayor Burt: Council Member Holman.

Council Member Holman: A couple or three questions. Going back a little way. Why did we not get Architectural Review Board input on the projects that would be potentially the most impactful? My question here goes to we're determining these are minor projects. There's been comment made before about PCs and are we setting a precedent there. I'm looking at—the two that concern me are the one on the Florence Street view for the Bryant Street parking garage. Florence is another narrow street Downtown. When I look at Sheet A3.2, which is one of the pages I dog-eared in looking through this, that's—by the way, Council Member Schmid said going 50 feet to 60 feet. I couldn't find anything that indicated what the height increase is. Is it 10 feet, 12 feet, 8 feet? What is it?

Amy French, Chief Planning Official: Good evening. Amy French here. The heights are shown in the sections in each of the plan sets. If you would like, I can let you know. The garages you've mentioned so far was 445 ...

Council Member Holman: Please. I looked at the drawings, and I didn't find it.

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Ms. French: The applicant team, I would like to say, is here tonight and can verify numbers. They're very small on the plans.

Council Member Holman: I saw some stuff that looked like it might be that, but it was tiny, tiny. If you can help me with what the height changes are.

Ms. French: It is taller on the Florence Street side than on the Bryant Street side. It appears on the Florence Street side to be going up to about 57 feet. On the Bryant side, it's going up to about 53 feet. Do you want to verify that?

Rachel Hamilton, Architect: That's approximately correct. Good evening, Council Members, Mayor. My name is Rachel Hamilton; I'm the architect working with the sponsors of the project. The structure does slope a little bit due to access for the panels. The existing structure also slopes for the movement of the cars. The view on Florence Street does appear taller. If you were to take the tallest case of the railing on the existing garage, it's at approximately 49 feet above grade. The top of the structure, the steel structure that's supporting the panels, would be at 55 feet above grade. In this particular case on Florence Street, that 49 feet for the railing is probably actually a little bit lower than that. It's probably a few feet lower than 49 on that side of the building. That's why the structure appears a little bit taller.

Council Member Holman: It's 57 feet to the top of the structure and the panel's on top of that to take it to 57?

Ms. Hamilton: No, it's 55 feet to the top of the framework. The panels would project about 6-8 inches above that. Although, by California law the panels themselves are not subject to review, so it would be the structure. I believe that would be the case.

Council Member Holman: I heard 57 feet, which is why I questioned it. It's like 55 1/2 feet basically. Is that about right?

Ms. Hamilton: Yes.

Council Member Holman: On the Webster Street garage, the view that's concerning to me is—I don't see a drawing page number on this. It's the University Avenue view.

Ms. Hamilton: That should be A3.6.

Council Member Holman: What's the height of that?

Ms. Hamilton: 520 Webster, the existing railing is at approximately 52.3 feet above grade. Again, being parking garages, these vary with the slope

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of the ramps and things like that. We're showing 52.3 to the top of the railing, and then the panels would be—I'm sorry, not the panels. The top of the support structure would be at approximately 57.3. That may be where you heard the 57. In this particular case, from the University Avenue side, that difference of 5 feet might be a little bit more, like 6 feet, because of the relative heights of the different sections of the garage.

Council Member Holman: As I've said, those are the two drawings that we have, that are really troubling me to call those minor. I'm having a hard time in my mind thinking if any design or any applicant came along and said, "We have this minor project," and they had the impact that these do visually, as I see them, I'd not be very supportive of Staff calling those minor. That's one point.

Mr. Lait: I'm sorry. Could we respond to that?

Council Member Holman: Sure, of course.

Mr. Lait: That's one of the reasons why we're here, to get the Council's read on that. Ideally we would have had the panels set back further from the edge of the building so they weren't as visible. We understand there may be some constraints associated with the production of solar power that's to be generated from the panels. That might be an area of discussion with the applicant team to talk about the solar generation.

Council Member Holman: That was my next question, why can't these be set back more.

Mr. Lait: I would refer you ...

Council Member Holman: To lessen the impact.

Ms. Hamilton: In response to that, the structure itself, the framework that would support the panels, in order not to lose parking spaces which was one of the primary directives on the RFP, the structure has been designed basically to span the entire width of a double-sided drive aisle. In other words, you have the width of the parking space, the double drive aisle and the width of the next parking space opposite it. That takes the vertical loads all the way to the edge of the building. While it's possible to reduce the number of panels, the steel structure itself that's supporting them would have to reach the edge. As far as reducing the number of panels to reduce the visual impact, I'm going to have to defer to the project sponsor, because that would have an impact on the total power output and what they were contracted to provide.

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Council Member Holman: Can we have them comment?

Mayor Burt: Yes. If we have the project sponsor here, you're welcome to answer that question.

Zach Rubin, Komuna Palo Alto LLC: Good evening. Good to see you all again. I'm Zach Rubin. We've met several times. I don't know, Karen, if you remember. We came before this Council sometime back. At that point, it was approved, the contract that we have on these buildings, on these sites, to develop solar for 25 years. I just wanted to address Greg's comment.

Mayor Burt: I'm sorry.

Mr. Rubin: Go ahead.

Mayor Burt: The way our procedures work right now is ...

Mr. Rubin: Fill out the comment.

Council Member Holman: Respond to the question.

Mayor Burt: ...we're inviting you to answer a specific question.

Mr. Rubin: Understood. Sal, this is structural. Can you address that?

Mayor Burt: I think the question is not so much structural. It's whether the financial impact of reducing the number of panels to create a setback from the edge of the building.

Council Member Holman: Financial but also solar output.

Mr. Rubin: Solar what?

Council Member Holman: Solar output.

Mr. Rubin: It's significant impact. I guess referencing the contract I spoke of earlier is important because, if you remember, it was a contentious negotiation and it was important to return that yield that was necessary in order to move forward with this project. Every panel that we modeled for this site was significant. If we lose one of those panels, it makes a big impact to my economics. The delay in this has made a tremendous impact. Going through Architectural Review Board (ARB), minor ARB, has made a tremendous impact. We signed this contract over a year ago. The RFP came out over 2 1/2 years ago. In good faith, I expected these buildings to be prepared for solar, and that's just not the case. We've been fortunate

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and I feel confident that we'll get there. The City has been a great ally in this. It's frustrating. To ask us to reduce the amount of panels that we modeled in order to give those lease payments that were necessary to move forward is significant. I think that's why we're here today, to address that. To ask us to remove those panels not only hurts me economically but it also hurts the agenda that, I think, was put forth by this Council, which is to achieve three or four percent localized renewable energy. We're stuck in this back and forth about aesthetics. The idea is to generate energy through solar panels, and that's what I want to do.

Mayor Burt: I think we really want you to—I think you've done that—concentrate on the—you're welcome to fill out a speaker card to speak to other issues that you want to address tonight. In this, it's about a specific technical question or impact question.

Mr. Rubin: Sorry. I understand. The specific outside of the economics or the financial, I really want to defer to Robert and Sal who are handling the structural and the electrical components of this project. They've built lots of projects similar to this, and they are much more equipped to answer the structural questions around that.

Mayor Burt: I don't think it was really a structural question so much. Council Member Holman, do you have adequate answers or you still have questions?

Council Member Holman: That's a question. I mean that's fine, but I do have one other question. Is this a situation where we've approved a contract that has boxed us in about what we can in terms of this project?

Mr. Lait: I'll take a stab at this, and then legal may have another take on it. My understanding is that a couple of years ago there was a contract that was agreed to, but some of the specifics of the plan design had not been presented to the Council. One of the requirements of the contract was for the applicant to go through the review process inclusive of the architectural review and obtain any other land use entitlements that may be necessary. The plans that were presented to us are the ones that are in the packet before you. Our review of the plans, we were looking at the same sections that we've presented to the Council. We wanted to raise those questions to the Council. I don't believe you are boxed into a design scheme. I think this is the first time that the Council's seen the actual design scheme.

Council Member Holman: That's not what I was hearing from the contractor who would build this. It sounds like if we make changes to this, we're not being in agreement with the contract that we signed with them. Help me understand that.

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Mr. Lait: Our attorneys are looking up the contract, I believe, to verify that. I believe the terms of the contract were made. Again, because there was no plans or nothing visual to see, there was this desire for it to go through the architectural review process. I'm going to have to defer to a conclusion.

Molly Stump, City Attorney: Thank you, Council Member Holman. We're looking at the specifics in terms of what the terms might be around the power generation. The lease and power purchase agreement were approved by the Council in January of this year. They specifically provided that the applicant would need to go through the design and entitlement processes. There was no presupposition that this process was preapproved. It was reserved to go through the City's regular process at that time. We'll confirm that there is no contractual barrier to the Council exercising its discretion on these items tonight. I believe that to be the case, but we'll just take a minute to confirm that.

Council Member Holman: Just to be clear, the project is to obviously produce solar energy, and it's also required that it goes through architectural review at whatever level so that we find it is compatible such that we are required to do on all projects in Palo Alto. Is that correct? Thank you.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I had the same question about what are the actual heights. I too missed it in the drawings. If we could just go over them. You have 445 Bryant, 57 feet. It looked like Cambridge is 58.9 feet. Is that correct?

Ms. French: Cambridge sites are much, much lower. The 275 Cambridge proposed appears to start at 28 feet at the edges and move up to 30 feet at the highest point in the center. The proposal at 475 Cambridge, currently a 14-foot tall building, will be going up about 8 feet 9 inches, I believe, to 22 feet 9 inches.

Council Member DuBois: I'm sorry. What is 520 Webster go up to?

Ms. French: 520 Webster, I believe, is 57.3 feet. The existing building appears to be 51 feet 9 inches, I believe, existing. They put the structure up, and it goes to the 57.3.

Council Member DuBois: Thanks. I guess I had a question for the architect, if she could come back. What is the minimum height you need above a car?

Robert Laubach: (crosstalk)

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Mayor Burt: I'm sorry. We need to control this, and this is, I think, a question for the architect unless she does not know the answer.

Ms. Hamilton: Robert is the engineer on the project. In answer to the question, it depends where you are as to the minimum height. If it's outside the drive aisle, you might be able to do 6-foot-8; however, you need to maintain 8-foot-2 within the drive aisle. If there are any appurtenances or anything that might stick down, if there's any beams or structure—we're not doing sprinkler. There's the conduit for the electrical. At any rate, you need to stay a minimum of 8-foot-2. Bear in mind also that, as I said earlier, being parking garages they essentially slope to allow the cars to move around. When we set a height, it's typically at the worst case scenario so that we can maintain that minimum. Unfortunately in some cases, the slope of the parking garage may work against us when we're trying to maintain solar access for the panels.

Council Member DuBois: Thank you. I had a question about 520 Webster, which I believe is adjacent to an RM-40 with a max height of 40 feet. I'm just curious what's the maximum height allowed for 520 Webster. If that is correct, then it should be only 40 feet.

Ms. French: The maximum height in a PC district generally is 50 feet. It's a PC. That's what the PC Ordinance says, but we have this ability to exceed the 50-foot height through another part of the Code that talks about structures, mechanical, etc. That's (crosstalk).

Mayor Burt: Just to clarify that's ...

Council Member DuBois: (crosstalk) the question is ...

Mayor Burt: ... we need to distinguish between the maximum height of an enclosed building for occupancy, and that's our 50-foot height limit, and then what we have for mechanical structures, which is up to 15 feet above that. Correct? Thank you.

Council Member DuBois: I even thought within our PC Zoning Ordinance, it said the maximum height should be equal to the most restrictive adjacent zone. Is that ...

Mayor Burt: (inaudible)

Council Member DuBois: Are you saying it doesn't apply to parking garages?

Mayor Burt: It doesn't apply to mechanical. If it's an HVAC system or an (crosstalk) ...

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Council Member DuBois: In this case it's solar. Again, I'm asking if this garage is next to a residential area, is the building itself capped to 40 feet?

Mayor Burt: The structure itself?

Council Member DuBois: Yeah.

Mayor Burt: Not the mechanical?

Council Member DuBois: Right.

Mayor Burt: I don't know. It is what it is though. We're not going to (crosstalk) the structure no matter what it's height.

Council Member DuBois: I just want to understand if the max there is supposed to be 40 or 50.

Mr. Lait: Amy's going to look up what that height restriction is, possibly 40 feet. The structure itself is already over the adjacent RM-40 zoning and goes to, I think, 51 feet or almost 52 feet. The existing structure is already over what would have been for the most restrictive. We'll try to find out what that height is for the most restrictive.

Council Member DuBois: Thank you.

Mayor Burt: Council Member Berman.

Council Member Berman: Keeping on 520 Webster. I don't know what page number it is; it's the images with the view from University Avenue. It seems like—this is always the dangerous part with these images where you impose projected projects onto something. It seems like we lost some tree coverage. I guess the question is did we lose some tree coverage in the photo. It seems like above—I'm not sure what restaurant that is. Existing today there are trees above it. In the proposed, those trees have disappeared, which I think is what might make it look so imposing like Council Member Holman brought up.

Ms. Hamilton: Thank you for the question. I actually wanted to be very clear. To the best of my understanding, there is no intent to remove any trees.

Council Member Berman: I wasn't meaning to infer that. I think the tree just disappeared from the image. If a tree existed there, it wouldn't look so imposing on University Avenue.



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Ms. Hamilton: That is correct. We did our best to try and minimize the overlaying trees over image. Let me start over. When we do this, mostly it's done in Photoshop. When you have trees that have very complicated outlines and whatnot, it can get time consuming. We had limited time to produce the images. Anything where it's showing removal of trees or it looks like the project is actually stepping in front of the trees, my apologies. That's not the intent.

Council Member Berman: I wasn't trying to pass blame. In reality though, the project would be much more covered up by tree cover than it currently looks like in the proposed image. Is that correct?

Ms. Hamilton: That is correct.

Council Member Berman: Thank you.

Mayor Burt: One final question I have. Is this solar system in any way covered under the California Solar Rights Act? If so, how does that impact our decision-making?

Ms. Stump: I'm going to let Cara come back and talk to you about the elements of the Solar Rights Act. We think that the proposal that's before you and the discretionary decisions you have to make are both consistent with it.

Ms. Silver: Yes, thank you. The California Solar Rights Act allows applicants to install solar panels or PV panels without complying, without receiving discretionary permits such as architectural review. The panels themselves are not subject to architectural review. However, the structure where the panels are located is subject to architectural review.

Mayor Burt: You're talking about the vertical support structures that would hold them up?

Ms. Silver: Yes, exactly.

Mayor Burt: If we were to require some reduction in the panels, for instance, and a setback, the structure would still be there. That's subject to architectural review, but we couldn't mandate the panels be pulled back? We could say that you can't have the structure there, you're saying?

Ms. Silver: Correct. I don't think it's possible to place the panels without a structure. Assuming it is possible, if there was a way to locate panels without a structure, there would be no discretionary review (crosstalk).

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Mayor Burt: Do we have discretionary review to reduce the panels under the California Solar Rights Act for architectural reasons?

Ms. Silver: I don't believe you do. The question, though, is whether you have the ability under your lease to do that. There are a couple of issues at play, and we're still trying to sort out the lease language about whether you have the ability under the lease to do that.

Mayor Burt: Thank you. At this time, we'll proceed to comments from the public. We have three speakers. Our first speaker is Russ Cohen, to be followed by Herb Borock. Welcome.

Mr. Lait: Mayor, as the speakers are approaching, I just wanted to respond to Council Member DuBois' question. It's 35 feet. As we stated, the existing parking structure is already at 51, almost 52 feet.

Russ Cohen: Thank you, Mr. Mayor, Council Members. I just have a few questions regarding this project. Perhaps if you have those same questions, maybe Staff can answer them. If you recall several months back, the Finance Committee took a look at the lease agreement and, I think, they felt that the 16.5 cents per kilowatt hour was high, and it was rejected at that time. I couldn't quite figure out the thinking behind the Staff Report as to how it got back to 16 1/2 cents per kilowatt hour when a little research will show that you can buy energy much cheaper than that today. Also, I'm a little concerned that the Parking Assessment District, the parking garages are actually assets of theirs. We don't own those garages, but we're certainly a stakeholder in the process of anything that happens operationally in those garages. There was very little, if no, outreach regarding this project. I'm hoping that in the future anything that has to do with operations in the garages, structural changes, that sort of thing, would come before us and we would have some input. After all, the stakeholders are the constituents that pay those monthly fees to the Parking Assessment District. The other issue, you've talked a lot about the 50-foot height limit. One thing that occurred to me—this is certainly out of my purview—is that the California Avenue garage, I think and I could be wrong on this, was designed in a way where you could add stories to add parking. Again, I could be wrong. This does set a precedent that adding infrastructure to that top floor may prevent any additional structural enhancements parking-wise to that parking structure. Thank you very much.

Mayor Burt: Mr. Cohen, are you speaking tonight on behalf of the Downtown Business Improvement District or the Parking Assessment District or what?

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Mr. Cohen: I would say on the first two, it would be the Parking Assessment District. On the third question, it would be as a private citizen.

Mayor Burt: Do you represent the Parking Assessment District?

Mr. Cohen: I administer the Parking Assessment District, yes.

Mayor Burt: That's right. I'll let it go. Thank you. The next speaker is Herb Borock, to be followed by Craig Lewis.

Herb Borock: Mayor Burt and Council Members, I don't believe you should take any action on this item. You should direct Staff to follow the normal process for an application for architectural review or design review. Just the discussion that you had already with the contractor and the contractor's architect was on the substance of a project, which is something that normally occurs only after properly, publicly noticed hearings before the proper bodies of the City Council and in the proper order set forth in the Municipal Code. Perhaps I can go through the steps that a normal application follows to show you why it's not proper to be doing what you're being asked to do this evening. First is Staff does an initial study to determine what kind of environmental review, if any, is needed for the project. If Staff feels it's a minor project that they can act on, they do so and make a tentative decision. Any interested party given constructive notice and adequate time to file a request for a hearing before the ARB can request a hearing before the ARB. Then, the Architectural Review Board with any environmental document that exists before it makes a recommendation to the Director of Planning and Community Environment, who makes a decision both on the project and on environmental review. Any interested party can appeal it to the Council. What you're being asked to do is just the opposite order of things. You're being asked to make decisions on each of those items before the normal process has occurred. Nowhere in the Staff Report or the agenda item description are you being asked to discuss the substance of the project; yet, that's what you've just been doing. Nowhere in the Staff Report is it mentioned that you've made a decision as a Council to not be considering any Planned Community zone applications, which an amendment to the PC zone would be. I think the key item in the Staff Report is Section 18.40.090, which allows that height increase above the normal height and that includes items including utility items, which I believe that's what this is. In terms of the height limits in the PC zone district, it's normally 50 feet, but the special requirements section of the district, 18.38.150A, make it clear that in sites abutting certain residential zones that 50-foot height limit is lowered before you can add on to the 15 feet. It's an interesting topic to go research how in 1990, only two years after the current multiple family zone district was adopted and was

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awarded citation for a great district, we got a height that's higher than is allowed. Thank you.

Mayor Burt: Thank you. Our next speaker is Craig Lewis, to be followed by Robert Laubach.

Craig Lewis: Mayor Burt, Council Members, pleasure to be here tonight. My name is Craig Lewis. I'm the Founder and Executive Director of the Clean Coalition. We are the nonprofit organization that was hired by the City to design the RFP that initiated this project to get solar on top of originally the five City-owned parking structures and to also try our best to make sure we got a whole lot of new electric vehicle charging infrastructure at the same time, which we successfully accomplished. The Clean Coalition was also involved in helping to design the lease agreement. We're intimately involved in all of the details and the tremendous amount of work that has been conducted by the Staff here in Palo Alto as well as by the developer. It's a couple of years of very significant work. I'm here to encourage you all to make sure that we support the Staff recommendations and ensure that the tremendous amount of work that has been conducted will be satisfied here tonight in a way that continues to be economical for the developer. These are very price sensitive deals. You cut back and shrink the size of the projects, if you add a lot of costs going through an extremely expensive Architectural Review Board process that was not in anybody's intention at the beginning of this whole thing, that also can easily kill the deal, which I think we do not want to do. I don't think anybody up there wants to kill this deal. What I will say is that the Clean Coalition works with municipalities and utilities around the country. In 10 years, I'm very confident that the types of projects that we're talking about putting on these parking structures are going to be standard. We're going to see these kind of retrofits everywhere. If we don't, we're wasting a lot of usable space for local renewable energy siting opportunities. We will see these. We're already seeing them very frequently. You drive down 280, you see them increasingly being sited on the roofs of the parking structures. One of the values that is not being talked about here is the value of the shading and the protection from the weather on the tops of these parking structures. That is significant value and something you all should take into consideration. I just also want to say that Palo Alto has been a leader in streamlining the process to get these types of projects in Palo Alto. The creation of Palo Alto CLEAN, the couple of years of intense work to get this project to where it is, is an opportunity for Palo Alto to be in the lead. I really strongly encourage you to adopt and support the Staff recommendation, to go with the Staff recommendation and make sure that these projects get put forward and that we see this type of leadership here in Palo Alto as the rest of the world follows.

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Mayor Burt: Thank you. Our next speaker is Robert Laubach, to be followed by Rachel Hamilton.

Mr. Laubach: Hello, my name's Robert Laubach. I am the structural design contractor for the project. I first wanted to thank the Architectural Review Board, because we've had interactions with them at a high level of detail, and Amy in particular has done an unbelievable job being in a position that's somewhat impossible in the sense that the City's RFP had very stringent, specific requirements around the fact that absolutely under no circumstances could any of the designs interfere with any existing parking stalls, because they were a revenue generation element to it. Obviously if we're going to build on the top of a parking garage, there is an implied understanding when you put out an RFP to build solar on top of a garage that it is going to be tall enough for cars to fit under. We're dealing with being responsive to the requirements of the City's RFP and still in compliance with all of the review board constraints to making sure that Palo Alto preserves its design standards and its aesthetics and those sorts of things. In order to do that, the inevitable reality is that the solar support structure has to be held up by the perimeter walls of the garages. There is really no other way to build it if you're going to put solar on top of these garages, which gives us two issues. One, I just want to point out that the design is as low as we can possibly get it and still meet the minimum requirements for access underneath, number one. Number two, it also does accommodate the requirement to not interfere with any existing parking stalls. With those two elements, what the Architectural Review Board is asking is very reasonable, which is we've got two priorities that are equally as important. Let's make a determination. The delta between 50 feet and 57 feet theoretically and your structures all have elevator shafts, hand rails and other things that already exceed those limits. It's a very responsible sort of design approach with the intention of giving you what you want, which is renewable energy production on your public facilities that's really a precedent for a culture that is sensitive to the new environmental world that we're living in. I applaud you guys for sort of going down the road. We've built a bunch of these garages, and they work and they work well. The ancillary benefit of the shaded parking is definitely something that we always get feedback on in a positive way. Thank you for your time. I trust that you'll recognize the fact that you're your own customer, which kind of creates a little bit of circular reference that we just need to overcome so we can get this project off the ground. Thank you for your time.

Mayor Burt: Thank you. Our next speaker is Rachel Hamilton, to be followed by our final speaker, Zach Rubin. Welcome.

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Rachel Hamilton: Good evening, Mr. Mayor and members of the Council. Thank you again. Just a very, very brief follow-up. As members of our team have stated, we've done everything we can to minimize the visual impact of the project. Very specifically from a quality standpoint, when people come to use the parking garages, the use of electric charging stations, the fact that they'll have shaded parking on the roof are pretty huge benefits that really impact basically everyone who's going to be using these facilities. The other thing is that when you stand below these parking garages and look up, the solar canopies don't quite read as roofs. You catch a little glimpse of sun. It looks a little bit lighter than if you were to just put a solid roof on there. We feel like it's part of the modern vernacular that's being developed for urban areas that are coming in and bringing solar power to already constructed urban areas. That's it. Thank you so much.

Mayor Burt: Thank you. Our final speaker is Zach Rubin.

Zach Rubin: Hi. I really just wanted to conclude by thanking all of you and not just the Council but the City as well. All of us collectively have spent a tremendous amount of money. It's over two years getting to this point. Whether we continue going through ARB or not, I would like to believe that we'll ultimately get there. We have an opportunity tonight to let this become a reality. I just hope that I can count on everyone here to support this project, because the benefits, I think, are really positive for the local City and to be a representative of clean energy and what we're doing here going forward. Thank you, all of you.

Mayor Burt: Thank you. We will now return to the Council for discussion and a Motion. Council Member Berman.

Council Member Berman: I'd like to go ahead and move Staff recommendation that the City Council make the determination—do you want me to read all the Staff recommendations or does it work just to say, "I move the Staff recommendation"?

Mayor Burt: I think we can post the Staff recommendations. You don't have to read them all.

Council Member Berman: I think what's up on the board is my Motion.

Mayor Burt: Do we have a second?

Council Member Wolbach: Second.

**MOTION:** Council Member Berman moved, seconded by Council Member Wolbach to make the following determinations:

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- A. The installation of structural canopies to support solar panels will be consistent with the Planned Community (PC) Ordinances and approved development plans for three City garages located at 445 Bryant Street, 520 Webster Street, and 275 Cambridge Avenue, such that no amendments are needed to these PC ordinances; and
- B. The PC Ordinances for 445 Bryant Street and 520 Webster Street do not need to be modified to allow structural canopies to exceed the 50 foot high limit; and
- C. The proposed support structures for the photovoltaic panels at all four sites are considered "minor" projects subject to Staff Level Architectural Review in accordance with Palo Alto Municipal Code (PAMC) Section 18.76.020; and
- D. The recommended actions are exempt from review under the California Environmental Quality Act (CEQA) Sections 21080.35, 15303, and 15301 (existing facilities).

Mayor Burt: Council Member Berman, do you want to speak to your Motion?

Council Member Berman: Yeah, just briefly. I think we've heard a lot of good commentary from the public tonight and questions from Council. I think what's most important was Council direction more than a year or so ago when we initiated this project, which was that we not lose parking spots. Obviously we've heard time and time again from our community the importance of maintaining and expanding our existing parking in town. That creates certain design challenges, and that creates tradeoffs in the design of the different projects. I think most of the projects from most of the angles—I walk around these streets especially Downtown a lot. The public won't notice. It's either protected by other buildings or by foliage and other trees. I think the benefits of local renewable solar, which obviously we've said time and time again is a priority for this Council and this community, not to mention the shade that exists when it's hot out like today or the protection from other weather elements like hopefully rain, if we get that back, adds additional value to the area of our parking garages that we have always had the most difficulty filling up. We've all said and heard time and time again how the top floors of our parking garages are consistently empty. I know that's improved a little bit as we've instituted other parking programs. Still clearly that's the last place that people want to go park. I think adding solar to those areas will both make it more desirable parking, get closer to that three megawatts of local-generated solar that we want. This is something that the Council—I don't know if it was unanimous or near unanimous, but we approved this project as a Council and community project that we value.

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I think it's important now that we not add on too many burdens to completing the project, especially given the long time that it's taken just to get to this point. I think it's great that we'll be adding local renewable energy and all the other secondary benefits including, which we talk about a lot, resiliency but also community education of solar. When people go and park on these top floors, they'll see the solar and that just makes different types of renewable generation of electricity more real and tangible to people. There's value in that. I think it's a great project, and I'm excited to see it be finished.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I have a number of comments. First I actually just wanted to ask a quick question if I may of Staff. I may have misheard a member of the public who was speaking. Mr. Cohen, on behalf of the Parking Assessment District, said some of these structures are owned by the Parking Assessment District. I wanted to clarify that that is—managed. These parking structures are currently managed by the Parking Assessment District or managed by the City. I wanted to hear clarification from Staff.

Lalo Perez, Acting City Manager/Chief Financial Officer: Thank you, Council Member. The City does the assessment and collects the funds from the property owners for the garages. It's considered a City asset. Our duty is to ensure that the parking permits that were allocated are maintained. We do provide the maintenance of the facilities themselves. We do pass on some of that cost to a separate part of the parking district. There's two pieces. There's an assessment piece that paid for the building of the garages themselves, and then there's a fee for the permit which helps pay for the maintenance.

Council Member Wolbach: Thank you for clarifying. I'd like to first say I agree with everything that Council Member Berman said as the maker of the Motion. As we heard somebody mention earlier today, we essentially are our own customers in a sense. This was something that we'd asked for. This is pursuant to a City goal, which is to have locally generated solar. We have had the discussion about what it takes to get locally generated solar. That doesn't always mean that we pay the lowest amount we could possibly for energy anywhere, because we see a particular value in having locally generated solar. We've had that policy discussion as a Council, as a community, and we've come to that conclusion. To address the concerns raised about the rate structure, we've had that discussion as a Council. We've come to that conclusion, that in some cases it's worth doing that so we have a local benefit. I also really want to emphasize the benefit of having—for the user experience, for residents or anyone who's parking in a



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garage, to have shade for their car or whatever they're parking is on a hot day or a rainy day a big benefit. Speaking only for myself, but I know I'm not alone, I'll often go to the top floor of a parking structure when I'm parking in a parking structure, and I'm more likely to find parking up there. If it's a really hot day or it's raining, I'm much more likely to circle around looking for parking in the lower spots, because I don't want to be exposed to the elements as soon as I get out of my car when I'm driving. If I'm not driving a regular car, I'm on a motorbike, then I definitely want to have covering as well. Again I know I'm not alone in that. Frankly, every time I look at a City of Palo Alto parking lot or parking structure that doesn't have solar above it, I'm frustrated and thinking, "What are we doing? We're supposed to be setting the example as the City of Palo Alto for private businesses and private property owners as well as for other communities to say solar is the future. Renewable energy is the future. Locally generated energy is important both for sustainability reasons and for local resiliency reasons." I think there's a reason why we already decided to move forward with this back in 2014 and again earlier this year on January 25th. Given the fact that these are as low as they can be while pursuing the goal that we asked people to go and do when we put out the RFP, I commend the work that's been done to find that compromise. We said we don't want it to be too tall. This is as low as they can get. We said don't get rid of parking spots because we have a tremendous parking impact problem in Downtown and around California Avenue. This achieves the goals that we asked people to set out to achieve. I think they do that well. I hope this Motion goes forward without too much debate.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I had a few follow-up questions actually. In terms of the lease for the space, those payments don't start until construction starts or are they currently paying?

Brad Eggleston, Public Works Assistant Director: Good evening. Brad Eggleston, Assistant Director of Public Works. The lease payments begin when construction begins. They are not currently occurring.

Council Member DuBois: If there was an ARB review, we're not collecting lease payments while the process drags out?

Mr. Eggleston: It may impact other things but not the lease payments per se.

Council Member DuBois: I had a question for legal on these points that Mr. Borock raised. Why is it appropriate to come to Council now? Are we

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potentially creating a conflict by discussing it if it gets appealed to us in the future?

Ms. Silver: I think there are two different ways for this particular issue to get to Council. One is through the traditional process of Staff making a decision one way or the other, and then having that issue go up to the Council. The second is through an interpretation process. In connection with your recent Code update, you did allow for the Council to weigh in at the early stage of a decision and give an interpretation on Code language or other types of issues. We are following that newly adopted process essentially for getting that early read from the Council. We don't think that this would pose a conflict for the Council. You could actually, if it is run through the process and appealed, you could change your mind. What we're seeking at this stage is an interpretation, your assessment of whether this is a major or minor review, etc.

Council Member DuBois: We're also suggesting that it would not go through the full process. Is that correct?

Ms. Silver: That's one of the questions for you. Do you think that this PC Ordinance should be interpreted to allow for this, is it subject to that interpretation, or you could decide that it cannot be subject to that interpretation and you would recommend that it goes through the complete amendment process.

Mr. Lait: If ARB is your concern, that's another piece to it. Right?

Council Member DuBois: Yes.

Mr. Lait: Is your question about the PC or the ARB or perhaps both?

Council Member DuBois: The ARB.

Mr. Lait: With respect to the ARB, the process is—there is a process in the Code that allows for the Staff to make an administrative determination. That's the minor architectural review. Somebody, anybody could request a hearing before the Architectural Review Board. There's no cost for that. If that's the case, we schedule the hearing before the Architectural Review Board. They make a recommendation. The Director makes a final decision on the ARB. That decision could also be appealed to the City Council. This conversation isn't so much about the substance of the application, the colors, the materials, the placement, so much as it is about process. We're here asking the Council, "Do you believe this is an appropriate Staff-level application?" If so, we would work with the applicant and impose whatever conditions that we felt were necessary to approve it at a Staff level. Or

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procedurally, do you believe this ought to go to the Architectural Review Board? That's information we're seeking because then we would send it down that review process.

Council Member DuBois: You're saying even if we say it's a minor decision that goes to Staff, somebody could still request that it goes to the ARB?

Mr. Lait: Yes. No charge.

Council Member DuBois: Thank you for clarifying that. I just want to say I would like to see the project go forward. I'd also like to see it follow our procedures. I support locally generated solar. I think it's a good project. I am concerned about the aesthetics. I'd like to hear from my colleagues before we vote on why they believe this is a minor change to a PC and does this process follow our ordinances or not. I'm still thinking about that. Either way, I'd like to emphasize that I think we are sticking within our 50-foot height limit. We do have the exception for mechanical and utilities. I think this falls within that exception. In fact, it's not using the whole 15 feet that would be allowed under that exception. To Council Member Filseth's earliest question, I don't think we are creating any kind of precedent that every building in the City can add an additional 10 feet of solar panels. This is very specific to these PC parking garages. Thanks.

Mayor Burt: Council Member Filseth.

Council Member Filseth: Thanks very much. Just a couple of comments here. First of all, I think the Council has generally been favorable in support of this project. Most of the discussion has been around process and policy and how we do this. A couple of observations here. First, I think this highlights a problem with PCs in general. PC s are custom zoning, and they have to be amended. We find ourselves in kind of an odd position here, because it's a lot of trouble to amend a PC. Basically what we're discussing here is can we stretch our definitions a little bit so we can kind of avoid all that trouble with amending a PC. We on Council, our charter is a policy group. To do that kind of thing sort of has a tension between policy and an individual project. I think what it highlights is when we do PCs, we kind of have to be aware of this coming. They have to be amended. In some ways it's a gift that keeps on giving. I think we just need to be aware of that and have consideration for that if we ever start doing more PCs. I think this is a good example of that. The second is again on policy. I think Staff did a good job of framing the project. Thank you very much. I think this is a case in which there were potential policy implications here. Please help us as a Council keep an eye out for these when you can, when these situations

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arise. I appreciate and thank you for having an answer on the precedent question earlier. Thanks.

Mayor Burt: Council Member Holman.

Council Member Holman: Maybe a question and a comment. Someone said earlier—I don't remember who said it. Are these sprinklered? Where—yeah.

Ms. French: Not sprinklered. Our Fire Department is weighing in on the project. They are going through that process right now.

Council Member Holman: That's just not determined yet whether or where, all that? Correct? That's TBD?

Male: (inaudible)

Mayor Burt: I'm sorry. We don't allow spontaneous comments from the audience unless called upon. If you would like, I can call the architect forward to ...

Council Member Holman: I think Staff has answered the question. It's just that the Fire Department hasn't yet determined what or where. Council Member Filseth and I have had this conversation about PCs. I like the comment about the gift that keeps on giving. We have a little bit different perspective about—I think whether these were PC garages or just whatever zoning project, we'd still have to come back and make changes potentially to the project, so we'd still have to go through conditions of approval or project plans or something like that. We'd still have to go through some kind of project approval amendment if we determined they were other than minor. It's a friendly disagreement. Other Council Members have said we're certainly supportive as a Council and, I think, to an individual supportive of the goals of this. I do still have concerns about the visual impact of the Webster Street garage from the University Avenue perspective albeit that some of the tree screening is not shown here, and I recognized that earlier on. Especially I'm concerned about the Florence project, because that's a very narrow street. That structure comes out pretty much all the way to the edge. I just can't imagine that this is going to get built and the public isn't going to go a little "hair standing up" on us for this. The other aspect is like if this was something else, if we'd consider these minor. I can't get there. As supportive as I am of the project goals, I can't consider this minor for these two in particular, but most especially the one that's the Bryant Street garage from the Florence Street view. For myself, I would like to see that one go to the ARB. I also want to make sure that when we take an action, that we don't set a precedent for what the definition or change a definition or change a perspective or change an anticipation of what the Staff is going

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to say, that the Council's like, "This is considered minor, so X, Y or Z other project is going to be considered minor." I don't want any kind of precedent-setting here.

Mayor Burt: I have a few comments. First, I do believe that this qualifies as what's a minor ARB consideration. It basically is considerably less than the permitted 15 feet allowed for mechanical additions. I also want to reiterate comments that others have made. The Council has supported this project by vote. Yet, the issue before us is whether these structures qualify as a minor project and whether they're exempt under CEQA. I believe that they are in both cases. I really want to say that this has been a 2-plus-year project, 2 1/2 years from when we first got going on it. At this point in time, I'm really concerned that sending it through an ARB and potentially reducing what was built into the whole bid based upon an understanding of the area that would be covered is basically a poison pill for the project. I also want to concur that there is a real significant value that has never been quantified, but it is around this value of essentially providing shade and rain protection for the top levels of these garages. Frankly, I'm surprised that the Downtown Assessment District would not readily see that as a clear advantage and a value creation for our garages. It's a value to the City. It's a value to those who use those top floors. Finally, I want to kind of frame this in terms of whether the Council is really able to say what they're for. We oftentimes look at what we're against. I believe that this set of local renewable solar projects is a clear expression of our community values and our commitment to just that, local renewable energy, which is something that Palo Alto has been a leader in and the Council has voted previously to support here and on numerous occasions both the policy program and this particular use of that program. I'm looking forward to us moving forward and at long last going to completion of a project that has basically not been a good example of an efficient Palo Alto process to date. Further delays would even more undermine that. That's my perspective on it. I think we've all commented. Let's vote on the board. That passes unanimously on a 7-0 vote with Vice Mayor Scharff and Council Member Kniss recused. That concludes this item. Thank you, everyone and the public, for participating. We look forward to shade. Sun and shade, yes.

**MOTION PASSED:** 7-0 Kniss, Scharff not participating

Mayor Burt: We'll give it just one more minute for folks to return. Any members of the public who wish to speak, I'd like to request you to come forward and fill out a speaker card at this time. We need to determine how much time we will allocate for each speaker.

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10. Policy and Services Committee Recommends Adoption of an Ordinance Amending the City's Minimum Wage Ordinance to Align With the Santa Clara Cities Association Recommendation to Increase the Minimum Wage to \$15 per Hour in Three Steps: \$12 on 1/1/2017; \$13.50 on 1/1/2018, \$15.00 on 1/1/2019, and a Consumer Price Increase (CPI) Increase After 2019 Indexed to the Bay Area CPI With a 5 Percent Cap and no Exemption.

Vice Mayor Scharff and Council Member Kniss returned to the meeting at 8:56 P.M.

Mayor Burt: Our next item is a Policy and Services Committee recommendation of adoption of an Ordinance amending the City's Minimum Wage Ordinance to align with the Santa Clara County Cities Association's recommendation which is to increase the minimum wage to \$15 per hour in three steps: \$12 on the first of 2017, \$13.50 on the first of the year on 2018, and \$15 on the first of the year in 2019; and then a Consumer Price Index increase after 2019 which would be indexed to the Bay Area Consumer Price Index (CPI) with a five percent cap and no exemptions. Welcome. Mr. Perez, are you kicking this off?

David Ramberg, Administrative Services Assistant Director: Good evening, Mayor and members of the City Council. My name's David Ramberg. I'm the Assistant Director of the Administrative Services Department. I'm going to give you a short presentation to bring the full Council up to speed, and then we'll kick it off to the next step. Let's see. The topics of that presentation are included here on Slide 2. I'll jump straight into it. The first area we want to cover is to bring you up to speed on where we currently are with the Palo Alto minimum wage. This is a reminder and a refresh. Palo Alto minimum wage effective January 1st of 2016 is currently \$11. It's currently scheduled to increase to approximately \$11.10 on January of 2017. That new rate must be announced by October 1st. That can be done via the City's website. The new rate needs to be formally posted by the City on December 1st. This next slide, four, shows you a breakdown of the different minimum wages in sort of the immediate surrounding areas and a couple of other areas. The most recent on this table is Los Altos. Los Altos has adopted the \$15 by 2019 minimum wage that you're hearing about tonight. They have approved a first reading and, from what I could find out, their second reading is going before their City Council tomorrow night. Palo Alto's minimum wage is listed there as well. The proposal tonight that the Policy and Services Committee unanimously forwarded to the full City Council follows the Cities Association of Santa Clara County recommendation, which is known as the \$15 by 2019 minimum wage recommendation as a phased-in approach, as you can see there, \$12 by 2017 and so forth up to \$15 by

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2019. In 2020 it would then increase by the Bay Area CPI. There is a learners exception provided, but that's adopting what's already included in the State minimum wage. There are no other exceptions. City Staff had outreach with representatives of the restaurants in Palo Alto. This outreach followed the Policy and Services Committee meeting. The Policy and Services Committee meeting was on August 16. The outreach with restaurant representatives was on September 16th, a couple of weeks ago. That was at the request of the restaurants to meet with the City. What we've captured here in the next few slides is a collection of ideas and comments that were provided in an open and frank conversation with representatives of the restaurants. These are their ideas that we wanted to capture and pass along to the City Council to make sure that we're fully representing that conversation that took place. Shortly following these slides, Cara Silver from the City Attorney's Office will have some comments on some of the legal points that are brought forward here. The bold text represent kind of the core few areas that seem to resonate to the top of the comments. I'll walk through each of these briefly. The main area that's still prominent for restaurants is wait staff exception, also called a tip credit and also falls into a tiered minimum wage idea as well. One of the supporting ideas that came along with this primary need is the idea of setting up a legal defense fund if the City were to take on legal risk. I think you've heard about that through memos from the City Attorney. I'll leave that one at that for now. The next idea is eliminating the tipped pooling authority. This isn't directly something that the City controls. There is legal precedent that's currently unfolding that also the City Attorney can comment on. We wanted to capture it here, because it did come from the restaurants. There is another idea here that is giving credit for paid employee benefits. This idea is if the restaurants can demonstrate that they're providing paid benefits, they would have a credit on the minimum wage required. Another idea is to slow down the increase in the minimum wage from what the current pace is. The next set of ideas have to do with studying the impact of minimum wage on Palo Alto specifically. There is one study that's provided in your packet, that is the prominent study that was commissioned by the City of San Jose. The University of California Berkeley did a region-wide study on the regional impacts of minimum wage. The idea here would be to do a specific study on the impacts of minimum wage in doing business in Palo Alto. Extend the learner's exception is another idea. State minimum wage allows for a learners exception up to 160 hours. The idea would be to increase that learners exception. The next item here is a City idea. This isn't fully fleshed out yet. We don't really have details on this one yet, but to develop and work with the restaurants and other businesses on a holiday/spring marketing campaign. The next one is—this is a legal one that will be commented on more in a moment. If there are favorable changes to the State Labor Code, that local Ordinance would automatically change. The

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request is to build that sort of trigger automatically into the City Ordinance. The next slide is a few additional comments that came in from some dialog that happened today after that initial set of comments from a week and a half ago. This represents today's add-on comments from the representatives of the restaurant. If the Council decides to move forward with this Ordinance, the request would be for Council to support the industry at the State level in terms of lobbying or representation on some level. This would be tied to any change to the wait staff exemption. Support a tiered system of minimum wage, that includes the concept of total compensation. The final request here is to have Council postpone a vote until a new Council convenes after the election. I'd like to turn it over now to Cara Silver. She's going to provide some additional comments to wrap-up Staff's presentation.

Cara Silver, Senior Assistant City Attorney: Thank you, David. I primarily wanted to provide some brief background on Labor Code 351. As you know, California is one of just a few states that has a State tip credit law. That puts us in a more difficult position in terms of setting up different tiers for tipped employees and non-tipped employees. This is, of course, one of the primary concerns that the restaurant industry has with respect to local minimum wage laws. Labor Code 351 provides that tips belong to the employee. They do not belong to the employer. Employers cannot credit tips against the base pay that is owed to the employee. Courts have found that Labor Code 351 prohibits employers from taking essentially a tip credit against the State minimum wage. It is still an open issue as to whether Labor Code 351 applies to local minimum wages. However, there is some commentary in cases—this commentary is non-binding—suggesting that local minimum wages would be subject to the State Labor Code. We also have a recent Legislative Counsel opinion, which again is not binding. Legislative Counsel opinions can give us a gauge on areas of law that are uncertain or complicated. The Legislative opinion does indicate that they believe that Labor Code 351 does apply to local minimum wages. For this reason, largely because of the legal uncertainty with respect to Labor Code 351, there is no city that has adopted either a tip credit or a tip exception. The restaurant industry has proposed a couple of alternatives as David mentioned in the PowerPoint. In our assessment, we believe that many of these options are very similar to a tip credit. They're called something else. They're called perhaps a tiered minimum wage or an exception for tipped employees. We do believe that it's likely that a court would view those as very similar to the tip credit that is prohibited under Labor Code 351. The other issue that—we did provide some more background to the City Council in a confidential legal memo. The other item that we wanted to talk about is the issue of tip pooling. That was something that came up in our conversation with the restaurants. Unfortunately this is an issue that the City really doesn't control or regulate. What tip pooling is, is something that



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the restaurant industry implemented after local minimum wages went into effect. It allows tips to be pooled among front-of-house employees and back-of-house employees. Just recently a legal decision came down that said that unless you are in the course of serving the table, you're not entitled to receive tips under a tip pooling arrangement. That eliminated the ability of certain back-of-house employees to receive tips under this tip pooling arrangement. The restaurants have found it's another hurdle for them to overcome in this regard. That hits the primary legal issues that we wanted to cover tonight. I'll turn it back to David for the wrap-up.

Mr. Ramberg: The wrap-up really is just reminding the Council of the Policy and Services recommendation and then turn it back to you guys. Thank you.

Mayor Burt: Thank you. Before hearing from the public, do we have any technical questions of Staff? Council Member Wolbach.

Council Member Wolbach: There is mention in the Staff presentation; I've also heard from members of the business community about this question of doing some kind of economic study. I just wanted to have a little bit more clarity about that as far as when that would happen, would that be Palo Alto specific or Santa Clara County specific. Are we thinking after we've gone through all of our ramping up, we're at \$15 an hour, then looking back and saying, "What has the impact of this been?" What's the idea there?

Lalo Perez, Acting City Manager/Chief Financial Officer: Thank you. This was a recent discussion in the outreach. It was not something Staff has proposed to you. We're basically conveying the information. If you want to entertain that, we would have to explore it further as to what kind of firms would be out there, what type of expense, what would be the criteria, what would be the period of measure and what would be the process of disseminating and analyzing that information.

Council Member Wolbach: Looking at Slide 4 of the Staff presentation this evening, it identifies minimum wage increases in neighboring cities. Looking, I think, at the most relevant two neighboring cities—the most relevant cities for Palo Alto are probably Sunnyvale and Mountain View. I just want to make sure I'm clear. It says that both Mountain View and Sunnyvale are going to \$13 an hour on January 1st of this coming year, in three months, and then \$15 an hour by 2018. Do we know when in calendar year 2018 Mountain View and Sunnyvale are going to \$15 an hour? Is that January 1st, December 1st, July 1st? Do we know when during the year?

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Mr. Ramberg: Let me check really quick and see if I can pull that up. I think it's January, but let me confirm.

Council Member Wolbach: Thank you. I think that is it for my technical questions.

Mayor Burt: Council Member Filseth.

Council Member Filseth: Can I ask a question of the Policy and Services Committee at this point?

Mayor Burt: Go right ahead.

Council Member Filseth: We have a couple of options under discussion. One is the Cities Association recommendation, and the other is to follow some other cities. The Policy and Services Committee voted unanimously to follow the Cities Association. I guess I can ask the Chair of the Policy and Services Committee. Can you provide any color on this on why you chose that option? Thank you.

Council Member DuBois: Yeah. Just real quick. I think we had a pretty good debate. We had quite a large crowd; a lot of members of the restaurant industry were there. After some discussion, we were unanimous about not wanting to create exceptions—we talked quite a bit about that—for a lot of reasons, enforcement, legality, being in alignment with surrounding cities. The only disagreement we really had was over the schedule. We were pretty split, and we agreed to vote unanimously for the Cities Association schedule. We also agreed that it would come to Council as an Action Item. Even though it was a unanimous vote, there was still kind of disagreement, I think, over the schedule itself.

Mayor Burt: A follow-up question, go ahead.

Council Member Berman: (inaudible)

Mayor Burt: As a follow-up comment from the Committee?

Council Member Berman: Yes.

Mayor Burt: Sure.

Council Member Berman: Council Member DuBois got it right. I proposed a bit of an accelerated timeframe, which I won't get into at this stage, but I'll mention it in comments. I initially had a colleague in support and then, when it was clear that two other colleagues weren't in support, I lost that second colleague. I didn't want to vote against the Cities Association

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recommendation, because I do support raising the minimum wage to \$15 an hour as quickly as possible. I'd made a Motion to do it faster that didn't have support on Policy and Services (P&S).

Mayor Burt: Does that cover it well enough?

Mr. Ramberg: Mr. Mayor, if I could respond real quick?

Mayor Burt: Yes.

Mr. Ramberg: Council Member Wolbach, the minimum wage in Sunnyvale and Mountain View will increase to \$15 on January 1st, 2018.

Mayor Burt: Thank you. Has Menlo Park taken this up?

Mr. Ramberg: I have not seen that Menlo Park has taken this up formally at least.

Mayor Burt: Thank you. Vice Mayor Scharff.

Vice Mayor Scharff: Thanks. In terms of the taking up, I don't know if you know, but Cupertino passed this very recently. They passed the Cities Association. I think most of the cities except Milpitas and Gilroy are planning on not taking it up, but everyone else said they were. Do you know the status of anywhere else?

Mr. Ramberg: By my check today, I did see the Cupertino—I thought it was to be scheduled. Thank you for confirming that. San Jose is at \$10.30. Palo Alto, Mountain View, Sunnyvale, we talked about. Los Altos we talked about. Cupertino, and I think that's ...

Vice Mayor Scharff: San Jose has represented that they're taking this up and going to move towards the Cities Association.

Mr. Ramberg: I think they have, yeah, but they're still at \$10.30 right now, and I don't believe there's been a decision yet. The rest are at the State minimum wage presently.

Vice Mayor Scharff: Everyone from Santa Clara has represented that they're moving towards the Cities Association. The other question I was going to ask you is—at least at the Cities Association meeting, both Mountain View and Sunnyvale represented that what they were going to do in 2018, after they go to \$15, is amend their Ordinance to not do the CPI increase, so that everyone is at 2019 at the same thing. I didn't see that on there. I don't know if you'd followed up on that or seen anything on that.

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Mr. Ramberg: I have not seen anything on that. I do recall hearing that.

Vice Mayor Scharff: I did briefly want to ask you another technical question. The restaurant organizations have asked that favorable changes made to Labor Code 351, the Ordinance would automatically change. What would that look like if we were to put something in the Ordinance like that? Does that work? How does that go?

Ms. Silver: Our assessment is that you could craft something like that, but it's very difficult to foresee how Labor Code 351 would change. It would say something like if Labor Code 351 were to change to permit a tip credit, then the local Ordinance would allow a tip credit. However, the problem that we have with that is that the Council hasn't had the discussion of how you would want to implement a tip credit. Would it be via just a complete exemption or would it be a tiered wage or some other method? It would be difficult to foresee how that would be implemented. Of course, a subsequent Council could amend that at any time anyway, so I'm not sure that it provides a lot of protection for the restaurant industry.

Vice Mayor Scharff: I guess I was also unclear about extending the learners exemption. We have the authority to do that, I guess?

Ms. Silver: Yes. The learners exemption allows for a lower minimum wage for a period of—I always forget the time period. I think it's 180 days. It's a very short time period. One of the suggestions was to increase that time period for the lower wage. You could do that. That was a suggestion that was discussed at the restaurant meeting that we had. My understanding is that most of the restaurants were not in favor of that. It was just one suggestion.

Vice Mayor Scharff: Maybe you could just flesh out for me—what is the holiday/spring marketing campaign? Is there any effect that we're supposed to put into an Ordinance or is that something that you guys just made do? I wasn't clear.

Mayor Burt: (inaudible) legal question.

Vice Mayor Scharff: Right.

Mr. Ramberg: We really haven't fleshed out any details along those lines. The City Manager's Office has put forward that idea. We represented that as a very high-level notion to the restaurants, but we would need more time to flesh those ideas out.

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Vice Mayor Scharff: Is this something you're looking to put in a Motion or is this something that the City might do anyway? I'm just not sure what you're looking for us to do on that.

Mr. Perez: I believe the City Manager's intent is that he would do it within his own budget allotment. The idea is to help promote this.

Vice Mayor Scharff: I just couldn't remember. We don't need it in a Motion then?

Mr. Perez: No. It was just a notation for you to know that the City Manager is also considering other ways to assist.

Vice Mayor Scharff: Thank you.

Mayor Burt: Before continuing, I just want to let members of the public know that we have a large number of speaker cards. We'll probably be having each speaker have up to two minutes to speak. If you want to craft your comments around that, I wanted to give you forewarning. Council Member Schmid.

Council Member Schmid: A quick question on the Ordinance. On Packet Page 337 there's a section on exemptions. It says school districts are exempt. Is that correct in what you're proposing? Maybe you could give some reason behind that. Page 3 of the Ordinance, Packet Page 337.

Ms. Silver: That was previously in the Ordinance that the Council adopted. That Ordinance does carry forward. There's a distinction there between school district employees who are doing school-related functions and then school district employees who may be doing work that is not related to the school district.

Council Member Schmid: Is that included in the Cities Association recommendation?

Ms. Silver: I don't recall if it's in the City Association. I believe it is in Sunnyvale and Mountain View's, but I can verify.

Council Member Schmid: That's helpful. The next paragraph talks about waiver through collective bargaining. This article may be waived in a bona fide collective bargaining agreement. What does that mean?

Ms. Silver: That is also an exception that does appear in the City Association Ordinance as well as Sunnyvale and Mountain View's Ordinance. If an employer has a collective bargaining agreement, a union agreement,

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that does agree to pay less than the minimum wage, the City would honor that agreement.

Council Member Schmid: Why would any labor union do that? Why ...

Ms. Silver: It might be in exchange for additional medical benefits, the wage would be lower but the benefits would be higher.

Council Member Schmid: It doesn't seem to make any sense to have a law but that a union could negotiate a lower wage. How could that be?

Molly Stump, City Attorney: The reason for the provision is to protect against preemption by Federal labor law. You point out that it seems unlikely that there would be such a collective bargaining agreement that explicitly waived it. It is to allow for other types of compensation structures. I'm not aware of any city with a local minimum wage that actually has waived it due to this exception. As you point it, it would be unusual.

Council Member Schmid: It seems we're preempting the Federal law by having a minimum wage higher than theirs.

Ms. Stump: No, the provision is to honor the Federally required collective bargaining process. If a union were to knowingly and explicitly wish to waive that right on behalf of represented employees, then we as a local government need to not override that federally authorized bargaining process. That's the reason for the provision.

Council Member Schmid: You're implying that we would not run into it in a practical way. Is that right?

Ms. Stump: It seems unlikely.

Council Member Schmid: It's funny to have that as part of our vote.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Sorry, just one other technical question I wanted to ask. Santa Clara County has calculated a living wage for the County, which it uses for paying County employees and County contractors and their employees. I just wanted to check the amount of that. The living wage, I believe it's somewhere between \$20 and \$22 per hour as a living wage for Santa Clara County calculated officially by the County of Santa Clara. Sorry I didn't email this one earlier. I was just wondering if we had access or were able to look that one up at some point during the discussion tonight just as a point of reference.

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Mr. Ramberg: I did a quick search, but let me verify what the result was. I don't want to just put something out there.

Council Member Wolbach: Thanks.

Council Member Kniss: Mr. Mayor, could I just comment back to his question?

Mayor Burt: Go ahead.

Council Member Kniss: I'm pretty sure it's \$19, because I heard a lot about it from Supervisor Chavez. It definitely is that in nonprofits, which Patricia Gardner told me about. Unless they've changed it since ...

Mayor Burt: I just have maybe one question that's kind of a follow-up to some of these others around the discretions that we have and how it might play out for tipped employees. I understand it's pretty clear that the issue on pooling is resolved; that is not something within our discretion. We have discretion to—given that we're acting at well above the State minimum wage, we have discretion to exempt essentially school employees, teens called learners, those under collective bargaining agreements. All those things we can say, "We're going to increase the minimum wage but not for a series of different groups." What is it that is different about tipped employees to say that they aren't similar to these other groups in that we have discretion that we're lifting it for employees with the following exceptions?

Ms. Silver: That's a very good question and observation. Unfortunately, we have Labor Code 351. That really sets that particular issue apart. Labor Code 351 has been held by the courts to say that if you exempt a tipped employee or if you provide a tip credit as to the State minimum wage certainly, that's prohibited.

Mayor Burt: Labor Code 351, does it say—it applies to State minimum wage, right? Does it say anything about applying to minimum wages that are above the State minimum wage? How does it claim purview?

Ms. Silver: It doesn't specifically say State minimum wage. It refers to wages in general. The courts have concluded that wages mean State minimum wage. It's still, as we mentioned, an open issue as to whether wages includes local minimum wage.

Mayor Burt: Thank you. Just this other question about a future study. It was mentioned about a local one. Is there a consideration of a sub-regional one? We have a number of surrounding cities with similar economic

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situations, whether they be Mountain View and Los Altos and Menlo Park or whatever that subset may be. Has there been any discussion about doing this on a sub-regional level?

Mr. Ramberg: I haven't been part of those conversations. I haven't heard of that discussion. To clarify also, the study that was done is in your packet. If you're curious, it's Packet Page 444, the presentation that was presented at the Cities Association of Santa Clara County. Packet Page 447 starts the summary of the study. The study had to do with Santa Clara County. I said regional earlier. I just wanted to be more clear. It's actually Santa Clara County. Thank you.

Mayor Burt: Thank you.

Mr. Ramberg: Mayor, if I could, I'd provide one additional answer to the earlier question from Council Member Wolbach. To concur with what Council Member Kniss recalled, looking at a press release from Santa Clara County in December 9th of 2014. It said that the living wage Ordinance by Santa Clara County was adopted, and it was put at \$19.06 as a living wage in Santa Clara County.

Council Member Wolbach: That's escalated since then from CPI?

Mr. Ramberg: I'm sorry?

Council Member Kniss: (inaudible)

Mr. Ramberg: It does not say that there's an escalating factor there. I can continue to look.

Mayor Burt: Thank you. At this time, we'd like to go members of the public. We have 15 cards, so each member will have up to two minutes to speak. Our first speaker is Robert Moss, to be followed by Paul George. Welcome.

Robert Moss: Thank you, Mayor Burt and Council Members. As you know, the Bay Area has the highest cost of living in the country. Palo Alto's at the top of that expense. While \$15 an hour—a raise of over 36 percent in 3 years—sounds like a lot, it's really a pittance. People can't live on that in this area. I think that's the very least we can do, is raise that wage and make it a little less uncomfortable for people to work here and live here. It appears they're not going to be living here; they'll be living in Tracy or 70-80 miles away and commuting in because you can't afford to live in Palo Alto if that's your only income, that \$12-\$15 an hour. I think it's an appropriate action to take. I think it's going to help some people. It's not going to help a lot of people. It's not going to help them as much as it would be nice to



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do, but it's a step in the right direction. I think you ought to be moving forward on it. Thank you.

Mayor Burt: Thank you. Our next speaker is Paul George, to be followed by Steve Rock.

Paul George: Hi, I'm Paul George, Director of Peninsula Peace and Justice Center. This wasn't in my prepared notes. I was taken a little bit aback by this Staff presentation here. I've been through successful Raise the Wage campaigns in four cities now. The restaurants have fought hard in all those cities. In all those cities, their objections were all taken in public forums. They were never granted a private audience like apparently they've gotten here tonight or this past week. Now you've reduced the public speaking time to two minutes and the restaurants had their public comments incorporated into the Staff Report. It just doesn't seem right to me. I hope that you're going to get a proposal tonight to consider make the target date of the \$15 per hour by July 1st, 2018. Sum up. All right.

Mayor Burt: Thank you. Our next speaker is Steve Rock, to be followed by Galen Fletcher.

Steve Rock: I was listening to the discussion you had about solar panels on the rooftops of the garages. I heard it was consistent with Palo Alto values, even if it cost more than renewable energy from other sources. Palo Alto wanted to be a leader in this field and express its moral feelings about renewable energy this way. Here's another area where Palo Alto can express its moral feelings in something which affects people directly. I think having local minimum wage is much more important than having local renewable power. Renewable power can come from anywhere, but the wages that people get here just come from here. If you examine what you feel is morally important, compare local minimum wage with local solar power. Palo Alto, as people have mentioned, is a very rich place. I think almost everybody here can afford just a little bit more for their cup coffee or their meal. I come from the slums of Palo Alto, and I'm very fortunate to have enough money to be able to pay for a higher cup of coffee or a slightly higher restaurant bill. I think almost everybody in Palo Alto is fortunate that way. We are very lucky. We should make sure that other people in our community have some of that fortunate. We can do it. This started up—I think I was here maybe a year ago or more than a year ago when you started discussing it. We can afford it, \$15 an hour right now. Why delay it so long?

Mayor Burt: Thank you. Our next speaker is Galen Fletcher, to be followed by Tiny Reymers.

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Galen Fletcher: Good evening, Mr. Mayor and Council Members. My name is Galen Fletcher, second generation owner of Sundance The Steakhouse. With full service restaurants, the minimum wage earners make tips, which gives them a good living wage while keeping menu prices competitive. With two-thirds of my staff making tips, this minimum wage increase prevents me from giving raises to the employees that need the money the most, my back-of-house employees. Ironically, raising the menu prices in order to pay for this minimum wage increase will actually result in higher tips, so the front-of-house is actually getting two raises. Raising menu prices to cover this expense of this minimum wage is risky. Going from \$11 to \$15 does not pencil out given our current business model. Add payroll taxes and workers' comp to that number, and now we have a crisis. This will be incredibly inflationary for our guests, and their dining frequency will diminish. This is a perfect storm for bankruptcy and job loss. Family-run businesses like mine are especially vulnerable to this cost-covering panic. Bottom line, it's not economically sustainable. For instance, for every dollar the minimum wage goes up, it's going to cost \$8,000 a month. That's \$96,000 a year just for \$1. The proposed is going to cost me \$385,000 per year. I'm not sure how we're going to come up with that money. The overall business model of a full-service restaurant is at stake. We are headed into unfamiliar territory as an industry with no clear answers on what to do. Jobs will be lost. Hours of operation will change. Traditional restaurants will close. Entry level jobs will vanish. Bottom line, the customer and society lose. Ironically, this drastic rate in which the minimum wage is changing will result in reduced purchasing power for the individuals that this policy is designed to help. Prices will outpace the increased wages for those individuals. A one-size-fits-all does not work when it comes to the restaurant business. I'll wrap it up by saying I'm not against raising the minimum wage for those for its intended benefit. I personally pay my non-tipped employees very well and want to continue to provide income ...

Mayor Burt: Sorry. We have to abide by the two minutes.

Mr. Fletcher: ... opportunities for them. I'm just asking for an exclusion.

Mayor Burt: Thank you. Our next speaker is Tim Reymers, to be followed by Peter Katz. Welcome.

Tim Reymers: Thank you, Mr. Mayor, Council Members. Tim Reymers. My wife and I own the Pampas restaurant. We are investors. We own this restaurant, but we are not active managers of the restaurant. We both work in high tech. The minimum wage that you're talking about we support. I do believe, as was commented just now, the workers in back-of-house, it makes sense to get up to that dollar amount. We do do that through

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bonuses at the end of the year. You talk about the living wage that people have here. We employ over 50 people in that restaurant. Our restaurant is a little different though. We have concerns about Labor Code 351. We have people who work both in back-of-house and front-of-house where they touch the employees all the time, so we are able to tip pool with all of them. The impact on our business by going to \$15 an hour for those people who are already over \$20 an hour, just for those people, is over \$420,000 by the time you finish with this. If you think of that, the back-of-house, fine, we don't have an issue with it. As you raise it to \$15 for all the employees without the total compensation consideration, we're in a position where we have to consider if we renew our lease in two weeks for the next 10 years. We're the largest restaurant in Downtown Palo Alto right now. We don't open for lunch; we're only open for dinner. We're providing compensation to the employees that is well above what you're trying to accomplish because of the tips. We have servers who are close to \$40 an hour now. To get to that point with this increase, we have to consider if it makes sense for us to sign that lease for the next 10 years. Thank you.

Mayor Burt: Thank you. Our next speaker is Peter Katz, to be followed by Michael Ekwall.

Peter Katz: Thank you, Council Members. This is Peter Katz. I own a restaurant in Palo Alto; I own eight other restaurants around the Bay Area including Mountain View, Cupertino, San Mateo, some of the cities that you've talked about. It seems like this dialog keeps coming back to living wage, minimum wage, \$15 an hour by what year. Yet, all of the restaurant input is really being missed. That's not our point. We believe in a living wage and a minimum wage for all of our employees. What we're saying is this monolithic approach to it is not going to benefit the people that deserve to receive the most benefit. In fact, if you look at the conversations that have been going on, we've been asking about a total compensation accommodation, and there's been a lot of reasons why not. What are those reasons? It's not because it's not right, not ethical, not fair. It's because it's too difficult to administer, we're afraid of being sued or there's political pressure from various organizations. Is that Palo Alto? Is that what we stand for here? We're talking about how Palo Alto stood up for progressive rights and reason, and yet we sit back here and listen to all these ministerial reasons, potential—what's the word? False herrings. We don't address the real issues. Palo Alto, one of the reasons it's such a great city is because of all the culture and the dining opportunities. I can guarantee you if this keeps going the way it's going, in two or three years you'll have nothing but really big chains or I don't know what, but it's not going to be the same City. We need to stand up. We need your help to stand up to the State. I do not believe the interpretations of the State Labor Code are valid. They speak

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specifically—I'm not a lawyer. I'm speaking like Donald Trump here. They speak specifically to the State minimum wage. We're not proposing something below the State minimum wage. That's my time. Thank you.

Mayor Burt: Thank you. Michael Ekwall to be followed by Russ Cohen.

Michael Ekwall: Good evening. Thanks for the opportunity. I think I'm probably actually going to go off piece here and leave my prepared remarks aside. I've already heard several different issues that I don't believe are factually correct. First of all, the gentlemen from the Peace and Justice Association seems to be quite upset that the City met with us. However, we reached out to both Peace and Justice, organized labor groups, and they refused to engage us in this discussion, which for us is a very difficult challenge. My thought is we're all trying to support the same people. These are our lowest wage earners that are actually kind of missing the boat because of this policy. Three quick things. First of all, tip pooling is not regulated by the State of California. It's regulated by the Federal government. That decision was just upheld in the Ninth Circuit Court just a few months ago. We have no ability to do tip sharing with our kitchen employees, back-of-house staff. Second thing, as Peter brought up, is Labor Code 351 is a State Labor Code. It doesn't apply to—we don't believe it applies to ordinances in City level. Council Member Schmid brings up a great point. Why are certain groups allowed to have exemptions and create these total compensation models, yet businesses that aren't organized under certain unions are not allowed to do the same. It's kind of a contradictory and I'd say hypocritical way of looking at it. It's not fair. We're asking for your help because, as Peter said, none of us are opposed to raising the minimum wage for our back-of-house staff to \$15. As a matter of fact, most of our people already make over and above that. What happens here is when the minimum wage goes up, it goes to our tipped employees. It just keeps on going in there and taking the money away from the non-tipped employees. Thank you.

Mayor Burt: Thank you. Our next speaker, Russ Cohen, to be followed by Jon Kiya.

Russ Cohen: Russ Cohen, Executive Director of Palo Alto Downtown Business and Professional Association. The Council needs to make an informed decision here. As you have heard and as you will probably hear some more tonight, accelerating the pace of the minimum wage is a complex operation. Whereas, the people that you want to help may not actually be helped by this action. I suggest that the Berkeley and San Jose studies may not align with the findings of a Palo Alto-only study or even, as

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suggested, a sub-regional study. I do emphasize the need for an economic impact or benefit study. I encourage you to do that. Thank you.

Mayor Burt: Thank you. Jon Kiya to be followed by Michael Martin.

Jon Kiya: John Kiya, longtime resident of Palo Alto and a member of the Chamber of Commerce Board of Directors. The world is moving towards a higher minimum wage. The Chamber sees that and understands it. It's important to lift up those minimum wage workers in our City, so we get that. However, there are a few points the Chamber would like Council to consider as you work through this decision process. Number one, as has been mentioned, it's the pace of the increases. We can talk about \$1 here, \$2 there, but you've heard from some of the speakers that it amounts to hundreds of thousands of dollars. When you talk about a \$2 increase at the beginning of this year, which is an unprecedented record increase, and then another \$1 at the end of this year, you're talking about a 33 percent increase in 12 months. The businesses that are impacted the most in our City are the nonprofit organizations, the restaurants and small businesses. You're talking about the ones with the least amount of financial cushion. The Chamber urges the Council to determine the impact of these increases, especially the \$2 increase that happened at the beginning of this year, and to really find out more about what is the cost of doing business here in our City. I don't think we really understand it. We look at Sunnyvale, we look at Mountain View, we look at neighboring cities. The cost of doing business in Palo Alto is not the same as it is in Sunnyvale. I think it's important to recognize that. The Chamber advocates for pushing back the timeline to July. A \$2 increase in January is just too soon. You talk about 3 months. What does that mean? Thank you.

Mayor Burt: Thank you.

Council Member Berman: Can I ask a follow-up?

Mayor Burt: Yes, Council Member ...

Council Member Berman: I'll wait. Sorry.

Mayor Burt: Michael Martin to be followed by Rob Fischer.

Michael Martin: Good evening, Mayor, City Council Members. Thank you for the opportunity to address you. Thank you also for the previous City meetings that we scheduled, allowing your local businesses to address our concerns. I'm a partner with Fleming's Prime Steakhouse and Wine Bar here in Palo Alto. We wholeheartedly, wholeheartedly support a living wage. It's as if Galen actually wrote my notes, because we had the exact—all of us

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have the exact same concerns. Our non-tipped employees, there is not a single non-tipped employee in probably any of the restaurants here that make less than \$15 an hour now. I would venture to say most are north of \$20 an hour. Our tipped employees make double if not triple or more of the \$15 minimum wage. What we're asking for is an incremental exemption for tipped employees. Our business reaction to an increase in cost is to calculate an increase in revenue. An increase in menu prices directly affects increases for tipped employees. It does not affect wages of non-tipped employees. Their wages are affected simply by market wage competition, and that's borne out in the last couple of years. A year ago, the minimum wage was \$9. Moving to \$15 at this pace, a \$6 change over three to four years is \$1/2 million a year for my business. It will not affect or help anybody that lives in Palo Alto. Even our \$15 or \$20 an hour associates do not live in Palo Alto. I would venture to say that the inflationary pressure would even affect a City like Palo Alto with the cost of living here. Thank you.

Mayor Burt: Thank you. Rob Fischer to be followed by Meghan Fraley.

Rob Fischer: Good evening. I think the bottom line for us in the restaurant business is the goal of the increase in the minimum wage is to help the lower wage workers. I know I'm kind of repeating what other people have said. I really would hope that you listen to what we're saying in that having a tip credit will allow restaurants to pay higher wages to the non-tipped employees, those people who are making \$15 an hour. Maybe they can make \$20 an hour with us if we can somehow shift that burden of the wages from the restaurant people to our lower wage workers. Keeping the tipped employees at the State minimum wage and on the State wage increase schedule would help us tremendously to help our lower wage earners. It's really important that people try to understand why we have—I think there's 46 other states in this country that have tip credit. We're making a federal case out of it, saying that it's too hard to administer. I have a hard time understanding how 46 other states can do this. We're not smart enough? I don't get it. When we come up with these reasons why we can't do it, maybe we should look at some reasons why we can do it. Thank you.

Mayor Burt: Thank you. Meghan Fraley to be followed by Elly Matsumura.

Meghan Fraley: Hi, thank you. My name's Meghan Fraley. I'm the Clinical Director of the Community Center for Health and Wellness, which is a counseling center here in Palo Alto. I've also been working with the Raise the Wage coalition for the past almost two, three years now. In particular, I've been really grateful to collaborate, as a Mountain View resident, with Palo Alto and Sunnyvale. I know the Staff has been working really hard for

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a number of years on taking leadership so that this could become regional. I want to thank you for taking that leadership when it wasn't as popular of a thing to do. Now it's happening. It was pretty incredible to see at the Cities Association all of the folks there come together, saying it's important that we do a clean 15 and have a model Ordinance that's easy to replicate, so we can all stand together. I see every day at the counseling center that there are working families that are deeply impacted and would be impacted by \$15 by 2018 versus 2019. It is very real for kids that are sleeping in their cars with parents working 60, 80-hour weeks. I think we all know it's rationale. We looked at the research. It was pretty incredible. I hope tonight that you'll join Cupertino, Sunnyvale—you took the leadership in the first place—Mountain View, Los Altos with a clean \$15, no exemptions. \$15 by 2018 would help a lot of kids and families that really, really need the help. Thank you.

Mayor Burt: Elly Matsumura to be followed by Jessica Lyman.

Elly Matsumura: Thank you. Elly Matsumura with Silicon Valley Rising. We are a campaign to inspire the tech industry in the region to build an inclusive middle class. I want to applaud the Palo Alto City Council for taking up this important issue. We, I think, all have heard the many stories about minimum wage employees such as fast food workers who are stacked up, multiple families, eight people living in a two-bedroom house, who are literally working at fast food restaurants while themselves skipping meals to save money. When we are looking at a \$15 minimum wage—if you go on Craigslist and look at what jobs are currently under \$15 an hour, you're not just looking at fast food employees. You're looking at early childhood educators, you're looking at security officers, you're looking at accounting assistants. We really do start to talk about how do we begin to rebuild and shore up our middle class in this region on the basic principle that people who work hard and play by the rules deserve to earn a fair wage. It's not just a moral issue; it really is an economic issue. We've seen by the research what an economic boon to this region increasing the minimum wage can be for the simple reason that minimum wage workers spend that money right here in their own communities at the restaurants, at the grocery stores, at the gas stations, creating a growth in the economy that, if we adopt this region wide, will be \$314 million per year in this county and the surrounding counties. I hope that's one of the reasons that the research demonstrated that employers support it in large majorities. They also stated they support it because they recognize the high cost of living, and they stated that it's not something they'll respond to by leaving. If you look again at the research, it shows price increases of between 0.3 percent to 2.9 percent. Why? Because raising wages decreases turnover. Raising wages

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increases productivity. Raising wages again brings back money to the businesses that pay it. Thank you.

Mayor Burt: Thank you. Jessica Lyman to be followed by Tim Stannard.

Jessica Lynam: Mayor and members of the Council, Jessica Lynam on behalf of the California Restaurant Association, the Palo Alto members. This evening I'm here to express our concerns over such a high increase in a very short amount of time. As I've previously testified, restaurants within this community are receiving a four percent profit margin. It's very thin and a very volatile community here within Palo Alto, even though the prosperity seems great. You may have forgotten, but the City just instituted 9 months ago a \$2 minimum wage increase. Walking the streets of Downtown and Cal. Ave. today, shock waves are still being felt. These are true stories that I've heard just this afternoon. Tonight my members ask the Council to think progressively and address the fact that not all businesses are the same nor are all employees. Please avoid the unintended consequences of a blanket minimum wage and include incentives to allow businesses to adapt to these proposals. Extend the rate of the minimum wage timeline to July. The City of San Francisco has a July implementation date, and it's not uncommon. Allow for a tiered rate for tipped employees or just tiered rate in general. Several other various cities have this, and it is not against Labor Code 351, because you are not including tips. 351 simply addresses tips; we're not trying to address that by including both of them into one proposal. Sorry, I got all confused there. Nonetheless, we just really would like the Council to continue with the State's 160 hours of the 85 percent minimum wage. It's really just to allow my restaurateurs to continue employing youth. To further point out Council Member Burt's comments, there are a lot of inconsistencies regionally with allowing collective bargaining and not allowing collective bargaining for some cities. There is no clean 15 approach currently with the county. I would just like to further that going forward. Thank you.

Mayor Burt: I have one more speaker card, but we won't be accepting more cards after this time. Our next speaker is Tim Stannard, to be followed by Alice Smith.

Tim Stannard: Thank you very much. I'm Tim Stannard. I own the Mayfield Bakery in the Town and Country Center. I just wanted to start by pointing out what I think is the sole silver lining here. It's that everybody in the room agrees \$15 an hour is a good wage. In fact, the restaurant community thinks that \$15 an hour may not be enough. We'd like to see \$15 an hour be the minimum wage for everybody. What we don't want to see is \$46 an hour be the minimum wage. What you have to remember



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when you're dealing with restaurants is they're a unique hybrid business, where kitchen employees, dishwashers, prep cooks, line cooks are typically paid \$15, \$16, \$17, \$18 an hour already. Whereas, dining room staff are paid minimum wage plus tips. In my restaurants, that's typically \$40 to \$65 an hour they make. When you enact a raise in minimum wage, none of that goes to the least paid people in the business. Those people are already over the minimum wage. The only people that receive raises in that situation are the dining room staff that are already making \$75,000, \$80,000, \$90,000 a year. While you're attempting to do something beneficial, you're actually, unintended consequences, punishing the least paid people in the business. There will be no raise for them. Any raises that we have available for them are now given to people that are already making too much money or more money. What we'd like to ask is that the Council take all of the information into effect. It's my understanding that the Council's responsibility is to represent all of the constituencies and make informed decisions about how these changes that they're voting for may impact everybody. It's clear without that study there's an uninformed decision that's going to be made. We're just asking to take some time, make a study, understand the impacts that's going to have on the businesses and on Palo Alto as a community before you take a vote to increase wages for, in restaurant cases, people that may actually not benefit from them. Thanks very much.

Mayor Burt: Thank you. Alice Smith to be followed by Stephanie Munoz.

Alice Smith: I'm glad I have an opportunity to talk about wages in Palo Alto where there are many people who are underpaid. The first thing is I'm totally against tips. I want you to know that I lived in Europe for 22 years. Tips have gone out. You pay a living wage, and everybody gets taxed on their living wage unless your name is Donald Trump. The first thing I want is to urge you to do something different. Think outside the box. What I'd like you to do is to make certain that everybody who works in Palo Alto has a living wage. \$15 an hour is not a living wage; however, I'm perfect willing to have it be gradual. I'd like to have everybody have \$15 by 1/1/18, just like some of our sister cities. The second thing I want to do is to make sure that there are no exceptions. Learners, what makes a learner any less important than somebody who's worked for two years or three years? Third, I listened as I drove here from my other meeting. I apologize for my appearance. I don't understand the Staff Report. I want to make sure that the City leaders here stand up for what's important for the people who work here. The people who work here are just as important as the people who own businesses here. Thank you very much, and I certainly hope that you will have a living wage soon and certainly a minimum wage and the sooner the better.

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Mayor Burt: Thank you. Stephanie Munoz to be followed by our final speaker, VJ Mohan.

Stephanie Munoz: Good evening again, Mayor Burt and City Council. I don't get much satisfaction out of this comment. It seems to me that this discussion is like those restaurant reviews in the newspaper that say this place is a great place to go on a date, this place is for a special occasion, this place is a good place to go if somebody else is paying. The lowest paid workers do not get enough. That's agreed. It's not the people are paying them the small amount that we should look to. We should look to the society. We should look to ourselves. We take taxes from those people. We use those people for necessary jobs, and yet we don't give them their money's worth. This is a country that doesn't have health insurance even for babies, babies who have no choice about coming into this world. This is a country in which Presidential Candidate Sanders said everybody should get a free college education, taxes pay for it. No, no, no. It is to ourselves that we should look to give a floor underneath every single person. Everybody should have some place out of the rain to sleep to begin with. People shouldn't be told that they can't sleep in their cars. People shouldn't be told that their belongings, their blanket, can be taken away from the City park because there's no place to leave it. That's wrong, wrong, wrong. Look to ourselves. Thank you.

Mayor Burt: Our final speaker, VJ Mohan. Welcome.

VJ Mohan: Thank you. As a Palo Alto resident for the last 30 years and some, I'm quite disappointed with our restaurant owners. I've lived here (inaudible) or local restaurants. Here they stand griping so much to give \$15 to their employees. I'm pretty disappointed with you guys. Seriously. They're talking about tips versus wages. Do they know the difference between wage and tip? A wage is between an employer and an employee. A tip is between a customer and somebody who served them. What I give to the employee has nothing to do with you, nothing to do with the owner. You pay for their work, and I pay for their service. Mixing of the two just does not make sense. It's a minimum wage proposition; it's about a wage between you and your employee. All these crocodile tears about supporting minimum wage for the backroom employees, why weren't you paying that before if you're so for a living wage for the backroom workers? The schedule, we should have been paying this \$15 way back when. The earlier we do it the better. I hope we go to living wages pretty soon. I'm all for moving to \$15 by 2018. Thank you.

Mayor Burt: Thank you. We'll return to the Council for discussion and motions. Council Member DuBois.

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Council Member DuBois: I just want to say—again, I think a lot of people here have said it—I support the \$15 an hour wage as being closer to a living wage. I do think we need to balance the ability of our smaller businesses to absorb wage increases by spreading it over a number of years. I also see a lot of value with us being aligned with most of the cities on the Peninsula. Personally, I support the Cities Association's schedule. I think we need to continue to look at ease of enforcement, which we haven't really talked about tonight. It was a big issue that we've discussed in the past. I do support some of these ideas, having the City kind of market the wage increases to help educate the public before the increases come. I'm open to committing to update our local Ordinance if something changes with Labor Code 351. I'm also open to the idea of the City supporting advocating for change at the State level. I imagine we're going to have some conversation, but I'd like to go ahead and make the Staff Motion, which was the Policy and Services Motion.

Council Member Kniss: Do you want a second yet or wait?

Council Member DuBois: I actually was going to have two additions. With the addition that we would commit to update our local Ordinance if Labor Code 351 changes to allow exclusion of tipped workers. Secondly, that the City will support advocating for change at the State level to consider excluding tipped wages.

Council Member Kniss: I did one second. I can do a second, second.

Council Member DuBois: That's it.

**MOTION:** Council Member DuBois moved, seconded by Council Member Kniss to adopt an Ordinance amending the City's Minimum Wage Ordinance to align with the Cities Association recommendation to increase the minimum wage to \$15.00 per hour in three steps: \$12.00 on January 1, 2017; \$13.50 on January 1, 2018, \$15.00 on January 1, 2019, and a Consumer Price Index (CPI) increase after 2019 indexed to the Bay Area CPI with a 5 percent cap and no exemptions and commit to updating the City's Ordinance to exclude tipped employees if Labor Code Section 351 is updated to allow this exemption and the City will support advocating for this exemption at the state level.

Council Member DuBois: Just to speak to these two additions. I'm not advocating that we automatically update our Ordinance, but that it would come back if there was a change. We do have lobbyists at the State level, so I think we could have those lobbyists support changes that would handle tipped workers.

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Mayor Burt: Council Member Kniss.

Council Member Kniss: I support this strongly, and it is time for us to do this. At the same time, just to express in public that it's frustrating to work with the State, one of the few states in the country that doesn't differentiate between the front and the back of the restaurant. I said this in our meeting as well. I worked my way through college doing this. We always shared our tips way back then. I think we actually spent a couple of hours discussing this at Committee. We very carefully looked at what the Cities Association had done. I think it's very regional in its nature and important that it's regional. I'm troubled that we would depart too much from that. I'm glad that, Tom, you added what you did to this. Basically, I think it takes us where we said we would go, which is we finally get—you've got a sign over here that says \$15 by '18. I think we're going a bit higher than that. I think that we've taken this to another level. I think that's very important. As I said, I still realize that when the restaurants come and talk to us, they have a valid issue.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: First, let me say I really appreciate all the work that Staff's done on this. You've done a tremendous amount of research, put together a great presentation, come back to us repeatedly, even answered questions on the fly, which I really appreciate. I also want to thank everybody from business and also from the community, whether regionally or mostly from Palo Alto, both Palo Alto residents who are concerned about this issue and those who own, operate and manage Palo Alto businesses, most of which I enjoy frequenting. Just personally, selfishly, I sure don't want to see you guys go out of business, because I enjoy dining at your establishments. There are a few things that were mentioned that I think are worth addressing and relevant to this Motion. This question of tip credit, tipped employees and this idea that we should automatically change our Code if the State law changes and that we should advocate through our lobbyist to the State of California to change the State law. There's a claim made that—I think we've heard it a lot—the reason Palo Alto is not in favor of differentiating between tipped employees or going for total compensation is that we're scared of a lawsuit, we're scared somebody is going to sue us or it's an administrative burden. I actually reject that. I actually agree with the State law. I think the State law is a good one. I'm glad that California is a leader, and we are not following the national trend. The reason for that is perhaps a philosophical one, but it really comes down to the question of what is the nature of a tip. Is a tip considered part of the compensation from the employer to the employee? I don't share that view. A tip is a transaction between the customer and the

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employee or the wait staff. That is their own transaction they're able to make. That's why you can't force them to share with the back-of-house. I've worked in back-of-house; I've been a dishwasher. I was lucky enough to get tipped out whatever the wait staff was able to or willing to. That's their call because they have the relationship—as service staff they have a relationship with the customer. The tip is the customer's way of thanking them for serving them well, being the person who's got their back talking to the chef or whatever it is, depending on whatever the service might be. Remember, tips aren't just about restaurants where you're sitting down, you're there for a long time. You can go into a lot of cafes, and you see a tip jar right there. People don't always tips 20 percent when you go into Starbucks or something like that. That raises one of my several concerns with this also. I have to be honest. I really think this opens up a huge loophole. I understand the concerns that were raised by the business community. I do. I don't agree with the philosophical approach and understanding of what a tip is about. I'm also very concerned that if we were to change the State law—if we were to advocate for changing the State law, we'd be opening up a huge loophole, a loophole you could fly a jumbo jet through. Any business could put out a tip jar, say that the people who are interacting with the customer are tipped employees, and then they're exempt from the minimum wage, whatever people put in that jar or not. I do not support an automatic change in our local law. I do not support changing at the State level. I would like to see that removed. I'll get to hopefully friendly amendments in a moment. I'm also concerned about the timeline here. I actually have two things I'm concerned about with the timeline. I think they're both compromises. I think that we should go—I think we should push back the first time. I think that January 1st is right around the corner. I know we said in our existing Ordinance that we would make announcements on October 1st, but I do think that January 1st is really soon. I'd be open to seeing that next increase, whatever it is, pushed back to April 1st. I'm also interested in seeing us move up the final step to \$15. I'll be proposing those as friendly amendments in just a second. I do want to speak to this which is Palo Alto set a goal. We have it in writing, and we set a goal of \$15 by '18. That implied January 1st, 2018. Mountain View is going to \$15 January 1st 2018. Sunnyvale is going to \$15 on January 1st, 2018. I'm open to the compromise of start of the Fiscal Year, July 1st, 2018. I think that's a compromise for those of us who are committed to January 1st and have put Palo Alto as a leader, calling for that, setting a goal of that. That is a hard pill to swallow, pushing it back 6 months. It would be six months faster than what's proposed here. I think the Cities Association recommendations are great as a minimum. Palo Alto, from our Colleagues Memo, to passing it, to having an Ordinance that went into effect starting this year is setting a goal last year of \$15 by '18. We set

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a standard that we didn't want to just be a follower in the county. I'd like to offer a couple of friendly amendments. The first is to ...

Council Member DuBois: (inaudible)

Council Member Wolbach: I'll offer a substitute Motion, which would be to move the Staff recommendation with the following changes. It basically would just change the dates. The first date would change to 4/1/2017. The third date would be 7/1/2018. That would not include the—after exceptions, where it says, the third to last line, "and commit to updating," starting with the word "and," before "and commit to updating," that would all be stricken, because that was not part of the Staff recommendation. That's the Motion.

Council Member Berman: I'll second it.

**SUBSTITUTE MOTION:** Council Member Wolbach moved, seconded by Council Member Berman to adopt an Ordinance amending the City's Minimum Wage Ordinance to increase the minimum wage to \$15.00 per hour in three steps: \$12.00 on April 1, 2017; \$13.50 on January 1, 2018, \$15.00 on July 1, 2018, and a Consumer Price Index (CPI) increase after 2019 indexed to the Bay Area CPI with a 5 percent cap and no exemptions.

Mayor Burt: Did you need to speak further to it?

Council Member Wolbach: Yeah. I'll also say that I'm open to suggestions, if anybody wants to make friendly amendments, to explore doing either a local Citywide study or in conjunction with other neighboring cities or the County to do more studies as this moves forward to look back, say, in 2018 or 2019 and see what has the impact been. I've heard a request for that from the restaurateurs. I think they're concerned that this is going to have a strongly negative impact on our economy. I actually think it's going to have a positive impact. I think both views will benefit from having good data in a couple of years. I'd be open to that being included. If we don't include it tonight, I think it's a discussion we should have moving forward. I'll also reiterate that we've heard some discussion even from restaurateurs about a living wage. Living wage in Palo Alto—actually for Santa Clara County, I believe, is now over \$20 an hour. In 2014, it was \$19.06. It's gone up on an annual basis. I think there's a cap of an increase of three percent. It's gone up, so I believe it's now \$20.14 as the Countywide living wage. A couple of years ago before I was elected, in a very public forum, the League of Women Voters forum, we were all asked—everybody who was running for office here in 2014 was asked would you support a \$15 minimum wage. Everybody said yes except for myself. I said we should go for \$20. For me, \$15 is in itself a tremendous compromise. That's what I think this Motion is. It compromises on three things. One, it's not a living wage.

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Two, it pushes back the next increase until April to give a little more time for businesses to get ready for the next increase. Third, it pushes back the final time from what we had originally envisioned and stated as a goal as a Council of January 1st.

Mayor Burt: Before having Council Member Berman speak to his second, I just want colleagues to know I cleared the board. If anyone wants to speak to the substitute, they need to hit their light again. Council Member Berman.

Council Member Berman: There seem to be a whole host of issues kind of wrapped up in this one big issue. I'll try to talk about each one sequentially. The first is how quickly we get to \$15 an hour. The City Council passed a Motion a year ago saying that our goal would be to get to \$15 an hour by 2018. We did that because Sunnyvale and Mountain View and, I think, one or two other cities had passed not goals of getting there but had passed steps to get to \$15 an hour by 2018. We said these are some regional cities. We want to come up with a regional approach to the minimum wage so that it doesn't have disproportional impacts on our business community. Let's figure out how to get to this goal of \$15 an hour by 2018. Now that there's another option, we seem to be wanting to gravitate to that and kind of finding comfort in the floor, finding comfort in the slowest option. I'm just not sure why that would be our approach. Mountain View and Sunnyvale—Mountain View is a neighboring city, and Sunnyvale's right next to that—are two of the bigger cities in Santa Clara County. They've already set \$15 an hour by January 1st. I agree with Council Member Wolbach's approach here of (a) pushing back the next increase. I wish we'd had this conversation earlier so that our business community could have had more time to adapt. I think it's good to give them until April 1st to set the increase. I would have actually set higher increases. I was thinking \$12.50 by April 1st and \$14 by January 1st, 2018. I can go along with this. Hopefully it's a compromise. We get to \$15 an hour not by what Mountain View and Sunnyvale are doing and not by what the Cities Association is proposing, but by what's right for Palo Alto, which is we started the increases earlier than Morgan Hill and Cupertino and other cities. We can get to the goal faster than those cities also. We didn't start as fast as Mountain View and Sunnyvale, so we shouldn't get there as fast as Mountain View and Sunnyvale. This is getting to \$15 by what's right for Palo Alto, which is in the middle of what those other groups of cities are doing. Then, we're all at the same place, which is the goal of a regional minimum wage. By January 1st of 2019, we would all be at the same place. We would not implement the CPI increase on January 1st of 2019. All the cities hopefully in Santa Clara County and hopefully San Mateo County get to that same place of \$15 an hour at the latest by January 1st, 2019. It doesn't all have

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to be on January 1st, 2019, but it should be at the latest January 1st, 2019. I think this is really a kind of middle-of-the-road, kind of what's best for Palo Alto approach to getting to that goal of \$15 an hour by 2018. I know that there are concerns about how quick the increases are. Sunnyvale is going from \$11 an hour to \$15 an hour in 18 months. They were \$11 an hour as of July 1st, 2016, and they're going to be \$15 an hour by January 1st, 2018. This gets us to \$15 an hour—it closes that gap from \$11 an hour to \$15 an hour in 30 months. It's almost twice as long for the business community to be able to adapt to these increases that are happening cross the region anyhow. That takes the timeliness issue, the schedule—those are my thoughts on that. We've heard a lot from some of the best restaurants we have in Palo Alto and some of the nicest restaurants we have in Palo Alto and some of the restaurants that I love going to on special occasions. We haven't heard at all from a lot of the other restaurants in Palo Alto. I don't know what the situation is in those restaurants. I don't know what the salad maker at Pluto's makes. I don't know what the pizza maker at Pizza My Heart makes. I don't know what the cashier at CVS or the stock boy at the grocery store makes. I think we should make sure that we're not making decisions on the minimum wage based on just the best restaurants in our town. I think that clearly they have a different situation that is impacted by State law. I think it's important that—I'll get to that aspect of this in a second. Let's take into account larger than just the high end of one industry in our community when we're deciding what the right minimum wage for Palo Alto is. Speaking of the tips exemption, I think Council Member Wolbach was actually very—eloquent is too nice of a word. You made good points on your concerns. I don't know what impact changing State law would have, because we haven't looked into it at all. Going back to Pizza My Heart or Prolific Oven, where I love to go and get a salad, I always tip them \$1 when I pick up a salad, but I don't know how much they really make in tips. I don't know how they'd be impacted if they were exempted from the tipped worker exemption. We haven't had that analysis. We haven't heard from all different sides about how a tipped worker exemption would impact not the waiters at the best restaurants in town, but how it would impact the pizza boy at Pizza My Heart or the person that makes my salad at Prolific Oven. They don't take tips at Pluto's, so I can't include them in this. What I would propose as a friendly amendment to the maker is to add onto the end "and have the Policy and Services Committee evaluate the idea of a tipped worker exemption and whether or not to advocate for that in Sacramento," so that we can actually have a conversation about it with all the different parties that would be impacted and get a better understanding of how that change in law would impact different people that work in different food establishments. We've heard from one side, but there are a lot of different instances where this would impact workers. It's something that I want to



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know more about, but it has to be in a thoughtful way with people from all different restaurants involved.

Council Member Wolbach: In the spirit of compromise, again I will accept that friendly amendment.

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Substitute Motion, "and direct the Policy and Services Committee to evaluate the concept of a tipped worker exemption and the impacts of advocating for this concept in Sacramento."

Council Member Berman: Thank you. Let me just check real quick and make sure I've ...

Mayor Burt: These are long comments on Motions. Let me just say.

Council Member Berman: So many thoughts, but I'll keep them to myself for now. Thank you.

Mayor Burt: Before continuing, on the substitute Motion, Council Member Wolbach, does this accurately capture what you intended? It seems to state that the Cities Association recommendation is as you have described here.

Council Member Wolbach: Thank you for pointing that out. Starting the third line with the word "to" and going through the word "recommendation" on the fourth line, all that can be scratched. Where it says "to align with the Cities Association," scratch all that. Actually earlier in that line, the last word to strike would be the word "recommendation." Thank you for pointing that out.

Mayor Burt: I want to encourage everybody to be as succinct as possible. Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. I have a lot of problems actually with both Motions. First of all, I think the overarching goal is to get all the cities in Santa Clara and hopefully some in San Mateo all on the same page. The Cities Association Motion does that, and so does yours. I'm glad that at least that overarching goal is met. I'll start with a couple of things. I thought the amendment that was just made was a mistake. We expect you to be in Sacramento, so you can take it up on your own. I see it as very, very unlikely that this is going to get a lot of traction in Sacramento. I'm hesitant to commit to spending time on this in Policy and Services. Really, I have to sit through a couple more meetings on this issue after we passed it. I'm sort of offended a little bit by that. I thought it was unfortunate. I don't

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want to do that. I also think that the notion of updating our City Ordinance if Labor Code Section 351 is changed—I don't think we should be committing to updating. You may have meant that. I think what we should do is we should have ...

Mayor Burt: I'm sorry. Vice Mayor Scharff, we need to focus on the Substitute Motion.

Vice Mayor Scharff: I can focus on that then. I think on the Substitute Motion I would like to make an Amendment to the Substitute Motion. I would like to move that we put back the lines with the Cities Association recommendation—put the Cities Association recommendation numbers back into it and take out the Policy and Services evaluate the concept of a tipped worker exemption.

Council Member Wolbach: I won't accept that Amendment.

Mayor Burt: Doesn't that just turn it largely into the initial Motion?

Vice Mayor Scharff: Yeah, but you didn't want me to discuss what I think is wrong with the initial Motion.

Mayor Burt: We're going to have an opportunity after we ...

Vice Mayor Scharff: No ...

Mayor Burt: Just a second. The Chair is speaking here. We have a Substitute Motion. We address the Substitute Motion, and we'll vote on it, and then we'll return to the main Motion. That's how we work. Council Member Holman.

Council Member Holman: I will be brief. I don't support the Substitute Motion, and here's why. It's like as much as—anybody at this dais and anybody who knows me well should know that I'm sensitive to and concerned about people's ability to put a roof over their heads and survive in a community. I'm also very supportive of local independent businesses especially, but businesses in this community. I think this is a situation where we have good versus good in a way. In talking to local businesses and not just restaurateurs, many of them talk about how small hits to their businesses really jeopardize their ability to succeed and continue. I think the original Motion—I'm not going to speak to the original Motion—is addressing that in ways that the Substitute Motion is not. It's not sensitive to the phasing in as needed. I think it's important to understand that. I look at the restaurant businesses as theaters in a way. The wait staff are like the actors, but then the back-of-house are the people who run the lights

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and the sound and stuff like that. If the total pool of money that's expended by a restaurant can't be on their own initiation shared with the back-of-house staff, the light and sound crews, then we're hurting them. I can't support the Substitute Motion.

Mayor Burt: Council Member Schmid.

Council Member Schmid: Just briefly, I think what we're talking about is very important. I agree with the comments just made. I think it is important also that there be time to adapt to an important change. I thought the discussion that took place in the Policy and Services Committee was effective in making that point, that we're doing this not just by ourselves but as part of a regional movement in association with the Cities Association. I would vote against the substitute Motion.

Mayor Burt: I will reserve most of my comments until and if we return to the main Motion, except to say that I think we need to be as conscious as possible about what are the intended outcomes that we were seeking from the outset from this initiative and what unintended consequences may occur that we have to try to understand and address. I will not be supporting the substitute Motion. Please vote on the board. That fails on a 7-2 vote with Council Members Wolbach and Berman voting yes.

**SUBSTITUTE MOTION AS AMENDED RESTATED:** Council Member Wolbach moved, seconded by Council Member Berman to adopt an Ordinance amending the City's Minimum Wage Ordinance to increase the minimum wage to \$15.00 per hour in three steps: \$12.00 on April 1, 2017; \$13.50 on January 1, 2018, \$15.00 on July 1, 2018, and a Consumer Price Index (CPI) increase after 2019 indexed to the Bay Area CPI with a 5 percent cap and no exemptions and direct the Policy and Services Committee to evaluate the concept of a tipped worker exemption and the impacts of advocating for this concept in Sacramento.

**SUBSTITUTE MOTION AS AMENDED FAILED:** 2-7 Berman, Wolbach, yes

**MOTION RESTATED:** Council Member DuBois moved, seconded by Council Member Kniss to adopt an Ordinance amending the City's Minimum Wage Ordinance to align with the Cities Association recommendation to increase the minimum wage to \$15.00 per hour in three steps: \$12.00 on January 1, 2017; \$13.50 on January 1, 2018, \$15.00 on January 1, 2019, and a Consumer Price Index (CPI) increase after 2019 indexed to the Bay Area CPI with a 5 percent cap and no exemptions and commit to updating the City's Ordinance to exclude tipped employees if Labor Code Section 351 is updated to allow this exemption and the City will support advocating for this exemption at the state level.

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Mayor Burt: We now return to the main Motion. Vice Mayor Scharff.

Vice Mayor Scharff: I'd ask the maker of the Motion whether or not they'd be willing to take out the part that says "commit to updating," which would just say "to evaluate."

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to replace in the Motion, "commit to" with "evaluate."

Vice Mayor Scharff: I'd ask if you'd remove—let me speak to it briefly. We ask our lobbyist to lobby on a lot of stuff. There are times when things are before the Legislature that it's a good time to lobby. To lobby on this as a general rule and advocate for it, I think that should go to Policy and Services if that opportunity comes up to talk about it. There may be different ways to look at it, to repeal it or not repeal it. There may be—Cory actually raised a bunch of issues about how you would structure it in terms of tip jars and that kind of stuff. I think to just advocate—I don't think we really know what we're advocating for. If that doesn't come up early enough in the process, I don't think we would know what we're advocating for.

Council Member DuBois: What are you proposing?

Vice Mayor Scharff: I'm actually just proposing that we take that part out, frankly, in terms of having our lobbyist advocate for it. I don't mind if we trigger it, and it comes to Policy and Services if something is going to happen in Sacramento.

Ms. Stump: Point of information, Council Members. Upcoming in the next month or so in Policy and Services, before the end of the year, is the regular update to the Legislative Priorities. This might be a time when that topic could be discussed by the Committee in the ordinary course of considering the legislative approach.

Council Member DuBois: Why don't we change this to (inaudible) consider adding it to the list (inaudible)?

Vice Mayor Scharff: That's fine.

Council Member Kniss: (inaudible)

Council Member DuBois: Building on what the City Attorney said, that we would change this to "will consider adding it to the list of issues at the Policy and Services meeting."

Council Member Kniss: As the seconder, I think it's a good idea.

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**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to replace in the Motion, "the City will support advocating for this exemption at the state level" with "add this to the list of topics for the Policy and Services Committee to consider when reviewing the Legislative Policy Program."

Vice Mayor Scharff: I just briefly wanted to again agree with my colleagues who have spoken on this. Giving more time to get there is actually a better thing for the restaurants. I'm hearing how much this will actually cost them to be able to adapt to it. I think that's an important thing. I think it's better to do this and go earlier. Thanks.

Mayor Burt: I have a requested modification to the language. Where it says "to exclude tipped employees," I think it really would be better to say "how best to address the issue of tipped employees." We don't know all the nuances of this.

Council Member DuBois: (inaudible)

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to replace in the Motion, "exclude" with "best address the issue of."

Male: (inaudible)

Mayor Burt: That's all right. You can give me a demerit on the language. Council Member Schmid.

Council Member Schmid: I like the pacing of this much better. It is still striking where after five percent cap it says and no exemptions. It seems very clear, but the next word is "and evaluate an exemption for tipped employees." It sort of takes away the force of the "no exemptions." I guess I'm concerned about the tipped employees issue. It makes up only 5-10 percent of those who would be affected by the minimum wage. Maybe the best way of dealing with it is this notion of having publicity with the City and the restaurant owners saying, "Tips aren't for your experience at the restaurant. They're just going to the serving staff." I always think of a tip—when you go into a restaurant, you're paying for the atmosphere, cleanliness, the food preparation, buying the food, making the menu. It's the whole thing that you're tipping. Somehow or other it gets focused on the one dynamic of the server. I'm willing to go along with the evaluate, updating, but maybe that evaluation would also include is there a publicity campaign that would make it clearer to people going into a restaurant what the tips are for or how to use the tips in a different way.

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Mayor Burt: Council Member Holman.

Council Member Holman: I think I just accidentally bumped it.

Mayor Burt: Council Member Berman.

Council Member Berman: We're moving the first increase up three months, and we're moving the last increase back 6 months. I'm still glad that we're moving in this direction. I'm happy to support the Motion.

**MOTION RESTATED:** Council Member DuBois moved, seconded by Council Member Kniss to adopt an Ordinance amending the City's Minimum Wage ordinance to align with the Cities Association recommendation to increase the minimum wage to \$15.00 per hour in three steps: \$12.00 on January 1, 2017; \$13.50 on January 1, 2018, \$15.00 on January 1, 2019, and a Consumer Price Index (CPI) increase after 2019 indexed to the Bay Area CPI with a 5 percent cap and no exemptions and evaluate updating the City's Ordinance to best address the issue of tipped employees if Labor Code Section 351 is updated to allow this exemption and add this to the list of topics for the Policy and Services Committee to consider when reviewing the Legislative Policy Program.

Mayor Burt: Please vote on the board. That passes unanimously. Thank you to everyone who has attended and participated. That concludes this item.

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

11. PUBLIC HEARING: Resolution 9626 Entitled, "Resolution of the Council of the City of Palo Alto Confirming the Code Enforcement Abatement Report and Ordering Cost of Abatement to be a Special Assessment on the Properties Located at 220 Matadero Avenue and 18 Roosevelt Circle."

Mayor Burt: We will now move to our last item, which is a Public Hearing. It's adoption of a Resolution confirming the Code Enforcement Abatement Report and ordering costs of abatement to be a special assessment on properties located at 220 Matadero Avenue and 18 Roosevelt Circle. Folks, can the audience—hello? Can the audience conclude their conversations out there, so we can just finish the items?

Molly Stump, City Attorney: Thank you, Mr. Mayor.

Mayor Burt: Ms. Stump.

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Ms. Stump: We don't have a formal Staff Report. This is a straightforward item asking the Council to open a Public Hearing, take public comment, and then approve an assessment on two properties where there was formal Code enforcement activity that needed to be done. There are some—the costs of that are still owing. We go through this procedure in order to take the final step to be able to recover those costs. We are here to answer your questions.

Mayor Burt: Do we have any questions of Staff before I open the Public Hearing? Council Member Schmid.

Council Member Schmid: The second site here, 18 Roosevelt Circle—no, I guess it's the first one, the Matadero site. The one who had the lien levied on him sold the property and left. What effect does going to the tax roll have if he's no longer responsible for the taxes?

Ms. Stump: I'll refer to my colleague, Albert Yang, who will walk you through that.

Albert Yang, Senior Deputy City Attorney: Hi. Albert Yang, Senior Deputy City Attorney. In the event that a property has been sold before a lien can be imposed, the levy goes onto the unsecured roll. It becomes a personal tax obligation as opposed to one that's secured by the property. It's similar to a tax obligation that would be owed on personal property, on a boat or a car, that's unpaid.

Council Member Schmid: The lien doesn't have much impact, because the person doesn't own a boat or a car or a house.

Mr. Yang: It would not be a lien. It would be an unsecured tax obligation.

Council Member Schmid: The City is responsible for finding this person wherever he might be and try and track him down. It doesn't seem very efficient.

Ms. Stump: It's sort of what we're left with. The abatement needed to be done. It was done for a public purpose and for the community at large. This is our step that we can take to hope to recover the funds.

Council Member Schmid: I hope it doesn't get us into entanglements that cost us lots of money.

Mayor Burt: Council Member Filseth.

Council Member Filseth: I was going to sort of ask the same question. What are our chances of actually getting any money for this? That doesn't

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sound like very much. When the property was sold, isn't the levy supposed to be disclosed at the time of sale?

Mr. Yang: There was not a levy on the property at that time. I believe at that time our Staff was still just trying to collect the debt from the property owner directly.

Council Member Filseth: The alternative would be to put the lien on the property itself and let the property owner try to recover it from the original owner. You're saying that there's no reason the buyer would have known about that.

Mr. Yang: Right. In the future, I think we'd be prepared to move more quickly to have the lien imposed. At the time, we weren't in that position.

Ms. Stump: Just a general comment. This is part of some enhancement of the Code enforcement activity. You haven't typically seen these on your agenda. Albert's referring to our Staff becoming more familiar with this process. I think we are in a position. We've been learning and will be more efficient and move more quickly in the future.

Council Member Filseth: Is that what we would shoot for in the future, to put a lien on the property real fast?

Ms. Stump: I think you always want to make a fair attempt to collect the debt without that, but yes.

Mayor Burt: Council Member DuBois.

Council Member DuBois: A slightly different question. I noticed like 18 Staff members were involved with this property. When we do this, do we take steps to keep the cost down? I'm just curious how we look at that.

Mr. Yang: That property was the first nuisance abatement that City Staff had attempted as far as my recollection goes. Since then, we have been working with a contractor to do abatement work. That should keep costs down as well. That first project, though, was a very large undertaking. As you can probably tell it required several containers to haul away the junk that was on the property. If the Council is concerned about the amount of the expense, in imposing the lien or the levy the Council can modify those amounts.

Council Member DuBois: I think you guys have made it clear it's a new thing. I think we just want it to be done efficiently. Thank you.



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Mayor Burt: We will now open the Public Hearing on this item. I do not have any speaker cards, so we will now close the Public Hearing and return to the Council for a Motion. Council Member Holman.

Public Hearing opened and closed without public comment at 10:50 P.M.

Council Member Holman: I will move the Staff recommendation.

Council Member Filseth: Second.

**MOTION:** Council Member Holman moved, seconded by Council Member Filseth to adopt a Resolution confirming the Code Enforcement Abatement Report and ordering abatement costs to be a special assessment on the properties specified in the Report.

Mayor Burt: Did you want to speak to your Motion?

Council Member Holman: Yes, but I also have a question regarding this. A comment was made earlier about and statement was made earlier about acting more quickly. It is noteworthy that the Matadero site was issued a notice to abate on August 2014. I would certainly encourage that it be done more quickly, because there's a lot of Staff time involved in this as well. The Roosevelt Circle one, I'm actually familiar with that one. This has been going on for years, literally years at that site. I'm glad that there's finally an action being taken there. I understand sometimes these can be rather delicate situations. I do understand that. It really has been going on for years. The next door neighbors made me aware of it probably three years ago. It got a little better, and then it got really bad again. This may be a date on here of 2015, but again it's not just from the notice of abatement date on the prior one, but it's also we need to act sooner on Code Enforcement and compliance from the date of complaints. Literally, it's been going on for years. If there was anybody here from police, there's one in College Terrace. I'd have to look at my emails from back. It's another situation that's been going on for years. It's really a horror for neighbors. Understanding some of the situations can be sensitive, it's really very bad for neighbors. Yes, ma'am?

Ms. Stump: I didn't mean to step on your comments. I just ...

Council Member Holman: Go ahead.

Ms. Stump: Your comments are well taken. You're quite right. The situations are complex, and they have a potentially very negative impact on neighbors in the community. They also may involve elements of tragedy or difficulty with the subject property owner as well. You're quite right that we

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do need to move to address them. Every community has a handful of these. We'll try to do it sensitively, but we are doing more of this work. You are likely to see these periodically on your calendar going forward.

Council Member Holman: I appreciate that. When I say a horror for neighbors sometimes, albeit the subject property can have sensitivities associated with it as I said. There are also sometimes—I'm thinking of—I'll just say the one on College Terrace. We'll keep it general there. There's safety issues. If there was a fire, you can't get good access. There are all kinds of situations. I'm really glad that Code enforcement is starting to move on some of these. There really are health and safety issues as well for everybody involved, both the subject address and neighbors.

Mayor Burt: Let's see. Council Member Filseth, did you want to speak to your second?

Council Member Filseth: Yeah, just briefly if I can ask another question. Specifically on the Roosevelt Circle one, the owner is still there. Is an assessment on the tax roll the most effective way to do this as opposed to trying to attach the property or something like that?

Mr. Yang: I'm sorry. Could you repeat the question?

Council Member Filseth: Is an assessment on the tax roll the best way to do this? For the Roosevelt Circle property.

Mr. Yang: Yes, I believe that is the most effective tool that we have. That's a collection that's secured by the property.

Council Member Filseth: It is secured by the property?

Mr. Yang: Yes.

Mayor Burt: I see no more comments. Please vote on the board. That passes unanimously. That concludes Item No. 11.

**MOTION PASSED: 9-0**

## Inter-Governmental Legislative Affairs

Mayor Burt: Our next item is Intergovernmental Legislative Affairs. I'm not aware of any updates.

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## Council Member Questions, Comments and Announcements

Mayor Burt: Finally, Council Members' Questions, Comments and Announcements. Council Member Kniss.

Council Member Kniss: If you all remember in my last meeting as President of the Peninsula Division of the League of California Cities, we had dinner in Mountain View last week. The presentation was really excellent, primarily done by the woman who's heading up housing for San Jose. The most interesting part is she gave two examples of teacher housing here in the Bay Area. One is called Cañada Vista, which is in San Mateo County. The other is Casa de Maestro, which is in Santa Clara. They're both fairly good-sized teacher housing projects. They are meant for teachers that are in their first three years, not after that. Apparently they're asked to move on. They built these without any tax credits, and they were built on school land. I found that interesting. We've talked so many times about how do you do affordable housing. This is affordable housing. It has been extremely successful.

Mayor Burt: Can you clarify who built them and who funded them?

Council Member Kniss: The school district built them, and the school district funded them. They said they did it without tax credits. I think Marc may not have heard that part of it, but my recollection is they did it without tax credits, which is unusual. I'm glad to find out the name of the woman who spoke to us; her first name was Jackie. I don't remember the rest of her name. It was a particularly good program and very encouraging to see that affordable housing is being done for teachers in the Bay Area and not without a lot of interaction with the neighborhood of course.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I went to the NTD Health Expo this weekend at Mitchell Community Center. I got there late. I think the Mayor actually spoke there. It was pretty interesting. It was a Chinese community health expo. It would be great if maybe next year when we do our general health expo, we could combine the two into one.

Mayor Burt: Yes, they were not aware of our Palo Alto Health Expo that was two weeks before. This NTD Expo was basically a regional one they happened to want to do in Palo Alto to engage our community. It was a good affair. I got cupped there. My back feels better. I just want to add that at the San Francisquito Creek Joint Powers Authority (JPA) meeting, we had an update on efforts we're having with Pacific Gas and Electric (PG&E) to attempt to have them commence their gas pipeline construction this year in

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our golf course area. They're not able to do the main part of their construction on the creek during this year. We're hoping that they will not bifurcate the project and, thereby, impact our golf course construction. There's follow-up. Assistant City Manager Ed Shikada is deeply involved in it and other members of our Staff as well as the JPA and the Santa Clara Valley Water District staff. That's ongoing. It's an important issue. Let's see. At the Local Policy Maker Group, which is the policy advisory group for the Caltrain electrification and now the High Speed Rail project, we had discussion but not action on the initiative that I mentioned a month or two ago to pursue an Metropolitan Transportation Commission (MTC) grant that would fund a system-wide study on grade separations. We'll be taking it up again at our Board meeting and see what happens. Those are my updates. On that note, the meeting's adjourned.

Adjournment: The meeting was adjourned at 11:00 P.M.