



CITY COUNCIL SUMMARY MINUTES

Special Meeting
November 14, 2022

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:00 p.m.

Present In Person: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Present Remotely: None

Absent: None

Closed Session

1. CONFERENCE WITH CITY ATTORNEY Subject: Written Liability Claim Against the City of Palo Alto By Steven and Catherine Popell (Claim No. C23-0007); Authority: Government Code Section 54956.9(e)(3)
2. CONFERENCE WITH LABOR NEGOTIATORS
City Designated Representatives: City Manager and his Designees Pursuant to Merit System Rules and Regulations (Ed Shikada, Kiely Nose, Sandra Blanch, Nicholas Raisch, Molly Stump, and Terence Howzell)
Employee Organization: Service Employees International Union, (SEIU) Local 521, Utilities Management and Professional Association of Palo Alto (UMPAPA), Palo Alto Peace Officer's Association (PAPOA), Palo Alto Police Management Association (PMA), International Association of Fire Fighters (IAFF) local 1319, Palo Alto Fire Chiefs Association (FCA); Authority: Government Code Section 54957.6 (a)

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

MOTION PASSED: 7-0

Council went into Closed Session at 5:00 p.m.

Council returned from Closed Session at 7:05 p.m.

Mayor Burt announced there was no reportable action.

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Study Session

3. Bi-Annual Discussion with the Independent Police Auditor

City Manager Ed Shikada stated the contract with the Office of Independent Review (OIR), which serves as the Independent Police Auditor (IPA), includes a provision that the IPA join the City Council twice a year for discussion of trends in criminal justice and policing, policy and training matters, recommendations made by the consultants, and other Council concerns. He noted that the contract specifies this session is not for the purpose of elaborating on published reviews of specific incidents and shall not include discussion of personnel matters prohibited by law.

Independent Police Auditor OIR Consultant Mike Gennacco stated he would talk about the review process and answer questions about the most recent report released last month. OIR has been the IPA for Palo Alto for 15 years, and Palo Alto is a leader in creating oversight for agencies. OIR has identified 11 recommendations in the most recent report.

Independent Police Auditor OIR Consultant Steve Connolly described the relationship with the police department as ongoing, particularly when new Internal Affairs cases or citizen complaints are entered into the system. OIR is available on the website and serves as public liaison. About 10 to 20 people a year have questions about the process or want some assistance with a complaint. OIR does not do independent investigations but can help bring issues to the department's attention. When investigations are completed, OIR's role is to review them, having access to all the body-worn camera recordings and other investigative materials and the opportunity to consult with the department. Individual cases are also reviewed twice a year with published summaries on the outcomes. A lot of the recommendations are forward looking to improve systems. Two primary divisions of cases are assessed, allegations of misconduct, either external or internal, and use of force reviews. In this report, 15 individual matters were discussed: 8 misconduct allegations, 1 taser deployment, and 6 other force incidents. OIR concurred with the outcomes in all cases and believed the department's investigative process was legitimate. The most useful internal review processes go beyond the question of policy violation to anything else learned in the incident to address in terms of individual officer performance or policy clarification, and the department has done a better job of approaching these more comprehensively over the years. One trend is the influence of body-worn cameras, which have had a significant impact on the investigative process. Cases are resolved more efficiently because

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everything the department needs to know to make an effective decision is available. A lot of the cases are resolved at the supervisory inquiry level with appropriate outcomes, but if the body-worn camera tells a different story or it is more complicated, there is the possibility of a more comprehensive investigation. BWCs are changing officer behavior and public behavior. On occasion there is the possibility of offhand comments that do not reflect well on the officer or on the agency. It is a common issue and less about disrespectful, unprofessional, or discourteous engagement with subjects the officers are in contact with than officer-on-officer conversation. All of this material is potentially discoverable and potentially a reflection on the department, which is important for the officers to remember.

Mr. Gennacco stated conflict in allegations or complaints often involves those in a mental health crisis, under the influence of alcohol or drugs, or both. He stated the County and City are supportive with creating additional ways in which these individuals can be helped, assisted, and addressed through the co-responder model with mental health clinicians assisting the department. One recommendation is to ensure every incident has more documentation about whether the clinician was called and if there was coverage. It is important to know whether more resources should be dedicated to this model. He believed there were times in which a clinician could have been helpful but was not available, but it was not very well documented. OIR was optimistic about the co-responding model reducing uses of force or increasing the likelihood of the process going more smoothly if an individual needs to be committed on a 5150. The recommendations in the report are evolved from the actual cases. If there is something felt to be indicative of a larger systemic issue, a recommendation derived from the actual review of cases is offered. This is intended as a forward-thinking model so that the next time the police department is challenged with a similar episode, they will be better prepared through different protocols to address it. He offered to answer any questions the recommendations raised. He was pleased the police department provided a thoughtful response, largely agreeing with the recommendations. He reviewed and discussed 3 recommendations indicative of broader issues: communication with complainants, documentation of co-responder involvement, and holistic review of force. Over the years, there has been dramatic improvement in the way in which the police department responds to complainants at the end of the investigation. The department is starting to give the complainant a sense of what was done as part of the investigation. Again, a step-up is needed because there are no protocols about how co-responders are documented. It would be a more robust audit if that information was available. State law now requires that deescalation techniques be featured in training. There is an expectation that the review process of a force incident will contain an assessment about whether the officer used

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deescalation techniques before going hands on or document that it was not feasible. He emphasized the cooperation from the leadership of the police department and their thoughtful response whenever there is a report or an issue. The input from the Police Association before finalization of the report is helpful and provides an opportunity to hear about the issues they may have.

Mayor Burt requested comments from members of the public.

Public Comment

1. Aram James stated he pushed for the Independent Police Auditor in 2007, but back then, the consultants met with the public. He stated meeting only with the police department gives a one-sided perspective and recommended meetings with people in the community who may not be as happy with the police department as the police department is with itself. He felt ending encryption was a good move for Chief Binder but stated he has been trying to find out more about an incident that occurred in October 2021 that was not covered in the report. He stated the contract needs to be expanded considering the Racial and Identity Profiling Act.
2. Winter Dellenbach felt Palo Alto was lucky to have an IPA. She asked Council to formalize an ongoing set time to publically review and discuss the Palo Alto Police Department's use of force reports and response to the IPA's recommendations. She stated these are both submitted at the same time the IPA submits their report but there is no formalization about when these will be discussed, which is important to achieve greater accountability and improvement in police practices. She also asked to require that race and ethnicity be included for use of force incidents that do not go to the IPA for oversight and also for IPA reports not in the use of force reports.
3. Liz Gardner discussed that her son was held up several months ago but she was not comfortable that she was not informed as a parent when they later went to her address and took her son to ID the individual. She stated her son was also stopped coming home from work and detained and asked for identification. She was not aware he had to carry identification on the street. She recommended more oversight on socioeconomics in addition to race and ethnicity.
4. Tulin Melton, a volunteer with the Bill Wilson Center, a local nonprofit working to end youth and family homelessness, described that November is Runaway and Homeless Youth Prevention Month, a nationwide campaign to increase awareness about homeless

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youth and young adults in the community. Santa Clara County has the fourth highest population of homeless individuals in the nation, and California has the highest rate of unaccompanied homeless youth, with 2500 homeless students enrolled in grades K through 12. Bill Wilson has been serving Santa Clara County for over 45 years, and the goal is to provide an integrated system of care to help homeless youth attain stable housing either through family reunification or economic self-sufficiency. She listed the services offered and encouraged reaching out to the agency, visiting the website at www.billwilsoncenter.org, and referring young people in need of support to 408-385-2400.

5. Severiano Ortiz wondered what the deescalation techniques were and also for what type of mental health issue co-responders are used. He asked how many cases are reviewed by the IPA during each review.

Mayor Burt stated Staff would be able to assist Mr. Ortiz with those answers.

Council Member Cormack felt it was important to hear that OIR concurred with the outcomes of the department's internal findings and that the process is legitimate. She expected the department to maintain that level. She asked about trends in the use of tasers and their effectiveness.

Mr. Gennacco stated tasers can be effective, but it is important that everyone understands when it is appropriate to use the taser. When the Council determined it was appropriate to authorize the use of tasers for the department in 2007, it was approved provided the IPA reviewed those uses. Even under the ideal situation, there are times in which they do not resolve the situation and another option has to be used. The most important thing is not whether they are authorized, but ensuring they are only used under the appropriate circumstances.

Council Member Cormack asked if the reason for being more careful is that some people have been injured by tasers.

Mr. Gennacco stated not in Palo Alto but in other jurisdictions, there have been very unfortunate circumstances in which individuals have been significantly harmed because of using the taser in an inappropriate way, for example taser applications of people in an elevated position or on a bicycle.

Council Member Cormack asked if OIR had seen that there have been fewer shootings because tasers are available to the police force.

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Mr. Gennacco stated there have been times in which the use of a taser ended the conflict rather than requiring a higher level of force, but it does not always work that way. Sometimes the taser does not work or the application misses, so officers need to be prepared to shift to another option.

Council Member Cormack was troubled by some of the language documented over the years. She asked if other jurisdictions address this more proactively.

Mr. Gennacco stated the policy is there, but the question is the enforcement and identification of times in which individuals either use profanity or make unprofessional comments. An officer making an unprofessional comment filled with profanity can lead to the impression that the officer is angry or has lost control. Those potential impressions are one of the reasons to pay attention.

Mr. Connolly added there has been a significant improvement in the department's willingness to engage with that issue. It is something the agency takes seriously.

Council Member Cormack stated she would look forward to continued improvement. She asked, looking forward, what emerging areas should be focused on to ensure the department is being trained correctly.

Mr. Gennacco stated after 2+ years of downtime, when it was very difficult to do tactical training and deploy scenario-based training, training needs to be reinvigorated. This department trains their people quite well with a very effective comprehensive training program.

Mr. Connolly added that mental health is important in terms of changing the dynamics. He suggested every officer in the Palo Alto Police Department be trained in crisis intervention.

Council Member Stone asked the City Manager if the biannual meetings with the IPA to discuss their reports is the setting to discuss the police department's use of force or if that would be agendized in the future.

City Manager Shikada stated there was an outstanding referral from the City Council to bring that topic to the Policy and Services Committee. Staff is evaluating how best to accomplish that.

Council Member Stone asked what training and remediation occurs to address those offhand remarks caught on body-worn cameras.

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Police Chief Andrew Binder stated when the review process takes place, depending on whether it is a one-off or an ongoing problem, it is brought to the officer's attention, with providing counseling, setting expectations, and providing training if necessary.

Council Member Stone related a case when he worked in the District Attorney's office that had to be dismissed rather than being put in front of a jury because of the absurdity of the conversation recorded between officers. He stated this issue goes beyond remarks that could be embarrassing for the department and could harm prosecution in the future. He asked if the department would implement the recommendations regarding documenting mental health calls and whether mental health professionals are being called.

Chief Binder thought there was room to improve on documentation but felt the department did a good job of involving mental health advocates and other teams. He stated they are working toward making sure there is a clear picture of cases during the review process.

City Manager Shikada added that his office was also engaged with County Behavioral Health as well as the County Executive's office on exploring options for better communication and coordination between the various services. The law enforcement and non-law enforcement responses have operated largely independently to this point. In many circumstances, the behavioral health response would like to be separate from any law enforcement response, so this is a complex area that will require additional coordination between agencies to ensure respecting boundaries while optimizing coordination.

Council Member Stone believed the RIPA data would be beneficial for the community and the department to be able to identify any biases in policing. He asked if similar data was collected for the use of force reports.

Chief Binder was supportive of collecting race and ethnicity data. He questioned the best time and place to give that data and stated one of the challenges with only 4 uses of force was the small sample size as there is an argument that the data could be misconstrued. In addition to the RIPA data, the police department was supportive of providing that detail.

Council Member Stone thought it was important data to have and felt there would be better understanding of potential trends through the IPA's review. He asked if that demographic data was being used in other cities.

Mr. Gennacco stated it varies. Some agencies report use of force. In smaller agencies with not many times in which force was used, the sample

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size gets too small for there to be any meaningful analysis. OIR does not report it because the number is so small that it may be statistically insignificant.

Vice Mayor Kou asked if body-worn cameras were used 100% of the time or if there were times somebody might forget to turn it on.

Chief Binder stated there is always human error involved but found through administrative review of the cases that they were being used.

Vice Mayor Kou stated the audits have been great information and that it would be valuable for the public to see how the police department is performing and the responses they have been getting. She hoped Ms. Dellenbach's comments and suggestions would be considered.

Council Member DuBois was generally satisfied with the audits and response. Regarding adding demographic data to use of force reports, he understood the point that it was a small sample but felt starting it and building it up over time would be useful. He felt the article in The Weekly was interesting and showed the complexity in analyzing some of the data. It was discussed at the time of the contract about potentially doing some kind of process audit. Some past ideas were looking at body-worn cameras, when they are on, and a comparison to best practices in other cities.

Mr. Gennacco stated one reason OIR was in town was to do an audit on hiring and recruiting, and that report will be available in the very near future. He stated they just completed an audit for the City of Burbank on the degree to which body-worn cameras are being used and found that insightful. Anecdotal based on the small sample of cases reviewed, there has been good compliance with body-worn cameras on at the appropriate times.

City Attorney Molly Stump suggested agendaizing this the next time IPA comes to Council in a way that would allow for this discussion.

Council Member DuBois suggested laying out ideas tonight for a proposal for that next audit to be ready to engage on it next time. He stated he would be interested if, the next time OIR came back, there was a definite proposal of an area they thought there would be value in auditing. He mentioned body-worn cameras. He felt it would be good to begin to get ideas in one meeting, come back 6 months later, and then deliver it 6 months later.

Mr. Gennacco stated there was previously discussion about doing an audit of the training programs done by the police department.

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Mayor Burt suggested routinely agendizing a discussion of potential scope of work of upcoming audits. He requested Staff recommendations regarding obtaining meaningful demographic analysis on the use of force. He was interested in what portion of the mental and behavioral health calls were not able to met by the current staffing.

Chief Binder stated half of the PERT team was lost with the behavioral health clinician leaving, so there is more reliance on MCRT through the County, which is a great resource but not always available and shared with other agencies within the County. He stated all officers are crisis intervention trained and do a good job of handling these mental health response calls when other resources are not available.

Mayor Burt was struck by how the current requirements and accountability seem to be driving better performance and not interfering with officers' ability to provide the public safety and law enforcement they must do.

Agenda Changes, Additions and Deletions

There were none.

Public Comment

1. Matt Schlegel thanked city staff, council members, and community members for their work on formulating the SCAP plan, specifically the heat pump water heater pilot program. He stated it was clear from the climate summit hosted at Gunn High School last weekend that the region and the world are looking to Palo Alto for leadership in reducing carbon emissions at the community level. The pilot program has a goal to replace 1000 fossil-fuel-burning water heaters in the 2023. He expected City Manager Shikada and his team to report progress on the program, to highlight any obstacles encountered, and to ask for any help needed to achieve the goal. He was unclear on the plan to raise awareness in the community and promote this program to all eligible residents. Only 100 residents took advantage of the rebate program to install heat pump water heaters in the past, so what was done in the past will not suffice to meet the new goal. He requested a plan to communicate the new program to all Palo Alto residents in a manner that will not only enable reaching the goal in 2023 but will scale to 2000 replacements in 2024. He would like to see a plan before the heat pump water heater program starts in January, so no time is wasted and not one fossil fuel gas water heater is installed because a resident did not know that this program is available.

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2. Aram James referenced a recent article that featured Judge Cordell, in which she was quoted as saying, "I think it's appropriate to conclude that there is a problem with racial profiling in Palo Alto, and I am very concerned because the data is very disturbing to me." Later in the report, it says Police Chief Binder declined to discuss the RIPA data in a recent interview and said it represents only a snapshot in time. Mr. James stated that is not true and that it covers all of the stops for those 3 months. He stated when he has been pulled over in the past, he has never been asked to get out of the car and sit on the curb, but he has many times seen young African American males and other people of color pulled out of the car by the PAPD and sitting on the curb, which does not get reported in the RIPA report. He believed Chief Binder was not transparent and that the RIPA data would show a consistent pattern over the years.
3. Liz Gardner stated a couple weeks ago during a heavy rain, at least 70 seniors were left waiting in the rain for a lunch at the senior center Avenidas. She highlighted that many low-income seniors rely on this midday meal not only to sustain them but also to socialize with other seniors who have been isolated. She asked the City to agendize this and look into what is going on.

Consent Calendar

MOTION: Council Member Cormack moved, seconded by Mayor Burt to approve Agenda Item Numbers 4-8.

4. Approval of Contract Amendment #3 to Contract Number C16166822 with ARC Document Solutions for Copiers/Printers to Extend the Term of the Contract for Three Additional Years and to Decrease the Annual Amount by \$102,068 to \$306,000 Per Year and a Total Contract Not to Exceed amount of \$2,835,340
5. Approval of a Construction Contract with Anderson Pacific Engineering Construction in the Amount of \$6,070,000; Authorization for the City Manager or Their Designee to Negotiate and Execute Change Orders up to a Not-to-Exceed Amount of \$607,000; Approval of Amendment #1 to Contract Number C21176592C with Carollo Engineers to Add Services, to Increase Compensation by \$604,246 for a New Maximum Compensation Not-to-Exceed \$604,247 for the Wastewater Treatment Fund for the 12kV Electrical Power Distribution Loop Rehabilitation Bid Package 1 Project funded by the Plant Repair, Retrofit, and Equipment Replacement Project (WQ-19002) at the Regional Water Quality Control Plant

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6. SECOND READING: Adoption of Nine Ordinances That Repeal and Adopt Various Sections of the Palo Alto Municipal Code (PAMC) Related to the 2022 CA Building Codes (CA Code of Regulations Title 24) Update and Proposed Local Amendments, including: (1) Chapter 15.04 Incorporating the 2022 CA Fire Code With Local Amendments; (2) Chapter 16.04 Incorporating the 2022 CA Building Code With Local Amendments; (3) Chapter 16.05 Incorporating the 2022 CA Mechanical Code With Local Amendments; (4) Chapter 16.06 Incorporating the 2022 CA Residential Code With Local Amendments and Amending Chapter 16.52 to Align Federal, State, and Local Flood Hazard Regulations; (5) Chapter 16.08 Incorporating the 2022 CA Plumbing Code With Local Amendments; (6) Chapter 16.16 Incorporating the 2022 CA Electrical Code With Local Amendments; (7) Chapter 16.18 Incorporating the 2021 International Swimming Pool and Spa Code With Local Amendments; (8) Chapter 16.14 Incorporating the 2022 CA Green Building Standards Code with Local Amendments; (9) Chapter 16.17 Incorporating the 2022 CA Energy Code Without Local Amendments. Environmental Assessment: Project is Exempt Under CA Environmental Quality Act CEQA Guidelines Sections 15061(b)(3) and 15308 (FIRST READING: October 17, 2022 PASSED: 7-0).
7. Adoption of a Resolution for the Santa Clara County Historical Heritage Grant Program Authorizing the Application and Receipt of Grant Funds by the City of Palo Alto for the Roth Building (300 Homer Ave) Windows Rehabilitation & Restoration

MOTION PASSED: 7-0

City Manager Comments

Ed Shikada, City Manager, gave a coronavirus update regarding testing sites and vaccine recommendations. He discussed the past weekend's delegation from Bloomington, Indiana, and a Climate Collaboration Summit. He reviewed upcoming road and pedestrian lane closures, library service enhancements, a new shuttle service, and workshop on the topic of car-free streets. He discussed upcoming agenda items for the City Council, with no meeting on November 21 and returning on November 28.

Mayor Burt stated there was a lot of confusion on the Caltrain construction and the closures were thought more significant than they actually are. He asked for maps or better clarity on those closures.

City Manager Shikada described that at Churchill by Palo Alto Convention running east-west, work will be done on the gates. While work is done on

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the north side of the street, there will be no pedestrians or cyclists allowed but the south side of the street will remain open, and vice versa.

Mayor Burt wanted to make it clear that pedestrians will be able to cross at all those times and that it is limited crossing as opposed to complete closure.

Action Items

8. PUBLIC HEARING: Staff Recommend the City Council Review the North Ventura Coordinated Area Plan (NVCAP) Refined Preferred Alternative and Endorse the Refined Preferred Alternative Plan.

Mayor Burt stated public comments have already been taken and this item was proceeding to the phase of Council discussion. The Council provided several questions, to which the Staff has provided responses in the item #8 Staff report.

Planner Sheldon Ah Sing reminded the Council that they already endorsed a preferred alternative in January 2022, and Staff was looking for discrete updates on the plans with confirmation on 4 items: the height transitions along El Camino Real; additional height for the affordable housing site adjacent to the Cannery; the office and research and development employment density; and implementation of parking maximums. He gave options and details for each of these items.

Mayor Burt, regarding the additional height for the affordable housing site, questioned why the alternatives posed were 3 or 7 stories when the previously endorsed heights were for a 5-story residential or 6-story residential mixed use.

Director Jonathan Lait, Planning and Development Services, stated Council has already endorsed 5 stories residential or 6 stories with ground-floor retail. Staff was now inquiring about considering 1 story for retail or possibly 2 for parking.

Mayor Burt stated the plan Council had tentatively supported did not envision retail, so the choice was the height of the building, how many stories of housing that would enable, and how much parking would be necessary for that.

Director Lait discussed the possibility of additional off-street public parking because of AB2097. The area is within a half mile radius of the Caltrain station, and it is conceivable that new development could be built without parking.

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Mayor Burt asked if under AB2097 the City would be allowed to charge parking fees.

Director Lait believed that was correct. There was further discussion about parking requirements and impact fees.

Mayor Burt stated if there were Residential Permit Parking programs that did not allow spillover into surrounding neighborhoods and if a development was created using AB2097 to avoid parking on their development, the City conceivably could charge for parking. In reference to increasing the housing density on the east side of Park Boulevard, he felt it was a good site for high-density housing without significant impact on adjacent R1 neighborhoods. He was interested in focusing on any parcels there that would be candidates and putting zoning incentives in to take advantage of that. He asked what was envisioned for the Page Mill site in the tentatively endorsed plan.

Mr. Ah Sing anticipated there would be some redevelopment there with some of the surface parking to be redeveloped as housing, but property owners would require more office.

Mayor Burt stated changes have occurred since the NVCAP concluded its work. With more office workers utilizing the hybrid work model since the pandemic, an employer can employ more employees in the same amount of square footage. There is now a cool-down in the office market because of interest rates and the value of existing offices showing rapid decline. The economics of building new office are changing. In the past, developers would not add housing without being able to add more office. He did not believe that was the case now. He stated the land was underutilized, with a big parcel that could have high-density housing and very good return on investment. He wanted to see that parcel and the ones on Park up-zoned for high-density housing.

Council Member Stone asked for an example of a successful enforceable TDM program in Palo Alto and how to measure success and replicate that here.

Director Lait stated because it is a relatively new provision of the code, there have not been a lot of projects that have required TDMs as part of an entitlement process. Two years after a TDM plan is implemented, Staff does the first review, so there is a lag period before the inspection. Diminished Staff resources have not recovered to the pre-pandemic levels.

Council Member Stone asked if demolishing 40% of a building eligible for listing on the California Historical Registry removes that eligibility.

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Director Lait stated that it does remove eligibility and that demolition of portions of the cannery building was identified as significant unavoidable impact and an unmitigable loss to that resource. It will necessitate the Council to adopt a statement of overriding considerations because the public benefits would outweigh the loss of that historic resource. There are a lot of components to that project, which the Council will have a chance to consider, that seek to recognize and pay tribute to the cultural significance of that site. The Council could sit in judgment as to whether that goes far enough when that project comes before it.

Council Member Stone agreed with Mayor Burt regarding Park Boulevard being a good opportunity for increased density. He saw no problem with raising the maximum height to higher than 35 feet to be more compatible with the surrounding buildings. He suggested lowering the height for the buildings behind El Camino adjacent to the R1 residential units, which is proposed at 45 feet.

Director Lait stated Staff felt the properties near El Camino were more ripe for redevelopment and that lowering the height may not result in timely redevelopment.

Council Member Stone supported increased height for the affordable housing project but did not favor ground-floor retail if it would cut into affordable housing units. He was interested in the parking to be able to offset some loss to commercial and especially to ensure adequate parking for the residents of that affordable housing. He stated studies have shown low-income earners rely on their vehicles more than higher-income earners.

Council Member DuBois asked Mayor Burt for clarification on what he was suggesting for the Park Boulevard sites.

Mayor Burt stated he assumed it would be on the sites that have not been recently redeveloped.

Council Member DuBois questioned the idea behind the maximum parking level.

Mr. Ah Sing stated the goal is not to have oversupply of parking throughout the area. The parking maximum supports some of the other goals and policies in the Comp Plan and SCAP.

Council Member DuBois did not want to state a maximum if a developer needed more parking for their project to be successful. He felt maybe the City should be proactive to create Residential Parking Permits on the street.

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Director Lait stated this was a mixed-use area with a blend of commercial and residential. The conversation of the City proactively implementing an RPP in a neighborhood came up with the Castilleja School. When the City surveyed neighbors in that area, there was not support for it despite concerns expressed throughout public hearings. That is a policy consideration for the Council.

Council Member DuBois stated there should be a plan on how to use the street. The City cannot mandate that a commercial building provide parking, but if they had nowhere else to park, they would have to provide parking on the property. He stated he would love to hear more about creative solutions in terms of the TDM question; the TDM route would need to be ironclad. He asked if the 20% BMR in the original report was in accordance with the Nexus study.

Director Lait stated that study on how to increase the inclusionary requirements found that, at the development standards in place, there were some constraints in the ability to go up to 20%. In this area, the idea is to allow for greater development potential to allow for the increased margin to provide for the affordable housing.

Council Member DuBois stated for a 35-foot zone, he could see going to 50 or, for 100% affordable, 55 feet but the jump to 75 or 80 feet seemed like a lot. He also wondered about packet page 175 showing the base zoning for several buildings going to 55 feet versus the 50-foot city limit.

Mr. Ah Sing stated that came from direction from the Council on the endorsed plan in January, which allowed these heights and additional height for 100% affordable housing. The Council has already endorsed 60 or 65 feet with the 1 floor of retail and 5 stories above, but as retail may not be appropriate, it would be a 5-story building, roughly 55 feet.

Council Member DuBois was worried about traffic congestion in this area. He felt it was critical that Portage connects to Park Boulevard and that vehicles have the option of going to California Avenue, Oregon Expressway, or El Camino. He was concerned about the idea of the woonerf on Portage, which would be more bike than car oriented, and the other streets being private Sobrato roads. He asked if there had been a traffic analysis yet for the woonerf.

Mr. Ah Sing stated that was ongoing with discussion on integrating all the components. Given the open space in the park and the naturalization of that creek, it is a good transportation piece to have. Vehicles can still go through but with more priority and safety toward cyclists and pedestrians.

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Director Lait stated it goes back to the earlier foundational direction for developing the NVCAP and focusing on mobility and different ways to move through the area. It was identified in the public process as a desirable street concept at in proximity to what might be a future park.

Council Member DuBois stated the residents of the 1-acre of affordable housing would be prioritized to go to El Camino and the townhomes from Sobrato on the other side would be directed mostly to Park Boulevard. He stated it seemed the concept from the NVCAP was mixed with the Sobrato project and was concerned about how people would actually get around in those areas.

Director Lait stated it will be studied and this is before Council to make sure the right plan and scenarios are studied.

Council Member DuBois asked if negative impact on residents a reason can be to require a commercial building to provide parking.

Director Lait stated the law sets forth 3 reasons a city could begin to impose parking. One was if the housing project has an impact on the housing or commercial parking resources in the area, but the state law also has an exception to that rule that exempts a number of housing projects from being subject to that requirement.

City Attorney Stump stated the exceptions were significant and would remove almost all housing projects from being able to use that adverse impact.

Council Member DuBois was concerned about making sure those residents can get around and park and did not want to cause conflict with commercial users trying to park on the streets.

Director Lait stated it would be a good time for the Council to provide direction with respect to the woonerf design.

Council Member Filseth concurred that the space between Park Street and the train tracks was a good place to build higher and denser. Some of these buildings are more recent and may not turn over that quickly even if 65 or 75 feet is allowed in that location. He supported loosening design restrictions in that stripe. He did not think the maximum parking made sense because no developer wants to put in more parking than they need and it would deter development. He suspected the 1 acre the City got would not be an attractive location for retail and would be better used as affordable housing. He felt it was a bad location for 7 stories and that TDM should not be counted on.

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Vice Mayor Kou stated felt it was a problem that the cannery would not be eligible for the National Historic Registry after losing 40%. She understood that with historical sites, the property and not just the building was of significance and wondered how everything being built would affect it. Regarding TDMs, she agreed that the general public has not seen they are actually working and would not agree with TDM until there is something more decisive. She concurred that height could be increased between Park and the railroad but felt transitional heights should not impact R1 neighborhoods. She concurred with keeping it at 50 feet, or 55 for 100% affordable, but wanted to see it below 80% Area Median Income. She added that she was incredibly perturbed with how the cannery was being treated and felt it was dishonorable to the importance of Chinese businessman Thomas Foon Chew.

Director Lait stated the Council gave prior direction on the 1-acre site to go to 65 feet with ground-floor retail. The Council's interest to stay at 55 feet for a 5-story affordable housing project was the feedback needed. He agreed retail was not feasible at that location but there might be interest in a 2-level at-grade parking with 5 stories on top. On the transitional heights, the Architectural Review Board suggested the additional height would allow another story, which is a policy call for the Council. The TDM plan was in response to the City Council's ask to figure out how to have low-density R&D zones in this area. There is not a great answer to enforce or regulate that, and a robust TDM plan is the best option right now. Staff has not found in the planning literature any material or tools to get to where the Council wants on a low-density employment zone. The TDM would get at the same issue by trying to limit the number of vehicles approaching the site. He asked what other ideas the Council might have. On the historic cannery site, Staff has released an environmental document concluding that the project for the townhome development would result in a significant environmental impact. The alternative project includes the same sort of removal of a portion of the cannery building and adds a number of other components being studied in the environmental impact report, and again, the conclusion is that demolishing that much of the building takes the building itself out of being eligible for listing. In this case, the building and the site are both part of what makes this particular area significant from a historic standpoint. The intent behind the restoration of the monitor roofs and other features of the physical building construction is to do it in a manner consistent with the architecture and essence of the building. In addition, to honor the history of the site, there has been talk of an outdoor plaza, outdoor public art that shows the history, access to the trussed ceilings that give the public a chance to celebrate what has taken place there. While it is not eligible for listing, there are a number of aspects the

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City is saying are important and need to be incorporated into it. The Council will decide whether that is a good deal for the City.

Council Member Cormack asked whether eliminating the parking minimums means the City can no longer require parking spaces within the building footprint and what that means for all the single-family homes within area.

Director Lait stated that a new housing development would not be subject to a parking requirement.

Council Member Cormack suggested including that in the description.

Mayor Burt stated, regarding locations on Park Boulevard that might be candidates for housing, there were several locations with newer multistory buildings with significant surface parking lots because of the floor area ratios in that zoning. If the City allows housing on those sites, developers have to figure out how they would park it. He mentioned the south edge of that substation being where the landing area for a bicycle bridge or underpass at Alma and the tracks is envisioned and questioned the prospects. He asked if there was a possibility to set up a local historic designation for the cannery site to assure it could not be demolished by future property owner.

Director Lait stated local designation could be looked at to require Council approval for demolition.

Mayor Burt raised a question of whether it would be legally permissible to establish affordable housing standards favoring social and economic diversity for previously disenfranchised communities.

City Attorney Stump stated the issue is complicated and recommended that Council look at this from a broader standpoint than just this specific planning area.

Director Lait stated there will be an opportunity in 2 weeks' time to weigh in on that in a draft housing element presentation. Having a program that directs Staff to explore that issue can be embedded into the housing element and implemented going forward.

City Attorney Stump stated it would require some study, gathering of data, and careful design.

Mayor Burt stated it would be valuable citywide but particularly in certain areas of the community, including this particular neighborhood. Regarding the TDM issues, with AB2097, there are no longer many tools to reduce parking and traffic. If TDM measures can accomplish reductions, they can

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have strong impacts. Other locations have had successful TDM programs, and in Palo Alto, there is a strong TMA in the Stanford Research Park. Subsidized transit passes have worked there. The VTA SmartPass is \$8 a month or less, and the 522 and 22 bus route system is frequent and strong. He was positive about the opportunities because they reduce parking, traffic, and greenhouse gases. He stated these needed to be implemented to show the community how effective they are and improve confidence in doing them throughout the community. He suggested providing examples of effective TDM programs elsewhere in 2 weeks when discussing the housing element.

MOTION: Council Member DuBois moved, seconded by Mayor Burt, to endorse the refined preferred alternative plan with the following changes:

- A. Allow 45 feet height transition on El Camino
- B. 55 feet for 100% affordable site at 340 Portage without retail
- C. Define strict TDM and evaluate a city initiated RPP district to protect residential parking
- D. Evaluate removing the woonerf to decrease congestion as an option in the EIR
- E. No parking maximums
- F. Raise the height limit along Park Boulevard to 55 feet

MOTION PASSED: 5-2, Tanaka, Filseth no

There was discussion on Council Member DuBois's motion, including clarification on the heights.

Mayor Burt asked how to give direction to begin evaluating how to allow for additive housing on commercial parcels surface parking adjacent to a multistory office so the office can continue but with a bonus from housing development.

Director Lait did not have an answer but suggested putting it in the motion to look at ranges and study those in the plan.

There was discussion about zoning and potential zoning changes for this area.

Philip Kamhi, Chief Transportation Official, noted there is a current ordinance for establishing Residential Preferential Permit districts, which states nonresident vehicles need to be substantially interfering with the use of

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parking spaces available for neighborhood residents and other alternative parking strategies must be evaluated first. It is a process initiated by residents and typically not something that happens ahead of parking impacts being experienced.

Council Member DuBois stated there is an option for the city to initiate an RPP and that this would be in order to be prepared to do it quickly if needed.

Mayor Burt stated with AB2097, development can be constructed with no onsite parking and the need to have RPPs as protections is likely to increase as a result. He requested to add Item G as an opportunity to get additional housing in the NVCAP area sooner without imposing on low-density housing.

MOTION: Mayor Burt moved, seconded by Council Member Stone, to add:

- G. Request Staff to evaluate zoning changes that would increase FAR for housing on commercial sites along Park Boulevard and Page Mill Road

Council Member Cormack asked Staff to address how G differs from the alternatives Council has already rejected.

Mr. Ah Sing stated there was not a direction to change from the preferred alternative.

Director Lait stated Staff had previously contemplated various alternatives of housing at the Cloudera site. It was not thought the Park sites would be developed in the planning horizon, so they were not considered. The additive FAR makes that feasible, and depending on AB2097, a housing development presumably could be built on the parking lots. The commercial building is not going to come down. It would be a new housing development, presumably without parking.

Mayor Burt clarified without mandated parking. He did not expect there would be a lot of developments that lack any parking. It would be up to the developer to decide how much parking they need to accommodate their residents as opposed to the City setting standards.

Director Lait stated the NVCAP anticipates 528 new housing units. He asked whether Council wants to create more opportunities for housing to be built, keeping the same number of units, or to increase the projected amount of housing in the NVCAP area by expanding to the Cloudera and Park Boulevard sites.

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Mayor Burt stated he envisioned the motion as potentially additive, something in between the original alternatives, looking at adding housing without adding jobs.

Council Member Cormack stated she would support Item G, but it would be important for Staff to let Council know if this changes the time frame and cost.

Mayor Burt suggested an EIR covering what is presently identified that could be updated if that number would be exceeded.

MOTION PASSED: 5-2, DuBois, Kou no

Council Member Cormack stated she would vote against the original motion as the proposed NVCAP goals included adding to the City's supply of multifamily housing and it was not anticipated there would be significant turnover or growth in the plan area. She did not feel it would achieve the goals.

Council Member Stone asked if, for Item B, 55 feet allowed for parking that was discussed.

Director Lait stated parking would have to be accommodated either at or below grade.

MOTION: Council Member Stone moved, seconded by Council Member Cormack to amend item B to 65 feet for parking

Council Member Stone felt this was a unique opportunity for the City to be able to make up for some under-parking to help nearby residents and retail shoppers.

Council Member Cormack stated forcing parking to be underground will add cost to the affordable housing. Making it less expensive will make it more likely to get built sooner, and the more the flexibility for the future developer at this site, the better.

Council Member Tanaka suggested lowering the 100% affordable because nobody would build it.

Council Member DuBois stated most of the affordable housing has parking on ground floor and does not go up to 65 feet. He stated it was a question of height and impacts on the park. There would be a tradeoff of fewer units with 55 versus 65 feet.

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Council Member Filseth noted this is on city land and office buildings should not be put there. The argument from 55 to 65 is no different from the argument from 65 to 75 and so forth. He stated in this location, the extra height does not justify the tradeoff.

Mayor Burt stated this area is subject to groundwater contamination that makes underground parking even less economical. On that basis, he would support the motion.

MOTION PASSED: 5-2, Filseth, DuBois no

Director Lait stipulated that it is a 5-story residential building above a 1-story garage for a total of 65 feet.

Council Member Filseth asked it if would be specified that the raised height limit on Park Boulevard was strictly for residential.

Council Member DuBois was open to saying additional height above 35 feet would be for housing.

Mayor Burt stated FAR would not be increased for commercial, so it would be office on a smaller footprint and more space for residential. There was further discussion on the wording of Item F.

Council Member Filseth stated that, on the issue of Item C, AB2097 is really saying it is not necessary to build parking. He felt it should be clear that to make that work, street parking must be limited or even banned in this neighborhood and prevented from spilling over into the Ventura neighborhood. Developers can decide how much parking they want to put in for their tenants, but it must be clear that street parking is not going to be an option for people.

Vice Mayor Kou asked the maker and the seconder to consider adding an Item H to include that Staff will review and return with a recommendation about designating 340 Portage as a historical site.

Council Member Dubois and Mayor Burt accepted that.

There was further discussion on the wording of Item F.

Vice Mayor Kou asked to consider including language in Item A that would exclude low-density or single-family properties backing up to El Camino from the transitional height.

Council Member Dubois stated that was the point of this. There are only a few places it applies, and it is either 45 or 35 feet.

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Vice Mayor Kou had concerns about the impacts to existing R1 or low-density there and requested to separate that in the motion.

Council Member Tanaka requested to split Items B and E for voting also.

Director Lait asked for clarification on whether Item D sought to create a cut-through street or extend a regular street to the project site.

Council Member DuBois replied that it was to evaluate both.

MOTION SPLIT FOR THE PURPOSE OF VOTING: Council Member DuBois moved, seconded by Mayor Burt, to endorse the refined preferred alternative plan with the following changes:

- A. Allow 45 feet height transition on El Camino

MOTION PASSED: 5-2, Filseth, Kou no

MOTION SPLIT FOR THE PURPOSE OF VOTING: Council Member DuBois moved, seconded by Mayor Burt, to endorse the refined preferred alternative plan with the following changes:

- B. 65 feet for 100% affordable site at 340 Portage without retail (to include 5 stories of residential, with 1 level for parking)
- E. No parking maximums

MOTION PASSED: 5-2, Tanaka, Filseth no

MOTION: Council Member DuBois moved, seconded by Mayor Burt to endorse the refined preferred alternative plan with the following changes:

- ~~A. Allow 45 feet height transition on El Camino~~
- ~~B. 65 feet for 100% affordable site at 340 Portage without retail, (to include 5 stories of residential, with 1 level for parking)~~
- C. Define strict TDM and evaluate a city initiated RPP district to protect residential parking
- D. Evaluate removing the woonerf to decrease congestion as an option in the EIR
- ~~E. No parking maximums~~

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- F. Raise the height limit along Park Boulevard to 55 feet for residential or residential mixed use without increasing commercial FAR
- G. Request Staff to evaluate zoning changes that would increase FAR for housing on commercial sites along Park Boulevard and Page Mill Road
- H. Staff will review and return with recommendation about designation of 340 Portage Road as a historical resource

MOTION PASSED: 6-1, Cormack no

- 9. City Council discussion and direction regarding wage requirements for the contract for next janitorial services
 - A. Review and Provide Direction on Wage and Benefits Requirements for Inclusion in a New Janitorial Services Request for Proposal (RFP)
 - B. Responsible Contracting Standards Colleague's Memo (Stone & Burt)

ACTION: This item was continued to a future meeting

City Manager Shikada recommended to defer Items 9A and 9B. Recognizing a number of time-sensitive items on the upcoming agenda, Staff will find a new date for this item to be heard. The current contract runs through February 2023, so the time required to do a new procurement is already constrained. Staff will come back with a recommendation to extend the existing contract to allow the Council to consider policy options and to complete a procurement process.

Council Member Questions, Comments and Announcements

Council Member DuBois stated the weekend's climate summit was excellent. Students did a lot of work helping to lead it, and it was a very positive event. He thanked the mayor for pushing to pull that off in a short period of time. He recognized Andy Reid, the Rotary Club, and everyone involved in the sibling city events over the weekend. He welcomed the new council members.

Vice Mayor Kou thanked Staff and wished them Happy Thanksgiving. She enjoyed the Veterans Day Memorial and thanked Staff, especially Nathan Rainey, for their work.

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Mayor Burt stated the Bloomington sibling city events were great and solidified that relationship. He felt it was to how this has quickly spread from being Sibling Cities USA combined with Neighbors Abroad to different service organizations, concert at church, and Indiana University Alumni event. He stated the climate summit was fully co-planned and co-run by students, bringing the student climate groups of Palo Alto schools and Stanford together, and had success of various collaborations that were the theme of the summit. There was a series of local cities represented and 20+ cosponsors of primarily nonprofits involved in climate initiatives that had the opportunity to get to know each other and talk about how they are going to collaborate with each other. The relationships with Senator Becker and Dr. Nouri were important. He felt there would be opportunities for the City to be a model and potentially a recipient of federal promotion and grants on these efforts.

Adjournment: The meeting was adjourned at 10:58 P.M.