



# CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting  
November 16, 2020

The City Council of the City of Palo Alto met on this date in Virtual Teleconference at 5:03 P.M.

Participating Remotely: Cormack, DuBois, Filseth, Fine, Kniss, Kou, Tanaka

Absent:

## Agenda Changes, Additions and Deletions

None.

## Oral Communications

Margaret Adkins disclosed that she is speaking on behalf of herself and not as the Chapter Chair of the Service Employees International Union (SEIU). She explained that she has received abuse from a supervisor within City Staff and it is City Council's (Council) job to ensure that the City's Ethics Policy is enforced.

Rebecca Eisenberg encouraged the Council to follow best practices when it comes to City Staff as well as communications among Council Members. She requested that Council discuss the correspondence written by Council Member Kou regarding a voter initiative and the settlement agreement.

## Minutes Approval

1. Approval of Action Minutes for the November 02, 2020 City Council Meeting.

**MOTION:** Vice Mayor DuBois moved, seconded by Council Member Kou to approve the Action Minutes for the November 02, 2020 City Council Meeting.

**MOTION PASSED:** 7-0

## Consent Calendar

Rebecca Eisenberg stated that the public can address specific Council Members if they so choose too. She disclosed that the contractor for Item Number 3 is involved in fraud in the City of San Francisco. She encouraged

# FINAL MINUTES

the City Council (Council) to seek out a new contractor. She did not agree with having a quasi-judicial item on the Consent Calendar.

Neva Yarkin affirmed that she did not support segregation and her reason to restrict who enters Foothills Parks is solely to protect the park from vandals.

Council Member Kou and Council Member Tanaka registered no votes on Agenda Item Number 7.

Vice Mayor DuBois and Council Member Tanaka registered no votes on Agenda Item Number 3.

Council Member Tanaka registered a no vote on Agenda Item Number 2.

**MOTION:** Mayor Fine moved, seconded by Council Member Cormack to approve Agenda Item Numbers 2-7.

2. Approval of Construction Contract Number C20177933 With Automated Solutions Group, Inc. in the Amount of \$313,417 for the Cubberley Building Management Systems Project, Capital Improvement Program Project (CB-19001).
3. ~~Approval of Contract Number C20175026 With JC Decaux San Francisco, LLC in the Amount of \$1,053,924 for a Five-year Term to Provide the Rental and Servicing of two Automatic Public Toilets; and Approval of a Fiscal Year 2021 Budget Amendment in the General Fund.~~
4. Resolutions for the Santa Clara County Historical Heritage Grant Program: 1) Resolution 9922 Entitled, "Resolution of the Council of the City of Palo Alto Authorizing the Application and Receipt of Grant Funds by the Museum of American Heritage (MOAH) for Roof Repair/Replacement at the Williams House (351 Homer Ave);" and 2) Resolution 9923 Entitled, "Resolution of the Council of the City of Palo Alto By the City of Palo Alto for the Roth Building (300 Homer Ave) Roof and Frescoes Rehabilitation."
5. Resolution 9924 Entitled, "Resolution of the Council of the City of Palo Alto to Establish the Old Palo Alto Residential Preferential Parking (RPP) Program as a Continuing Program."
6. QUASI-JUDICIAL. 2100 El Camino Real/501 Oxford (College Terrace Centre) [20PLN-00247]: Approval of a Proposed Grocery Store Pursuant to PC Ordinance Number 5069. Environmental Assessment: Exempt per California Environmental Quality Act (CEQA) Section

# FINAL MINUTES

15301 (Existing Facilities). Zoning District: Planned Community (PC-5069).

7. Ordinance 5511 Entitled, "Ordinance of the Council of the City of Palo Alto Amending Chapters 9.64 (Regulation of Community Facilities) and 22.04 (Parks and Recreation Building Use and Regulations) of the Palo Alto Municipal Code to Open Foothills Park to the General Public and to Amend or Delete Outdated and Duplicative Code Language (FIRST READING: November 2, 2020 Passed: 5-2 Kou, Tanaka no)."

**MOTION PASSED FOR AGENDA ITEM NUMBER 2:** 6-1 Tanaka no

**MOTION PASSED FOR AGENDA ITEM NUMBER 3:** 5-2 DuBois, Tanaka no

**MOTION PASSED FOR AGENDA ITEM NUMBER 7:** 5-2 Kou, Tanaka no

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

Council Member Kou announced that it was clear in a presentation that was provided by Staff that Palo Alto (City) is not prepared to accommodate more visitors in Foothills Park, as well as no funding was available to accommodate them. She strongly opposed the settlement of the lawsuit because it would label residents as racist as well as open the door for more abusive lawsuits.

Council Member Tanaka believed that the residents should decide on Agenda Item Number 7. For Agenda Item Number 2 he disclosed that installing a new thermostat system in the Cubberley Community Center is not a wise plan to do during a time when the budget is tight. For Agenda Item Number 3 he did not see the sense in paying for bathrooms when the City is already constrained in its budget. He advised the City to follow the City of San Francisco's policy where they get paid to have public restrooms because they require commercial ads to be installed on them.

Vice Mayor DuBois registered a no vote Agenda Item Number 3.

Mayor Fine inquired if that was acceptable.

Molly Stump, City Attorney confirmed yes.

Vice Mayor DuBois acknowledged that he was not aware of the lawsuits against the contractor for Agenda Item Number 3 and he supported Council Member Tanaka's comments.

**MOTION TO RECONSIDER:** Council Member DuBois moved, seconded by Council Member Kou to reconsider Agenda Item Number 3.

# FINAL MINUTES

Mayor Fine asked if the Motion to reconsider the vote on that item would still have to be pulled with the three votes and scheduled for a time to be determined.

Ms. Stump clarified that the Motion to reconsider is to not approve it but to pull it for further action.

Council Member Filseth announced that he would like to reconsider Agenda Item Number 3 as well.

**MOTION PASSED:** 6-1 Fine no

**MOTION:** Vice Mayor DuBois moved, seconded by Council Member Kou, third by Council Member Filseth to continue Agenda Item Number 3 to a date uncertain.

Ed Shikada, City Manager confirmed that he would work with Staff to find an appropriate date to hear the item.

## City Manager Comments

Ed Shikada, City Manager declared that due to an increase in Corona Virus (COVID-19) cases, Santa Clara County has moved into the Purple Tier as of November 17, 2020. Activities that can continue under the Purple Tier include critical infrastructure, playgrounds, outdoor recreation, and gatherings of 3 households maximum. Under the new restrictions' bars and breweries, offices, museums, zoos, and family entertainment activities are closed. Outdoor only activities include outdoor dining, movie theaters, and places of worship. The next three upcoming testing dates are November 20, 2020, December 4, 2020, and December 18, 2020. Free flu shots are available at the testing sites and Staff continues to have discussions with Santa Clara County on making more testing dates available. Two upcoming community meetings are taking place on November 17, 2020. A discussion regarding Uplift Local is scheduled for 5:30 P.M. and then at 7:00 P.M. is the virtual public safety community meeting. On November 20, 2020, at 6:00 P.M. is the virtual tree lighting ceremony and the Magical Bridge Playground is to open on November 17, 2020, under specific safety guidelines. Lastly, Boards and Commission recruitment has been extended to November 17, 2020.

Council Member Kniss urged Staff to show the map that Santa Clara County has provided with the announcement of the county moving back into the Purple Tier. She found it frustrating that San Mateo County is still in the Red Tier while the City is forced to move back into the Purple Tier.

# FINAL MINUTES

Mr. Shikada disclosed that there has been discussion between Santa Clara County and the State of California that metro areas should move with other metro areas.

## Action Items

8. Direction on the City of Palo Alto's Race and Equity Work Including: 1) Adoption of a Mission Statement; 2) Direction on Police Data Collection, Alternative Response Resources, Use of Force Reporting, Future Labor Agreement Negotiations; 3) Citywide Workforce Assessment; and 4) Organization of Future Work.

Mayor Fine announced that Palo Alto (City) continues to take steps regarding systemic racism, particularly within the Police Department.

Chantal Cotton-Gains, Deputy City Manager acknowledged that the presentation is a follow-up presentation from the October 26, 2020 item.

Steve Guagliardo, Administrative Services Department Principle Analyst reported that there has been a lot of work done regarding systemic racism within the four Ad Hoc Committees that the Mayor had set up in June of 2020. Three Ad Hoc Committees were focused on police matters and one of them focused on Citywide Diversity and Inclusion. Along with the Ad Hoc Committees, the Human Relations Commission (HRC) was tasked to follow up on *8 Can't Wait*. Police Policy Section 300 was updated on November 2, 2020, by City Council (Council) and that reflected the work that the HRC had conducted on *8 Can't Wait*. The Ad Hoc Committees used a framework to guide their process. Community engagement and learning was the first step followed by data collection and gap identification. Staff has moved to the next step, policy direction, and has brought forward recommended actions to be discussed by Council. The Ad Hoc Committees identified eight practice areas. Under the Policing Practice area, data collection and trend analysis, officer deployment priorities and practices for non-violent calls, officer conduct investigation and transparency, and discipline and accountability were explored. Staff predicts that this work will be concluded by the end of the year 2020. Under the Citywide Practices area, hiring and promotions which included Board and Commission appointments, Board and Commission engagement with race and equity issues, continuous learning and improvements, and norms and expectations for conduct were explored. Staff predicts this work to extend into the year 2021. On October 26<sup>th</sup>, 2020, Council had listed several areas of interest that warranted continued conversations. Included in those areas of interest is the need to have further conversation about the adoption of the mission statement for Citywide diversity and inclusion work, engagement on the demographic data

# FINAL MINUTES

collection and reporting by the Police Department, expand the duties of the Independent Police Auditor (IPA) beyond the scope of officer-involved shootings and taser use, and prepare an annual report on Revised Use of Force Investigation which includes de-escalation among several others.

Ms. Cotton-Gains summarized that Staff's recommendations include the adoption of the Mission Statement, direction on police data collection, alternative response resources, Use of Force Reporting, future Labor Agreement Negotiations, Citywide Workforce Assessment, and organization of future Race and Equity Work beyond 2020.

Mayor Fine acknowledged the At Places Memo in the Staff Report that disclosed the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) discussion that took place at the Policy and Services Committee.

Jason Miles, ACLU Midpen, appreciated that the Council had received prior reform recommendations from American Civil Liberties Union (ACLU) and that ACLU has provided more recommendations for the Council to consider.

Patricia Pepa, ACLU Midpen, acknowledged the work regarding alternatives to public safety, but disclosed that the Psychiatric Emergency Response Team (PERT) Team approach did not go far enough. She encouraged the Council to adopt a Crisis Assistance Helping Out On The Streets (CAHOOTS) program instead.

Jeff Conrad, ACLU Midpen, voiced concern that the work that has been done regarding police reform will get lost among the Policy and Services Committee's other responsibilities. He recommended implementing a permanent independent Commission whose members focused specifically on policing issues.

William Bennett suggested a task force system that is modeled after the City of Oakland's own Reimaging Public Safety Taskforce.

Flynn Kelley urged the Council to implement a permanent Committee or Task Force.

Julia Ragno encouraged the Council to adopt all the *8 Can't Wait* policies as they are written and requested that the Palo Alto Police Officer Association pass more of the recommendations drafted by the HRC.

Winter Dellenbach disclosed that all the data that has been collected should be posted to the Police Department's public portal for public viewing. All Police Policies that are partially redacted should be un-redacted and posted

# FINAL MINUTES

in their entirety on the police portal. Also, the updated Police Policy Manual should be posted without delay. She supported the concept of the City having a CAHOOTS program and supported expanding the scope of the IPA.

Kathryn Mendenhall reported that the accusations against the Palo Alto Police Department has cost the department too much time and money.

Lizzie DeKraai read the closing paragraph from the letter that the Social Justice Pathway Group from Palo Alto High School had sent to the Council regarding the topic. The letter provided recommendations for Council to consider as well as encouraged Council to take swift steps forward with police reform.

Hamilton Hitchings supported the *8 Can't Wait* recommendations as well as the Chief of Police moves towards more unarmed community policing. He encouraged Staff and Council to come up with incentives to encourage officers to report the use of force.

Rebecca Eisenberg emphasized that it has taken the City way too long to implement CEDAW. She wanted to see more mental health services provided in the City.

415\*\*\*056 (Aram James) emphasized that the Council needs to reverse the Council decision that was made on December 2, 2019, regarding internal police misconduct and the IPA.

Charlotte disclosed that she disliked everything related to qualified immunity. She suggested using the Unfunded Pension Liability during labor negotiations to incentive officers to report misconduct.

Roberta Alquist wanted to see implemented a police oversight committee that is separate from the Policy and Services Committee. She announced her frustration on the length of time it has taken the City to review the CEDAW initiative.

Angie Evans hoped that the Council would take the opportunity to reverse some of the racial injustices that are within the City.

Council took a break at 6:40 P.M. and returned at 6:53 P.M.

Council Member Cormack appreciated the specificity and the effort of the work. She believed that the CAHOOTS program did not have to be an additional resource, but a substitute. She did not feel that Item 10, rewarding the desired culture in the Police Department and Item 11,

# FINAL MINUTES

reporting out on the Duty to Report situations, were included in the 13 recommendations presented by Staff.

Ms. Cotton-Gains answered that Item 11 is reflected in the policy update changes that came to the Council on November 2, 2020. Item 10 is reflected in the Diversity Citywide Inclusionary work.

Council Member Cormack emphasized that she wanted more information on the reporting of the Duty to Report.

Andrew Binder, Assistant Police Chief reported that the Duty to Report is now its own specific Duty Manual section so the policy now reflects a Duty to Report and a Duty to Intercede.

Council Member Cormack restated that Council is seeking a report on the Duty to Report.

Robert Jonsen, Police Chief shared that the interest to have a report on the Duty to Report has not been addressed, but the Police Department can accommodate that request.

Council Member Cormack inquired if the performance evaluations incorporate accommodations and/or complaints from the public and if other officers or team members provide input.

Mr. Jonsen confirmed that the performance evaluations do incorporate all three components.

Vice Mayor DuBois wanted to see some of the recommendations be more specific in terms of timelines and dates. He wished to see a separate survey for the Police Department from the Citywide survey. He summarized that the City is in the process of redacting nine policies and he wanted to see more steps taken towards that. He did not support changing policies annually and wanted to see a process go forward where policies are updated as changes are published or in a more frequent period. He asked if the City complies with state law if policies are updated once a year.

Mr. Jonsen answered that there is no specific requirement under Senate Bill 978 regarding how frequently a policy needs to be updated on the website.

Vice Mayor DuBois advised that the policies be updated monthly.

Council Member Kniss asked what the steps are once a PERT program is in place.



# FINAL MINUTES

Mr. Jonsen answered that a mental health clinician would accompany a police officer who is responding to a mental health crisis.

Council Member Kniss acknowledged the hardship of having a mental health professional who is on call and ready to go at a moment's notice.

Ed Shikada, City Manager explained that the model of the PERT program is designed to have a mental/behavior health clinician on duty, not on call, with police patrol. The Mobile Crisis Response Team (MCRT) program does have its phone number and is dispatched independently of the Police Department. Staff has scheduled a meeting with the Health and Human Service Department of Santa Clara County to discuss both programs.

Council Member Kniss expressed that she wanted updates on both programs moving forward.

Council Member Kou confirmed that both PERT and MCRT are Santa Clara County programs.

Mr. Jonsen affirmed that MCRT has its own independent dispatch, but they can call the Police Department if there is a safety concern. Another path is the police dispatch receives the call, it is then determined that MCRT would be more appropriate for that call and the call is forwarded to MCRT.

Council Member Kou shared that the number is too long for residents to remember.

Mr. Jonsen concurred and announced that Staff is looking into ways to make it more accessible.

Council Member Kou asked what the similarities are between MCRT and CAHOOTS.

Mr. Jonsen noted that CAHOOTS is broader and it is not just mental health calls that they take. MCRT is more mental health-based.

Ms. Cotton-Gains clarified that the CAHOOTS program does not exist within the City and it would be a new initiative.

Council Member Tanaka inquired what impacts would the recommendations make in terms of property and human safety.

Mr. Jonsen did not foresee any detrimental impacts on the ability to serve the community in terms of property and public safety.

# FINAL MINUTES

Council Member Tanaka asked if City funds are being used for political statements.

Mr. Jonsen shared that he has not heard of any plans of a revolt within the Police Department.

Council Member Tanaka mentioned that there are rumors that the work environment is hostile.

Mayor Fine suggested that the Council discuss Recommendation Letter A.

Vice Mayor DuBois supported the mission statement.

Council Member Kniss opined that the mission statement is inclusive, far-reaching, and supported it.

Council Member Kou concurred that the revised statement is better than the first version and supported it. She wanted to see support put towards Ms. Margaret Adkins and her case.

Mayor Fine moved to Recommendation Letter B.

Council Member Cormack wanted to know what the timeframe is for Recommendation Letter B.

Mr. Jonsen answered in the fall of 2021.

Mr. Shikada confirmed that the item will be brought forward to the Council on the Consent Calendar within the next month.

Council Member Kou predicted that the Records Management System needs to be in place before any data collection takes place.

Mr. Jonsen noted that his preference is to focus on getting the system up and running instead of data collection.

Mayor Fine moved to Recommendation Letter C.

Vice Mayor DuBois clarified that the data will be posted publicly.

Mr. Jonsen confirmed that is correct and will be reported to the Department of Justice immediately once the system is up and running.

Mayor Fine called for comments regarding Recommendation Letter D.

# FINAL MINUTES

Council Member Cormack encouraged Staff to work with Santa Clara County to rewrite the MCRT Flyer from the perspective of a person who might need to call for help.

Council Member Kniss agreed with Council Member Cormack's suggestion regarding the flyer.

Vice Mayor DuBois wanted to know when PERT would be up and operating in the City.

Mr. Jonsen restated that the Police Department is waiting for Santa Clara County to assign a clinician to Palo Alto.

Vice Mayor DuBois suggested that if PERT is not up and running by a certain amount of time, then perhaps the City should explore the creation of a CAHOOTS program.

Mayor Fine supported a Motion directing Staff to explore the feasibility and possibility of a CAHOOTS line system including cost.

Vice Mayor DuBois advised to refer to the Policy and Services Committee the feasibly study of a CAHOOTS program.

Mayor Fine wanted to know what the goals are for a CAHOOTS program as well as funding possibilities.

**MOTION:** Vice Mayor DuBois moved, seconded by Mayor Fine that, if the County does not assign a resource to Palo Alto in the next six months, refer to the Policy and Services Committee the exploration of the feasibility of a CAHOOTS-type program.

Council Member Kou suggested a timeframe of 3-months instead of 6-months.

Vice Mayor DuBois believed 6-months to be reasonable.

Council Member Kou asked if the City can have its own PERTS program as well as use Santa Clara County's program.

Mr. Shikada disclosed that the City would like to see what can be accomplished with the partnership between itself and Santa Clara County before perusing an independent model.

**MOTION PASSED: 7-0**

Mayor Fine called for comments regarding Recommendation Letter E.

# FINAL MINUTES

Vice Mayor DuBois requested how long Recommendation Letter E will take.

Mr. Jonsen answered that the Police Department is already in compliance with Senate Bill 1421 and Assembly Bill 748.

Mayor Fine moved to Recommendation Letter F. He believed it to be appropriate to include all uses of force.

Council Member Cormack agreed. She requested that the word applied to be changed to a simpler word.

Mayor Fine suggested used or utilized.

Mr. Jonsen suggested discharged instead of applied.

Mr. Shikada noted that the recommendation is talking about firing a firearm, not drawing a firearm.

**MOTION:** Council Member Kou moved, seconded by Vice Mayor DuBois to direct Staff to return the Scope of Services to allow the City Council to meet and confer directly with the Independent Police Auditor.

Vice Mayor DuBois shared that the Motion is restoring the process in which the IPA would report directly to Council in a public session instead of having the report go on the Consent Calendar.

Mayor Fine asked if Staff saw any issue or impacts the Motion may cause.

Mr. Shikada foresaw no issues.

Council Member Cormack questioned the language meet and confer.

Council Member Kou clarified that she wanted the IPA to come before Council so that there is a formal presentation in a public setting as well as come to Council to receive further direction or more understanding of what the problems are.

Council Member Cormack suggested the IPA meet with Council twice a year in public session.

**MOTION RESTATED:** Council Member Kou moved, seconded by Vice Mayor DuBois to amend the contract to require the Independent Police Auditor (IPA) to meet with the City Council in open session twice a year with each report.

# FINAL MINUTES

Council Member Kniss declared that the frequency of twice a year reporting is more than other Cities require.

Mr. Shikada explained that the language pre-dated his time with the City.

Ms. Stump concurred and she did not know of a time when the IPA had presented to the Council.

Ms. Cotton-Gains noted that the Motion would require an amendment to the IPA contract.

## **MOTION PASSED: 7-0**

Vice Mayor DuBois asked for clarification on if a weapon is drawn, if that is considered use of force.

Mr. Jonsen shared that per policy it is required to be documented.

**MOTION:** Vice Mayor DuBois moved, seconded by Council Member Kou to refer to the Policy and Services Committee consideration of the Independent Police Auditor (IPA) oversight of internal complaints regarding misconduct related to harassment, discrimination, or retaliation resulting in city investigation of uniformed officers.

Vice Mayor DuBois understood that the cases are being referred to the IPA but he wanted to see it be more formal.

Mr. Shikada foresaw it being difficult to distinguish between harassment and a dispute over performance management.

Ms. Stump concurred with Mr. Shikada and that it is not helpful to get tied up with what the City has done before.

Council Member Cormack suggested the word discipline instead of the word investigation.

Vice Mayor DuBois did not agree with the word discipline. He saw the value of the IPA is looking at processes and recommending process improvements. By discipline, he predicted that Council Member Cormack meant it would filter out potentially spurious issues.

Council Member Cormack confirmed that is correct.

Mr. Jonsen explained that the role of the IPA is to review an investigation and determine if the discipline was reasonable and appropriate.

# FINAL MINUTES

Council Member Cormack felt more comfortable setting the bar at discipline.

Council Member Filseth agreed with Council Member Cormack. He suggested the Ad Hoc Committee or Policy and Services Committee have a discussion with the current IPA regarding the topic.

Vice Mayor DuBois agreed to refer the item to the Policy and Services Committee.

**MOTION PASSED:** 6-1 Fine no

Mayor Fine reported that there were no comments for Recommendation Letter G. He moved to Recommendation Letter H.

Council Member Kou asked if officers write their incident or use of force reports independently, or with the collaboration of others.

Mr. Jonsen shared that officers are required to write an independent report of their experience.

Mayor Fine called for comments regarding Recommendation Letter I.

Council Member Cormack requested that Staff bring forward to the Policy and Services Committee recommendations as well as things to consider.

Mayor Fine moved to Recommendation Letter J.

Council Member Cormack believed it made sense for the Policy and Services Committee to review the race and equity components, but she put forth the idea that another group should conduct further analysis and provide recommendations on the police practice areas.

Mayor Fine agreed that the Policy and Services Committee is the right body to be doing most of the work. Through the research of his own, he discovered that citizen police commissions are not effective.

Council Member Kniss agreed that the Policy and Services Committee is the right Committee to conduct this type of work.

Council Member Filseth explained that many citizen police commissions did not understand what type of authority they have and that is ultimately their downfall. He suggested starting with the Policy and Services Committee and then return to the Council if the Committee feels overwhelmed.

# FINAL MINUTES

Mayor Fine called for comments regarding Recommendation Letter K. He asked if the Police Management Association is included in the recommendation.

Mr. Shikada answered yes.

Mayor Fine moved to Recommendation Letter L.

Council Member Cormack questioned if pursuing an employee assessment is the same thing as conduct an employee assessment.

Mr. Shikada confirmed that is correct.

Vice Mayor DuBois announced that he wanted to see a separate assessment done around the Police Department culture and workforce.

Mr. Shikada predicted that the assessment would allow for perspectives by departments as well as for the City as a whole.

Ms. Cotton-Gains added that the other component is the baseline demographic information which is different than the assessment itself.

Vice Mayor DuBois restated that he wanted to understand police culture separate from policy.

Mr. Shikada anticipated the survey would include issues of perceptions and attitudes concerning the significance of race and equity within the organization as well as how successful the organization is at addressing concerns.

Council Member Kou agreed that a community survey will be identified what the problems are. She noted that it is important to understand the relationship between the community and the police.

Mr. Shikada clarified that he was discussing the workforce survey, but Staff can initiate a community survey if the Council directed Staff to do that.

Mayor Fine asked for comments regarding Recommendation Letter M.

Council Member Cormack reported that the Policy and Services Committee discussed having the CEDAW summit on a Saturday so that people of all ages can attend. The summit could include multiple tracks including health and wellness and education. The panel of speakers could include experts and community members of multiple ages.

# FINAL MINUTES

Council Member Kniss advised Staff to talk to other cities who have a CEDAW recommendation before setting up a community summit.

Council Member Cormack noted that Staff has already reached out to other cities and Staff has suggested that the summit follow the City's Vaping Summit model.

Vice Mayor DuBois advised that Staff work with IT to streamline publishing police policy updates to the public website at least monthly.

Mr. Shikada suggested having a quarterly update.

**MOTION:** Vice Mayor DuBois moved, seconded by Council Member Cormack to direct Staff to work with IT to streamline publishing police policy updates to the City website on a quarterly basis.

**MOTION PASSED:** 7-0

**MOTION:** Council Member Cormack moved, seconded by Council Member XX to direct the Police Department to include in the Annual Police Report a report on Duties to Report.

Mr. Shikada wanted to know what the report would contain.

Council Member Cormack explained that the Council and the public are not made aware of reports made by police officers who have a Duty to Report.

Mayor Fine clarified that the report would be a summary of the reports that are filed by officers for specific instances.

Council Member Cormack declared that there is evidence that in a past instance police officers did not report a use of force.

Mr. Jonsen concluded that he did not see how Staff could track such situations if officers never report them and that it was not a systemic problem within the department.

Council Member Cormack encouraged the other Council Members to consider the idea.

**MOTION WITHDRAWN BY THE MAKER**

Council Member Filseth believed that the idea could be an area that the IPA could work on and he concurred that there is not a systemic problem of officers not reporting use of force instances.



# FINAL MINUTES

Council Member Cormack summarized that she wanted to understand how officers are required to exercise that duty. She supported Council Member Filseth's proposal that the IPA investigate those instances.

**MOTION AS AMENDED:** Mayor Fine moved, seconded by Council Member Kniss to approve the following actions on a variety of issues:

- A. Adoption of the mission statement as a guiding statement of the City's commitment to make equity a foundational principle in the City's operational work;
- B. Direct Staff to expedite implementation of the new police records management system with quarterly reports to Council, and to return with the necessary agreements for the records management system allowing for Racial and Identity Profiling Act (RIPA) implementation;
- C. Starting after the full implementation of the RMS and the first data collection period, direct Staff to resume annual data collection and analysis of police contact data similar to the previous Stop Data reports;
- D. Direct Staff to work with Santa Clara County on implementation of participation in the Santa Clara County Psychiatric Emergency Response Team (PERT) program and the Mobile Crisis Response Teams (MCRT) program and to return to the City Council with any necessary agreements for program participation;
- E. Direct Staff to develop/update a policy on the timing of records release related to investigations that qualify for public disclosure under SB 1421 and AB 748;
- F. Direct Staff to amend and expand the current Independent Police Auditor's (IPA) scope of services to include all administrative use of force reports where a baton, chemical agent, TASER, less-lethal projectile, canine, or a firearm is used, and all cases where the subject's injuries necessitate any treatment beyond minor medical treatment in the field;
- G. Direct Staff to maintain an every six (6) months schedule for IPA reports to City Council containing reviews ready at the time of the report; and for the IPA to provide an audit workplan to the City Council for approval;

# FINAL MINUTES

- H. Direct Staff to include use of force information to the regular Supplemental Report submitted to the City Council as a cover memorandum to each IPA report;
- I. Refer the police reform legislative priority thoughts and input to the Policy and Services Committee who will be discussing the City's legislative priorities in December 2020;
- J. Refer all race and equity work to the Policy and Services Committee for citywide diversity and inclusion practice areas and policing practice areas;
- K. Direct Staff to return in the fall of 2021 with parameters, proposals, and strategies prior to engaging in Palo Alto Peace Officers' Association negotiations;
- L. Direct Staff, in coordination with the City's overall diversity and inclusion efforts, to conduct a workforce demographic assessment as baseline information and to pursue an employee assessment to measure City workforce culture;
- M. Policy and Services Committee CEDAW recommendation: Direct Staff to proceed with a community summit on gender equity issues and next steps in Palo Alto;
- N. If the County does not assign a resource to Palo Alto in the next six months, refer to Policy and Services Committee the exploration of the feasibility of a CAHOOTS-type program;
- O. Amend the contract to require the Independent Police Auditor (IPA) to meet with the City Council in open session twice a year with each report;
- P. Refer to the Policy and Services Committee consideration of the Independent Police Auditor (IPA) oversight of internal complaints regarding misconduct related to harassment, discrimination, or retaliation resulting in city investigation of uniformed officers; and
- Q. Direct Staff to work with IT to streamline publishing Police Policy Updates to the City website on a quarterly basis.

Mayor Fine announced that the Ad Hoc Committees will be dissolved in a future Council meeting.

**MOTION AS AMENDED PASSED: 7-0**

# FINAL MINUTES

Council took a break at 8:37 P.M. and returned at 8:46 P.M.

9. PUBLIC HEARING / QUASI-JUDICIAL / LEGISLATIVE. 788 San Antonio Road [19PLN-00079]: The City Council Will Consider: 1) Adoption of a Resolution 9925 Entitled, "Resolution of the Council of the City of Palo Certifying a Final Environmental Impact Report (EIR), Making California Environmental Quality Act (CEQA) Findings Including a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Plan;" 2) Adoption of a Resolution 9926 Entitled, "Resolution of the Council of the City of Palo Alto Amending the Comprehensive Plan;" 3) Adoption of a Zoning Ordinance: a) Expanding the Housing Incentive Program to San Antonio Road, and b) Amending Definition of Gross Floor Area and Amending Retail Preservation for Housing; 4) Approval of a Tentative Map for a Condominium Subdivision; 5) Approval of a Variance to a Special Setback; and 6) Approval of Major Architectural Review for 102 Dwelling Units, a 1,800 Square Foot Commercial Space and two Basement Levels of Parking (Continued From November 9, 2020).

Mayor Fine called for disclosures.

Council Member Cormack noted that she had received a generic email from the applicant and there was new information obtained by the email.

Vice Mayor DuBois received the same email as Council Member Cormack.

Mayor Fine reported that in July of 2020 he had a phone conversation with the applicant where the applicant disclosed frustration about the pace at which the project was moving through the system.

Council Member Kniss disclosed she has talked with the applicant and visited the site more than once.

Council Member Kou concurred that she had received an email from the applicant.

Council Member Tanaka confirmed he had received an email as well from the applicant.

Jonathan Lait, Planning and Community Environment Director presented the item to the City Council (Council). He disclosed that one action before the Council is an applicant driven request to change the zoning of the subject property at the corner of Leghorn Street and San Antonio Road. The other item is a Staff recommendation that would extend the Housing Incentive Program (HIP) to the area between Middlefield Road and East Charleston

# FINAL MINUTES

Road. Both recommended actions have been evaluated in the Environmental Impact Report (EIR). The Council had pre-screened the project in October of 2018 and May of 2019. The project was seen by the Planning and Transportation Commission in September of 2019 and August of 2019 as well as the Architectural Review Board in August of 2019 and January and August of 2020. The project is located on the border of Palo Alto (City) and the City of Mountain View. The project requests that two properties be merged into one to provide 102-dwelling units and 1,803-square feet of commercial retail space on the ground floor. The project is proposed to be 50-feet in height and has a Floor Area Ratio (FAR) of 2.0. The project would include 16-dwelling units of affordable housing. To implement the project, various entitlements are being requested and require approval from Council. The first is a Comprehensive Plan Amendment to amend Program L2.4.1 to increase, not eliminate, housing sites along San Antonio Road between Middlefield Road and East Charleston Road. There are various Zoning Text Amendments to extend and apply the HIP to the property which would allow a 2.0 FAR and up to 50-feet in height, amend the definition of Gross Floor Area (GFA) to exclude equipment rooms that are located below grade as well as amend retail preservation requirements for CS districts Citywide. The Architectural Review Board had a unanimous recommendation of approval. The Planning and Transportation Commission supported the project with a 6-1 vote with support for a Transportation Demand Management (TDM) Plan and consideration of roadway improvements at San Antonio Road and Leghorn Street. The Planning and Transportation Commission also recommended that the Council consider creating a corridor plan along San Antonio Road to link up land uses and transportation issues which Staff supported. The Planning and Transportation Commission contemplated and recommended approval of the Tentative Map and the Variance request. An EIR was prepared because the site does include a structure that is eligible for the California Register of Historic Places. The historic structure is proposed to be demolished which requires a Statement of Overriding Consideration from the Council noting that the environmental impact caused by the project is outweighed by the benefits of the project. The EIR indicates that there is no transportation impact regarding Vehicle Miles Traveled (VMT) but the long-term impact of extending the HIP to the area resulted in a Level of Service (LOS) impact.

Ted O'Hanlon, Applicant announced that the project contains four levels above grade of housing units with two levels of below-grade parking that consists of 126 spaces with no machine-based parking. Bike parking will be located above ground and include 102 long-term spaces as well as 18 short-term spaces. Half of the open space requirements is achieved by 3,200-square feet of courtyard space while the other is achieved with 3,300 square feet of the rooftop deck. Based on the Strategic Economic Study that was

# FINAL MINUTES

drafted in June of 2020, it found that anything above 15 percent for Inclusionary Housing would make the project infeasible. The project would contain all rental dwelling units, but a Tentative Map is being requested so at a future date the rentals can be sold as condominiums. The project objectives are to serve a range of renters and income levels, encourage alternative modes of transportation, and develop housing without the use of the State Density Bonus.

William Riggs, Planning and Transportation Commissioner reported that there was broad support for the project from the Planning and Transportation Commission. The Planning and Transportation Commission believed that the design was responsive to transportation impacts, that the scale and use intensity is appropriate, that the corridor between San Antonio Road and Charleston Road would benefit from a corridor plan, and there was support for extending the HIP to that area.

Public Hearing opened at 9:23 P.M

Gail Price, Board President of Palo Alto Forward, announced that the Board had sent a letter to the Council that supported Staff's recommendations and the expansion of the HIP to selected areas along the San Antonio Road corridor.

Keith Bennett with Save Palo Alto's Ground Water expressed that the group's comments were ignored in the EIR. The project is in an area that is close to a contaminated plume and the project is near a flood zone. He suggested that the Council implement a Condition of Approval that limits dewatering to a maximum of 60 gallons per minute.

Mitch Mankin spoke on behalf of Silicon Valley Home who supported the project as well as the expansion of the HIP along San Antonio Road.

Debbie Mytels disclosed that many of the emissions within the City are from gas-powered vehicles coming from outside the City. She supported the project because it provides much-needed housing as well as promotes the use of alternative modes of transportation.

Liz Gardner wanted to know if the jobs that are located within a mile of the project are minimum wage or salary jobs. Also, if the on-site manager's apartment is included in the 16 Inclusionary Housing units, where bike parking located and can e-bikes be accommodated in the bike parking. Also, is the outdoor space enough for the Coronavirus (COVID-19) environment and if the units sell, will those be available to low incomes.

# FINAL MINUTES

Boris Nepo is the owner of the Greenhouse II condominiums and he believed the project would be beneficial to the neighborhood. He disclosed that the City of Mountain View is proposing to construct a homeless camp right near the project.

312\*\*\*096 (Richard Hackmann) encouraged the Council to approve the project because it will provide more residential housing in the community.

Rohin Ghosh supported the project and the extension of the HIP in the area.

Mircea Voskerician appreciated the affordable housing component of 15 percent for Inclusionary Housing and the expansion of the HIP. He fully supported the project.

John Kelley commended the applicant on focusing on smaller rental units and encouraging alternative modes of transportation for its residents. He appreciated Staff's proposal of extending the HIP and the corridor plan.

Carol Scott spoke to the proposed changes in the Comprehensive Plan and urged the Council not to amend the Comprehensive Plan, but to remove Program L2.4.1 entirely. She proposed that Council table the proposed change to the GFA because it would have implications for the entire City.

John Petrilla predicted that the project would not be successful unless the residents living in the building do not use cars. The first quarter-mile near the site is unsafe to travel by bicycle. The transit option had too much dependence on the Santa Clara County Valley Transportation Authority (VTA) and the stations owned by VTA have been moved since the EIR was published.

Kat Wortham expressed support for the project and agreed that San Antonio Road is the best place for housing.

Stephanie MacDonald agreed that the affordable housing component of the project is vital for the community. She liked that the project is transit-oriented and that the project provides a community benefit of over \$12.9 million with zero City financing.

Rebecca Eisenberg strongly urged the Council to approve the project and approve the zoning changes. She advised the Council to review City policies after the project is approved to help facilitate more projects like it. She acknowledged that the project is located near a contaminated plume and urged Council to stop putting affordable housing near toxic areas.

# FINAL MINUTES

Scott O'Neil disclosed that he is an avid cyclist who often bikes in the area the project is being proposed in. He confirmed that there are many jobs located along the Bay Trail and the placement of the project is perfect for commuters who use bicycles.

Charlotte encouraged the Council to approve the project and the proposed zoning changes. She shared that the EIR is very comprehensive.

Pamela Harter predicted that bicycle and pedestrian safety will deteriorate more if the project is constructed.

Kelsey Banes supported the project. She pointed out that all the new housing sites that are called out in the new Housing Element update are along San Antonio Road. For that reason, she supported the extension of the HIP along the corridor and supported the concept of Staff drafting a plan for the corridor.

Alex Melendrez wanted to see the current housing imbalance be addressed and believed that the project provides a first step toward solving the problem.

Ester Nigenda disclosed that she is a member of Save Palo Alto's Ground Water. She reported that there have been no new Geotechnical Reports done since the underground parking facility moved to two levels below grade. She requested that a new Geotechnical Report be drafted.

Angie Evans foresaw the project as being the right thing to do when it comes to tackling the housing imbalance and poverty.

Joan Larabee was concerned that the project relies too heavily on residents of the property biking and how that will affect the already dangerous San Antonio Road.

Kueller B concurred that by approving the project and extension of the HIP, more homes will have the chance to be built within the City.

Ryan Globus agreed that the new pedestrian bridge over Highway 101 will provide a safer link from the project to nearby jobs. He supported having Staff draft a transportation plan for San Antonio Road.

Aram James wanted to know what percentage of the houses are going to be rented to high tech workers versus service workers and people of color. He advised the Council to discuss that topic before approving the project.

# FINAL MINUTES

Salim Damerджи supported the project, as well as the extension of the HIP. He mentioned that bicycle safety along San Antonio Road needs to be improved regardless if the project is approved or not.

B. Beekman confirmed that the parcels are located on a Superfund site area. He supported housing that accommodates 30 to 60 percent of the Average Median Income (AMI) for the area.

Public Hearing closed at 10:20 P.M.

Peter Baltay, Planning and Transportation Commission Chair shared that the proposed project is very good with its intentions, it is a passable design and placed in a great location. The applicant worked very closely with the Architectural Review Board and in the end, the Board supported the project.

Council Member Kniss shared that the project is fascinating, but wanted to know more about the bicycle component of the project.

Mr. O'Hanlon explained that the bike parking contains a standard size, non-machine apparatus for storing bikes which is located adjacent to the lobby on the ground level. Regarding the suggestion about e-bikes and charging, he announced that he will explore that suggestion further. He noted that the average size of the studio apartments is 510-square feet, the average size of the one-bedroom units is 650-square feet and the average size for the two-bedroom units is 1,100-square feet.

Council Member Kniss requested more information regarding parking for cars.

Mr. O'Hanlon confirmed that the project is fully parked with 126 traditional stall-based parking spaces. The retail space will have 20 spaces of the 126 allocated to it for their customers to use.

Council Member Kniss inquired if the project and the extension of the HIP should be separated, or discussed together.

Mayor Fine suggested to separate them.

Council Member Kniss asked when was the last time the City had approved a housing project.

Mr. Lait confirmed that it has been a while since a large project has been approved.

Council Member Kniss reported that along San Antonio Road in the City of Mountain View the buildings are eight to ten stories high and the City of



# FINAL MINUTES

Mountain View does have several specific plans for their section of the roadway. She supported having housing along San Antonio Road and that there are jobs located within the vicinity of the proposed project that provide various hourly wages. She inquired how many times the Architectural Review Board and Planning and Transportation Commission had reviewed the project.

Mr. Lait disclosed that the Architectural Review Board reviewed it three times and the Planning and Transportation Commission had a meeting regarding the EIR as well as a project meeting.

Council Member Cormack appreciated the Architectural Review Board's contributions to the project, the incorporation of the chrysanthemum flower to pay homage to the historic flower shop, the scriptural numbers in front of the building for wayfinding, that the project is fully parked, and rounding up to 16 affordable units instead of paying an In-Lieu Fee. She wanted to know if the open space on top of the building is a roof deck or a rooftop garden.

Mr. Lait summarized that under the HIP, if the rooftop space is open to residents of the building then the open space requirement is satisfied.

Sheldon Au Sing, Planner noted that the rooftop does contain gathering spaces.

Council Member Cormack inquired about the pedestrian ramp and the special setback.

Mr. Lait explained that there will be an American Disability Act (ADA) compliant access ramp to the entrance and the ramp will encroach into the 25-foot special setback. He mentioned one way to manage any possible future issues is the adoption of the proposed Condition of Approval Number 15 that would require the applicant to modify the ramp if any roadway improvements are going to take place.

Vice Mayor DuBois asked why there was a switch to rental units from ownership.

Mr. O'Hanlon explained that as the number of units grew, the project morphed into more of a rental project than an ownership project.

Vice Mayor DuBois questioned why the square footage of the retail space is reduced.

Mr. Lait noted that the Building Permit history was reviewed and it showed that one of the past uses was never established.

# FINAL MINUTES

Vice Mayor DuBois wanted to know what the proposed affordability level is.

Mr. Lait shared that the affordable housing units are deed-restricted to the 80 to 100 percent AMI with 1/3 restricted to 120 AMI.

Vice Mayor DuBois pointed out that there were no Conditions of Approval that relate to construction hours and he advised Staff to include those.

Mr. Lait explained that the construction hours are listed in the Municipal Code and the project would be subject to those even if they were not listed in a Condition of Approval.

Vice Mayor DuBois rephrased that he wanted to see the project be respectful to the residents living across the street during construction.

Mr. Lait declared that the Municipal Code does require the project to provide a Logistic Plan and any construction happening outside of typical hours would require a permit.

Vice Mayor DuBois questioned if any protected trees are going to be removed.

Mr. Lait confirmed that there are 13 protected trees sited to be removed.

Vice Mayor DuBois asked if there will be a plaque or marker on the site referencing the historic resource that is to be demolished.

Mr. O'Hanlon announced that he would be amenable to including a historic plaque on the site.

Mayor Fine wanted to know if the rentals were sold as condominiums, would the affordability restriction live on with that conversion.

Mr. Lait affirmed that the affordability of the 16-units would continue regardless of the units being rental or ownership units.

Mayor Fine requested more information regarding the San Antonio Road Corridor Transportation Plan.

Mr. Lait shared that there have been internal discussions amongst Staff around blending housing redevelopment with transportation improvements along the San Antonio Road corridor.

Philip Kamhi, Chief Transportation Official added that there have been discussions with VTA about the upcoming projects along San Antonio Road

# FINAL MINUTES

and them providing service along the corridor as well as looking at bicycle enhancements in the area.

Mayor Fine advised Council to discuss a San Antonio Road Corridor Transportation Plan soon. He supported the Retail Preservation Waiver, he appreciated the project using the HIP instead of State Density Bonus Law and that the project stops at a density level that is similar to California Avenue. He explained that the development is restricted to other City regulations and it made sense to allow a Gross Floor Area Waiver for parking. He concluded that the most important message is that the applicator will be paying for the affordable units for the lifetime of the deed restriction.

Council Member Tanaka appreciated that the units will be rental units and he wanted to see the 16 affordable housing units stay as rentals. He supported the size of the units. He inquired why the project did not have all studio units.

Mr. O'Hanlon mentioned that it is not impossible to have all studio units, but the team wanted the project to have a variety that appeals to more potential residents.

Council Member Tanaka announced that the loss of retail space is unfortunate.

Mr. O'Hanlon explained that it was the Council's direction to add retail space and the space that is provided will activate the corner. The team's mission is to build as much housing as possible to make the project pencil out.

Council Member Kou requested more information regarding future roadway improvements and the special setback.

Mr. Lait reiterated that the Record of Land Use Action Number 15 states that the applicant shall rearrange the frontage to accommodate any roadway improvements.

Council Member Kniss noted that the building will be in an already vacant area.

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

- A. Adopt a Resolution certifying the Final Environmental Impact Report, adopting California Environmental Quality Act (CEQA) findings, a

# FINAL MINUTES

Statement of Overriding Considerations and a Mitigation, Monitoring and Reporting Program;

- B. Approve the 788 San Antonio Road project, construction hours, and the addition of a historical plaque;
- C. Adopt a Record of Land Use Action approving the requests for a Tentative Map, Variance and Architectural Review based on findings and subject to the conditions of approval;
- D. To the extent necessary for the project:
  - a. Adopt a Resolution amending Comprehensive Plan Land Use Element Program L2.4.1;
  - b. Introduce an Ordinance approving text amendments to the Palo Alto Municipal Code Title 18

Council Member Kniss affirmed that she is excited about the project and that it is important to approve the project so that the City does not fail subject to Senate Bill 35 regulations.

Vice Mayor DuBois appreciated the applicant's responsiveness to feedback and supported the project.

Council Member Cormack concurred with Council Member Kniss and Vice Mayor DuBois's comments. She expressed that she did have concerns regarding the bicycle infrastructure. She requested that on Packet Page 171, at the bottom, the words "housing crisis" be changed to "housing imbalance".

Council Member Filseth agreed that extending the HIP makes sense and to revisit the area as a potential area for housing. He declared that market-rate and below-market-rate are two different things and he urged the Council to start thinking of them as separate components. He wanted to see the existing model work with a new model that uses the Affordable Housing Fund to invest in increasing the below-market rate (BMR) inclusion rates in other market-rate projects.

Mayor Fine agreed that the City should have one more model. He emphasized that affordable housing units are restricted in the Municipal Code to 120 percent of AMI because housing is so expensive in the City.

Council Member Kou asked if the EIR is being certified just for the project, or does the certification cover all the proposed HIP recommendations.

# FINAL MINUTES

Mr. Lait concurred that the EIR includes both the project and the HIP extension, but that does not mean that the Council is adopting the HIP extension if the EIR is certified.

Council Member Kniss disclosed that she has concerns regarding the certification of the EIR when it includes the 16 other properties.

Council Member Tanaka asked how much studio units cost to rent out.

Mr. O'Hanlon predicted roughly \$2,500, but he emphasized that the market has substantially changed and will continue to change until the project is fully built.

Council Member Tanaka reported that the studio units are affordable because they are smaller. He inquired how much the one-bedroom units would cost.

Mr. O'Hanlon predicted the two bedrooms to be roughly \$4,000 and \$5,000 a month.

Council Member Tanaka restated that the smaller units are more desirable because they are more affordable and he appreciated that the project provides more smaller units than larger units. He questioned how hard would it be to convert the two-bedroom units into studio units.

Mr. O'Hanlon agreed that smaller units are more affordable, but was not prepared to answer the question of how the project would be affected if the two-bedroom units were converted to studios.

Council Member Tanaka asked how the applicant team felt about requiring the 16 affordable housing units be forever rental units.

Mr. O'Hanlon believed that the project should be all ownership or all rentals.

Council Member Kou inquired if the EIR had only addressed one level of underground parking instead of two levels.

Mr. Lait clarified that the Soils Report had only reviewed one level and updated Soil Reports will be provided during the Plan Check Process.

Council Member Kou articulated that the HIP goes up to 1.5 FAR and the project is requesting 2.0 FAR and that 2.0 FAR would extend to all the other parcels if approved.

Mr. Lait explained that the HIP ranges from 1.5 to 3.0 FAR depending on where it is in the City. The proposal is to allow for a 2.0 FAR at the subject

# FINAL MINUTES

property and the other 16 properties' FAR will be discussed at a future hearing if adopted.

## **MOTION PASSED: 7-0**

Council Member Kou inquired if a Transportation Management Association (TMA) can be placed on the San Antonio Road Corridor.

Mr. Kamhi disclosed that the TMA is looking to expand and it could expand to the San Antonio Road corridor.

Council Member Kou challenged if future developers or owners could be required to invest in the TMA.

Mr. Kamhi confirmed that it could be written into the Conditions of Approval.

Vice Mayor DuBois asked if the nursery is excluded from the proposed HIP area.

Mr. Lait answered yes.

Vice Mayor DuBois wanted to know the definition of residential mixed-use.

Mr. Lait explained that it could include office space. The reference to high-density housing is 30 units per acre.

Vice Mayor DuBois would support language that said high-density residential in the CS Zone rather than waiving it from the retail preservation if it is an office project.

Mr. Lait agreed with that change.

Vice Mayor DuBois wanted to know how the VMT Model is being applied to the 16 parcels and how LOS would apply as part of Conditions of Approval.

Mr. Lait reiterated that LOS is still calculated.

Karly Kaufman, Rincon Consulting explained that the 788 San Antonio Road project as well as the expansion of the HIP could not be screened out of doing a VMT analysis. The City's VMT estimator was used to look at what the estimated home-based VMT per resident would be in various traffic area zones which resulted in an average of what could be expected for developments in the area.

Vice Mayor DuBois found the methodology confusing.

# FINAL MINUTES

Ms. Kaufman added that the threshold and the goal is to have 15 percent below average VMT per resident. The expansion of the HIP came in below that 15 percent.

Mr. Kamhi clarified that the EIR used VTA's estimator tool, not the City's estimator tool.

Council Member Cormack reported that her biggest concern is the integrated transit plan and she wanted to know what Staff needed to draft a transit plan.

Mr. Kamhi specified that funding is needed to work on a corridor study and the opportunities for bicycle infrastructure would come at the expense of parking and/or the new median. Staff continues to engage with VTA in having them restore transit service in the area.

Council Member Cormack announced that a member of the public suggested using a program that is similar to the Charleston Road/ Arastradero Road program.

Council Member Tanaka asked why Staff is looking to amend the GFA Exemption.

Mr. Lait explained that it is a project-specific request and Staff does not disagree because the facility is underground and does not add to the intensity and bulk of the building.

Council Member Tanaka inquired what the rationale is for having an exclusion for R-E, R-1, R-2, and RMD Zones.

Mr. Lait pointed out that those zones are listed in the existing language of the Municipal Code.

Council Member Tanaka wanted to see the exemption extended to all zones.

Mayor Fine summarized that there is consensus among the Council that housing should be placed on sites where commercial facilities are. He supported the expansion of the HIP along San Antonio Road.

Council Member Kniss suggested that the future retail occupier in the 788 San Antonio building be labeled a name that references the history of the site.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct Staff to return with the parameters for a San Antonio Corridor transportation study. (New Part B)

# FINAL MINUTES

Mayor Fine asked if Pavement Condition Funds can be used to pay for the study.

Mr. Kamhi explained that if the Pavement Condition Index is above 72, which it is, then it can be used for congestion relief projects.

Vice Mayor DuBois wanted to know if future housing projects along the San Antonio Road corridor will require separate EIRs and Traffic Analysis.

Mr. Lait predicted that the 788 San Antonio Road's EIR will cover the adjacent parcels. The approval of the EIR does not impact the ability of the City to impose conditions or mitigation measures on future projects.

Vice Mayor DuBois inquired about dewatering of the two-block area.

Mr. Lait noted that the City does have robust protocols for dewatering.

Vice Mayor DuBois requested stronger language regarding dewatering for commercial projects. He believed that the San Antonio Road corridor is not the best area for housing and is concerned about having high-density on the border. He desired to continue down the current path of placing housing on California Avenue and downtown and he wanted to keep the area zoned for light industrial uses. He requested that the Retail Preservation Waiver be limited to residential projects.

Council Member Cormack shared that she still has concerns about transit. She requested clarification on the borders of the program area.

Mr. Lait noted that the PC Zone across the street could amend their zone, but Staff was trying to keep the expansion of the HIP contained to the CS Zoned properties.

Council Member Kou felt that the expansion is placing high-density housing along San Antonio Road without any neighborhood planning. She was concerned about the reduction in retail space and she wanted to preserve the area for low-density commercial or light industrial. She did not support the expansion of the HIP.

Council Member Tanaka wanted to strike the restriction on underground parking.

Council Member Kniss supported the amendment.

Mayor Fine asked for clarification.



# FINAL MINUTES

Council Member Tanaka restated that the concept is to allow underground parking facilities for other residential projects.

Ms. Stump disclosed that the subject was never agendized.

Council Member Tanaka requested that Staff explore the concept.

**AMENDMENT:** Vice Mayor DuBois moved, seconded by Council Member Filseth to only allow the retail preservation waiver in the CS Zone on San Antonio Road for high-density residential.

Council Member Kniss did not agree to the Amendment.

Mayor Fine also did not agree with the Amendment.

Council Member Cormack wanted to know what the objective is of the Amendment.

Mr. Lait explained that it would prevent an applicant from automatically getting an exemption, but would not preclude the application from requesting a waiver.

Council Member Cormack rephrased that the Amendment is not preventing a development that may include office space.

Mr. Lait confirmed that is correct.

Council Member Tanaka believed that the Amendment would eliminate many projects and did not support it.

**AMENDMENT FAILED:** 3-4 DuBois, Filseth, Kou yes

**AMENDMENT:** Council Member Tanaka moved, seconded by Council Member XX to direct Staff to explore striking the restriction on underground parking.

## **AMENDMENT WITHDRAWN BY THE MAKER**

**MOTION AS AMENDED:** Council Member Kniss moved, seconded by Mayor Fine to:

- A. In order to extend the Housing Incentive Program (HIP) to the two-block area as defined in the administrative record:
  - i. Adopt a Resolution amending Comprehensive Plan Land Use Element Program L2.4.1;

# FINAL MINUTES

- ii. Introduce an Ordinance approving text amendments to the Palo Alto Municipal Code Title 18; and
- B. Direct Staff to return with the parameters for a San Antonio Corridor transportation study

**MOTION AS AMENDED PASSED:** 4-3 DuBois, Filseth, Kou no

Council took a break at 12:38 A.M. and returned at 12:44 A.M.

- 10. Update and Discussion on the Regional Housing Needs Allocation (RHNA) Process and Direction to Staff Regarding the City's Response to the Proposed RHNA Methodology, Including Preparation of a Formal Comment Letter (CONTINUED FROM NOVEMBER 9, 2020).

Jonathan Lait, Planning and Community Environment Director reported that Staff is seeking feedback from the City Council (Council) on a draft letter regarding the Regional Housing Needs Allocation (RHNA) Methodology. The methodology that was selected focuses on high opportunity areas and proximity to jobs. Palo Alto's (City) potential allocation is a requirement of 2,573 very low-income homes, 1,482 low-income homes, 1,673 moderate income homes, and 4,330 above-moderate income homes to be built within the 6<sup>th</sup> cycle of RHNA. The draft letter focused on three principal areas, policy areas of concern, procedural areas of concern, and data areas of concern. The letter expressed arguments against the use of the 2050 Plan Bay Area baseline and Staff recommended to ABAG that a cap be established if the baseline moves forward. The Coronavirus (COVID-19) pandemic remains a concern and how that will impact the production of housing. Staff requests that Council reach out to other agencies who share the same interests as the City to advance the City's interests. Staff has sent out five letters regarding the allocation, but the letters have not been effective in influencing the methodology process.

Greg Schmid found the RHNA numbers to be overwhelming and felt that they are in direct defiance of the State of California's Code. The State of California Code requires the Association of Bay Area Government (ABAG) to explore alternative ways of dealing with the job and housing imbalance which they did not do.

B. Beekman saw hope that Metropolitan Transportation Commission (MTC) and the Committee to House the Bay Area (CASA) may have creative ways of addressing the RHNA Allocation.

Mark Mollineaux felt that the allocation is much too low and felt that the City is grasping at straws in its arguments against the allocation.

# FINAL MINUTES

Rebecca Eisenberg agreed with Mr. Mollineaux's comments and added that the City is the only City that does not tax corporate developments.

Kelsey Banes did not think that the letter will be helpful. She believed that there are several avenues that the City could follow in terms of funding, but the City refuses to go down those paths.

Charlotte emphasized that the City has failed to build any type of housing in the City for years and is frustrated that the Council continues to block housing projects.

**MOTION:** Council Member Filseth moved, seconded by Vice Mayor DuBois to:

- A. Discuss and provide direction to Staff as appropriate on the Regional Housing Needs Allocation (RHNA) process;
- B. Direct Staff to submit a comment letter to the Association of Bay Area Governments (ABAG) Regional Planning Committee on the proposed 6<sup>th</sup> Cycle RHNA methodology;
- C. Discuss possible City Council Member engagement with other elected officials or representatives regarding the RHNA process to further advance the City's interests; and
- D. Provide initial direction to staff on preparation for a possible appeal of the RHNA methodology to the state Housing and Community Development department in Summer next year.

Council Member Filseth explained that the discussion is not about how many housing units can be built, but about having a useful plan. The current plan as stated is designed to fail and governments should not issue plans that cannot be met. He suggested that Staff reference the Freddie Mac Study instead of the Embarcadero Study. He emphasized three areas that need to be made clear. That the plan is a market-rate plan that does not address existing residents who are struggling to stay within the City. That northern California Cities need to start pushing back on the state numbers and that the City needs to start looking at all the options that are available to get the housing units built.

Vice Mayor DuBois agreed that the argument is not about the need for housing, but that the plan is setting the City up for failure. The City has a history of meeting its housing goal and he argued that the new methodology has clear errors. He suggested that the City start preparing to join the

# FINAL MINUTES

already on-going lawsuits that have been filed by surrounding Cities against ABAG.

Council Member Kniss asked who is the Embarcadero Institute.

Ed Shikada, City Manager noted that Staff had requested that Housing and Community Development (HCD) and ABAG review the Embarcadero Study, and ABAG responded with a desire not to respond.

Council Member Kniss objected to having the study in the letter.

**AMENDMENT:** Council Member Kniss moved, seconded by Mayor Fine to remove references to the Embarcadero Institute from the comment letter. (New Part E)

Council Member Filseth did not accept the Amendment.

Vice Mayor DuBois agreed with Council Member Filseth.

Council Member Kniss emphasized that it is not appropriate to use a study that is not clear to everyone what the study is, who it comes from, and what it is discussing.

Mayor Fine disclosed that the City has never met its housing goals, that aligning with other Cities sounded like offloading the City's responsibilities, and he did not support moving forward with a lawsuit. He did not support the reference in the letter regarding COVID-19 and the criticism of urban sprawl. He was not opposed to a cap but felt that requesting it indicated that the City is trying to push its housing allocation onto other Cities. He concluded that the Embarcadero Institute Study is a positional document and did not belong in the letter.

Council Member Kou clarified that the City is on track to building market-rate housing but behind in below-market subsidize housing. She agreed with all the comments that were made by Council Member Filseth. She concluded that the exaggerated housing numbers and the growth numbers that are put through overcrowding and cost burdening also discriminates against low-income housing. She strongly disagreed with Mayor Fine and Council Member Kniss's comments regarding the Embarcadero Institute Study.

Council Member Filseth supported eliminating the Embarcadero Institute Study from the letter and replacing it with the Freddie Mac Study. He shared that crowding is accounted for in the Embarcadero Institute Study.

# FINAL MINUTES

Council Member Cormack felt that the RHNA Allocation numbers are unrealistic. She asked if the prior letters that were sent by Staff have been successful.

Mr. Lait reiterated that they have not been successful.

Council Member Cormack inquired on what basis are the appeals being made.

Molly Stump, City Attorney answered that the Southern California jurisdictions are appealing because their cycle starts one year earlier than Northern California. If the City appeals, that would not take place until the middle of the year 2021.

Mr. Lait confirmed that is correct.

Council Member Cormack asked what components the Cities are appealing.

Mr. Lait clarified that the Cities are appealing their allocations. He disclosed that the City has appealed its own allocation in prior years.

Council Member Cormack requested reconciliation from Staff regarding Stephan Levy's assertions regarding the Embarcadero Institute Report.

Mr. Shikada summarized that there is disagreement about the nature of the Embarcadero Institute Study and where the flaws exist. Staff does not have a position on the matter.

Council Member Cormack did not feel prepared to make a decision on the Embarcadero Institute Study and for that reason, she did not feel comfortable including the Embarcadero Institute Study in the letter.

Mr. Lait clarified that the letter does not make an argument one way or the other concerning the Embarcadero Institute Study. The letter asks ABAG to engage HCD to see if any details could be used from the Embarcadero Institute Study.

Council Member Kniss disclosed that the enforcement used to build housing has changed and become stronger.

Vice Mayor DuBois agreed that things have changed and for that reason, it is the Council's priority to make sure that the RHNA numbers make sense and do not set the City up for failure. He remembered that there is a deadline for when the letter can be submitted.

Mr. Lait confirmed that ABAG is getting ready to formalize the methodology.

# FINAL MINUTES

Vice Mayor DuBois is comfortable referring to the Freddie Mac Study instead of the Embarcadero Institute Study. He emphasized that it is important to understand the details and viewpoints of the model.

Mayor Fine remarked that the numbers will never make sense unless the City uses its zoning tools to foster housing in the City and the numbers will never make sense if the City continues to appeal the RHNA Allocation.

**AMENDMENT PASSED:** 4-3 DuBois, Filseth, Kou no

**AMENDMENT:** Council Member Kou moved, seconded by Council Member XX to incorporate a reference and footnote to the Freddie Mac report in the comment letter.

Council Member Kniss opposed adding the report because she has not read it.

Council Member Filseth did not accept the Amendment.

**AMENDMENT FAILED DUE TO THE LACK OF A SECOND**

**MOTION AS AMENDED:** Council Member Filseth moved, seconded by Vice Mayor DuBois to:

- A. Discuss and provide direction to Staff as appropriate on the Regional Housing Needs Allocation (RHNA) process;
- B. Direct Staff to submit a comment letter to the Association of Bay Area Governments (ABAG) Regional Planning Committee on the proposed 6<sup>th</sup> Cycle RHNA methodology;
- C. Discuss possible City Council Member engagement with other elected officials or representatives regarding the RHNA process to further advance the City's interests;
- D. Provide initial direction to staff on preparation for a possible appeal of the RHNA methodology to the state Housing and Community Development department in Summer next year; and
- E. Remove references to the Embarcadero Institute from the comment letter.

**MOTION AS AMENDED PASSED:** 6-1 Fine no

# FINAL MINUTES

## Council Member Questions, Comments and Announcements

Mayor Fine requested that residents support small businesses when doing their holiday shopping.

Council Member Cormack appreciated the Office of Emergency's drill.

Council Member Kniss declared that the Cities Association named her Champion for the year for the work she has done on COVID testing.

Ed Shikada, City Manager mentioned that on December 4, 2020 at 5:30 P.M. is the Cities Association Annual Membership Social.

Adjournment: The meeting was adjourned at 1:44 A.M.