



CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting
November 30, 2020

The City Council of the City of Palo Alto met on this date in Virtual Teleconference at 6:01 P.M.

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

Absent:

Study Session

1. Study Session on Community and Economic Recovery.

Ed Shikada, City Manager noted that the item was a continuation of the October 19, 2020 discussion. Staff requested recommendations from the Council regarding how to structure the framework for the City's strategy, priority activities, and community engagement. The recovery strategy was to be used as an iterative process. Staff will bring back the item on December 7, 2020 for further discussion and feedback on potential focus areas and engagement concepts. In summary, before the Coronavirus (COVID-19) Pandemic, the City had a daytime population of roughly 140,000 with a 70,000 population in the evening. With the significant reduction in daytime population, the City has lost roughly \$34.6 million in revenue for Fiscal Year (FY) 2020-2021. The City has had to make roughly \$33.8 million in budget cuts to City departments.

Kiely Nose, Director of Administrative Services/Chief Financial Officer introduced Jerry Nickelsburg, Thomas Adams, and Nick Bloom who were presenting key trends to consider when the City can resume after the COVID-19 pandemic has concluded.

Jerry Nickelsburg, UCLA Anderson Forecast disclosed that he was presenting the United States and State of California economic outlook. Key critical questions were when will the pandemic ends, will there be a second stimulus package, and what will the near-term Economic Policy be. The forecast assumed that a small stimulus package will pass late in the first quarter of 2021 and that the near-term Economic Policy will not change in the next 12-months. The forecast predicted that slow growth will occur starting at the end of FY 2021 and continuing through FY 2022. The State of California has continued to open the State at a slower pace than other states which has caused a high unemployment rate. After referencing a past study that was

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done for the 1918 flu, it was discovered that if there are better health outcomes, there will be better economic outcomes. The high unemployment rate in the State of California has not done any serious damage to the underlying organic economy relative to the rest of the United States. The high-income sectors that were not predicted to recover until past FY 2023 were leisure, hospitality and retail. In summary, many broken employment relations require time to recover, housing continues to play a strong role in the economy, and the Fiscal Policy is going to be limited. The State of California is predicted to outperform the rest of the states because of its strong technology base businesses and high-income jobs but is predicted to lag in low-income jobs such as leisure, hospitality, and retail.

Thomas Adams, Muni Services/Avenue Insights presented an update on the City's Sales Tax. He emphasized that each City is unique and is uniquely impacted by the COVID-19 pandemic. The City has a Sales Tax rate of 9 percent and the City receives 1 percent of that rate. There are five main Sales Tax Categories which were; general retail, food products, transportation, construction, and business to business. Two separate categories also included were miscellaneous which housed health, government, and others as well as the County pool which housed online sales, Wayfair Revenue, and 3rd party vehicle sales. Out of the top 25 businesses that supplied the most revenue to the City, 12 were in general retail, six in transportation, five in business to business, one in food production, one in health and government, and zero in construction. Pandemic recession impacts to date included large cash decreases in Quarter 1 for FY 2020, large declines in business activities in Quarter 2 for FY 2020, large increases in internet purchases and new Wayfair related revenues, and the data was not yet available for Quarter 3. The pandemic recession showed different characteristics from other recessions including what was unexpected and hit overnight, it affected retail and restaurants more than other businesses, and internet purchasing became a much larger aspect for the economy. Sales Tax revenue for Quarter 2 of FY 2020 was \$29,922,852 with 20 percent of the overall total coming from internet purchases. The City was below statewide Sales Tax revenue levels in the categories of retail, food production, transportation, and miscellaneous/other. The City was up in the business to business category. The County Pool category continued to be more important during the pandemic. The County Pool was based on all eligible Sales Tax activity within the county. Quarterly allocations were based on the City's brick and mortar Sales Tax receipts as a percentage of all brick and mortar receipts for all jurisdictions within the county. The City typically received 6 to 8 percent of the County Pool, but for FY 2020 Quarter 2, the City received 5.1 percent. FY 2020 Quarter 3 was relatively flat and the City was down approximately 23 percent compared to FY 2019. It was

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predicted that it would take Palo Alto 4-years to recover from the pandemic recession.

Nick Bloom, Stanford University presented on will working from home continue after the pandemic has ended. Before the COVID-19 pandemic, only 2 percent of Americans worked from home full time. During the pandemic, the work from home percentage skyrocketed to 40 percent of Americans working from home. There have been differing views on will companies continue to allow employees to work from home after the pandemic. Nationally only 10.5 percent of less than high-school degree employees were working from home with 53.4 percent of Graduate Degree employees working from home. For the City, employees working from home were very unequal across income and education levels. Offices within the City plan to move to a hybrid option of working three days at the office and two days at home. There was becoming a huge shift from skyscraper office type buildings to low, easily accessible office buildings due to social distancing requirements. This shift benefits the City because the City had many low rises. It was predicted that traveling for business meetings would decrease after the pandemic which greatly affects the City's Transient Occupancy Tax (TOT). Based on the facts, it was recommended that the City increase accessibility to downtown and localized shopping, continue to roll out the Fiber Network, and control noise wherever possible.

Council Member Filseth asked how much of the 33 percent in the other category for Sales Tax comes from Stanford Shopping Center and Town and Country Village.

Mr. Adams answered for Quarter 3 for FY 2019, Stanford Shopping Center produced roughly \$1.9 million in Sales Tax.

Ms. Nose noted that the regional generation of Sales Tax is different than the category of Sales Tax. Regional generation looked at all categories and sector-specific looked at individual businesses Citywide.

Council Member Kniss emphasized that long-term people cannot be isolated within their homes and continue to be successful employees.

Mr. Bloom agreed with that statement. Short-term productivity was very successful with the work from home model but long-term productivity and creativity declined. Employee retention may increase if employees can work from home two days a week.

Mr. Nickelsburg added that new employees will be strongly affected by a five-day work from home schedule if it is implemented because they will not

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know the office culture and managers will not know how to incentivize work production.

Mr. Bloom confirmed that the inequality of working from home will grow because many low-income jobs cannot be done from home.

Vice Mayor DuBois wanted to understand the interrelationship between Airbnbs and if 30-day stays for Airbnbs would increase hotel demand.

Mr. Nickelsburg noted that not having students on campus at Stanford University strongly affects the hotel business.

Mr. Adams disclosed that hotels tend to see more business travel while Airbnbs see more vacation occupants.

Vice Mayor DuBois questioned how surrounding cities that do not have a lot of brick and mortar retail are affected by the County Pool allocations.

Mr. Adams concurred that it is an inequitable way of distributing Sales Tax revenue.

Fran Mancia, UC Regent opined that the tax system is outdated and does not keep up with the way that businesses are currently run. Discussion on the topic were taking place and he expected to see more legislative action taking place to address the areas of equability.

Vice Mayor DuBois inquired if the density in office space will return to normal if a vaccine is produced.

Mr. Bloom confirmed that in terms of layout, he predicted that offices will move to a more open space concept instead of little cubicles.

Mr. Nickelsburg reported that a survey was done of developers of office space and they expect to continue to develop the same amount of office space that was developed in prior years.

Council Member Cormack disclosed that healthcare is the number one employer in the City and she wanted to understand how that industry will change or be affected in terms of work from home.

Mr. Bloom commented that doctors are conducting more medical conference calls to patients than before.

Mr. Mancia confirmed that there is a direct Sales Tax impact due to COVID-19 patients being prioritized over elected surgeries and procedures.

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Mr. Nickelsburg predicted productivity for medical professionals will increase dramatically as more technology comes online.

Mr. Bloom recommended that the City think about planning when it comes to repurposing facilities that currently house businesses that may never recover like gyms or movie theaters.

Council Member Tanaka asked if hotel occupancy would increase if the City lowered its Hotel Tax.

Mr. Nickelsburg indicated that consumers do not look at the Hotel Tax when they book a hotel room.

Mr. Adams agreed with Mr. Nickelsburg.

Council Member Tanaka pointed out that the City's online purchases have increased but the City's County Pool allocation has decreased. He wanted to know how to increase the City's share of the County Pool.

Mr. Mancia mentioned that it would require state legislation changes. Some cities have a Special Transaction Use Tax which allows all online taxes to go directly to the City. He suggested that the League of Cities address the topic.

Mr. Adams understood that it would take a Constitutional Amendment to change the County Pool allocations to a destination base.

Council Member Kou found comfort that businesses are considering offering different work schedules for employees. She pointed out that many of the top 25 businesses in the City that generate the most Sales Tax are high-end stores. She wanted to know if the pandemic has affected those high-end stores.

Mr. Adams confirmed that there has been shifts in consumer behavior in terms of what they spend their money on.

Council Member Kou inquired if car sales has remained consistent with pre-Covid sales.

Mr. Adams reported that initially there was a decrease, but he expected to see an increase in Quarter 3 reports.

Council Member Kou asked what percent does the City receive from auto leases.

Mr. Adams commented that it is based upon the first 3-years of the lease.

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Mayor Fine wanted to know the impacts of consumers buying goods from other cities and having them delivered to their homes.

Mr. Bloom emphasized that the County Pool incentivizes more brick and mortar stores be built within a City. Because the City has a strong retail presence he foresaw the City not being strongly impacted by online sales.

Mayor Fine inquired if there are any other foreseeable impacts regarding the public sector and universities not having students on campus.

Mr. Mancia reiterated there is an impact on Sales Tax and hotel usage.

Matt Dolan, Chamber of Commerce found that the Staff Report and suggested framework was comprehensive and impressive. He shared that the Chamber of Commerce shares the priorities the Council has set forth. He urged the City to utilize the Chamber's resources and connections when it comes to implementation.

Em Horst emphasized that there is a trend of a much greater fraction of the workforce becoming vulnerable to shifts of employment and shifts in housing. He urged the Council to consider housing issues as they relate to economic recovery. He also urged the Council to provide more support for lower-income persons.

Mayor Fine wanted to focus more on the mental health of the community and how to support residents. He suggested the City provide a type of ombudsman support for local retailers, draft guidelines for businesses who are reopening, and fold in mental health and building safety under priority initiatives.

Council Member Cormack commented that she is looking for the County Pool allocations to be accurate across the state. She highlighted that communication is very important and the City continues to thrive in that area. She plugged that vaccine distribution and logistics needed to be addressed. She advised that a program consisting of neighborhood leaders be implemented to facilitate communication between neighborhoods and the City. She wanted to see further dialog between residents and the City on what businesses are needed within the community. She emphasized that Fiber-to-the-Home has become critical for residents and employees who are now working from home.

Vice Mayor DuBois echoed Council Member Cormack's thoughts. He agreed that a Committee made up of all the Council Members made the most sense for engagement.

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Council Member Kniss disclosed that many residents have reduced their yearly healthcare checkups due to fear of contracting the virus. Other avenues that could be explored to help facilitate more community engagement was bringing the program Cool Blocks and Emergency Preparedness into the discussion. Communication among neighbors was a key component and needed further support from the City.

Council Member Kou concurred that utilizing all communication programs that currently exist within the community was key and she suggested engaging Palo Alto Neighborhoods and neighborhood associations. She agreed that Fiber-to-the-Home is important. She suggested including a development strategy in the plan. She concurred with the suggestion of having the full Council be involved in the development of the Community and Economic Recovery Plan.

Council Member Tanaka agreed that the City needed to help facilitate COVID-19 testing and distribution of a vaccine when it is available. He advised that the Fiber-to-the-Home project should continue at a quicker pace. He encouraged more discussions with experts and that the Chamber of Commerce should be involved more. He wanted to see continued focus and support for the worst-hit businesses like childcare and restaurants. He suggested the Council think about the future of education and how the education model may change. He commented that communication could be stronger if the technology was better utilized and he wanted to see more surveys done regarding interactions between residents and the City.

Council Member Kou requested that Staff brainstorm and execute other activities that the City can host for residents.

Council Member Cormack encouraged Staff to discuss with Palo Alto Unified School District the decreased enrollment.

Council Member Kniss was disappointed that the expert panel did not include healthcare professionals. She encouraged Staff to continue discussions with experts in other areas that the pandemic is affecting.

Mr. Shikada commented that if the Council has experts in mind, to share that with Staff.

Vice Mayor DuBois agreed with Council Members Kniss's comment about a healthcare expert as well as Council Member Kou's suggestion of outdoor City hosted events.

Council took a break at 8:15 P.M. and returned at 8:25 P.M.

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NO ACTION TAKEN

Special Orders of the Day

2. Selection of Applicants to Interview for the Historic Resources Board and the Planning and Transportation Commission.

MOTION: Council Member Kou moved, seconded by Council Member Filseth to direct Staff to schedule interviews for the Planning and Transportation Commission (PTC) and Historic Resources Board (HRB) for a date in January 2021; and extend the application period for the HRB.

Council Member Kou believed that it would be good for the newly elected Council Members to participate in the interviews.

Council Member Filseth confirmed that the newly elected Council Members have expressed that they would like to participate in the interview process.

Vice Mayor DuBois shared that he felt having the interviews in the last meeting of December was intellectually inconsistent. He supported the Motion.

Council Member Kniss commented that the current Ordinance was adopted in 2016, many of the current Council Members had approved it, and for those reasons, she did not support the Motion of changing the interview process for Boards and Commissions to January.

SUBSTITUTE MOTION: Mayor Fine moved, seconded by Council Member Kniss to interview all current applicants for the HRB and PTC and extend the recruitment for the Historic Resources Board.

SUBSTITUTE MOTION PASSED: 4-3 DuBois, Filseth, Kou no

Beth Minor, City Clerk commented that the interviews will be conducted, and December 14, 2020 is when the new Board and Commission Members will be appointed.

Agenda Changes, Additions and Deletions

None

Oral Communications

Hal Mickelson, a member of the Board of Directors of the Palo Alto History Museum, corrected a misunderstanding that the museum has not spent all

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the money it has raised. Of the \$10 million that the museum has raised, only \$4 million has been spent.

Rich Green, the President of the Palo Alto History Museum, restated that the museum has already secured 2/3's of the \$10.5 million total that is needed to rehabilitate the Roth Building. The Palo Alto History Museum is eager to continue discussions with Staff and Council.

Peter Drekmeier, Policy Director of the Tuolumne River Trust, was proud of the Council 2 years ago when the Council announced support of the Bay Delta Water Quality Control Plan. He voiced frustration that Council Member Cormack, who represented the City, expressed support of the Voluntary Agreement at the workshop that was held by the San Francisco Public Utilities Commission. Her support of the Voluntary Agreement went against the prior vote of support for the Delta Water Quality Control Plan. He requested that the Council revisit the discussion.

Minutes Approval

3. Approval of Action Minutes for the November 09, 2020 City Council Meeting.

MOTION: Council Member Kniss moved, seconded by Vice Mayor DuBois to approve the Action Minutes for the November 09, 2020 City Council Meeting.

MOTION PASSED: 7-0

Consent Calendar

Michele Dauber urged the Council to remove the Downtown Streets contract from the Consent Calendar. She wanted to see the item tabled until Downtown Streets can provide a redacted copy of the report of the organization's handlings of sexual harassment allegations.

Aram James agreed with Ms. Dauber's comments.

Pat Burt encouraged the Council to remove Item Number 4 from the Consent Calendar. He suggested to the extend the contract for 6-months so that services are not stopped, and Downtown Streets can provide a copy of the redacted report regarding sexual harassment allegations.

Winter Dellenbach concurred with all previous speaker's comments regarding the removal of Item Number 4 from the Consent Calendar.

MOTION: Vice Mayor Fine moved, seconded by Council Member DuBois, third by Council Member Kniss to pull Agenda Item 9A "...Letter Expressing

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Concerns and Objection to the Valley Transportation Authority (VTA)..." to hear it at the end of tonight's meeting, to become Agenda Item Number 11A. the Regular Agenda as new Agenda Item Number 11A.

Council Member Kou registered a no vote on Agenda Item Number 5.

MOTION: Mayor Fine moved, seconded by Vice Mayor DuBois, third by Council Member Kniss to pull Agenda Item Number 4, "Approval of a Three-year Contract With Downtown Streets, Inc...." to a date uncertain.

Ed Shikada, City Manager believed that there was a short timeline before the current Downtown Street services would be discontinued and he shared that he would discuss with Staff how quickly the item could return to Council.

Council Member Kniss wished to comment on the Consent Calendar.

Molly Stump, City Attorney expressed that Council cannot make substantial comments to items that are pulled from the Consent Calendar.

Vice Mayor DuBois registered a no vote on Agenda Item Number 5.

MOTION: Mayor Fine moved, seconded by Council Member Cormack to approve Agenda Item Numbers 5-9.

- ~~4. Approval of a Three-year Contract With Downtown Streets, Inc. for a Total Amount Not to Exceed \$323,244 for Maintenance Services for the City's Five Downtown Parking Garages, Downtown Sidewalks and Alleys; and Provide Outreach Case Management Services to the Downtown Core With the Intent of Linking Homeless Individuals to Community and Housing Services.~~
5. Approval of a Funding Agreement With the Palo Alto Transportation Management Association (TMA) to Provide \$350,000 in Fiscal Year (FY) 2021; and Authorize the City Manager to Execute Amendments to Determine Funding Subject to Council Appropriation in FY 2022 and FY 2023 to Reduce Single-occupancy Vehicle Trips to Palo Alto.
6. Adoption of the Amended Community Development Block Grant (CDBG) Citizen Participation Plan.
7. Adoption of a Pension Funding Policy.
8. Resolution 9927 Entitled "Resolution of the Council of the City of Palo Alto Vacating a Public Utility Easement at 1201 Parkinson Avenue."

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9. Approval of the Tri-cities Consortium Records Management System Software Agreement With Sun Ridge Systems Inc. for \$621,248, and a Term Ending Five Years From the Date of Project Implementation to Establish a New Records Management System for the Police Departments of Palo Alto, Mountain View, and Los Altos.
- ~~9A. City Council Endorsement of the Letter Expressing Concerns and Objection to the Valley Transportation Authority (VTA) Measure B Funding Proposal.~~

MOTION PASSED FOR AGENDA ITEM NUMBER 5: 5-2 DuBois, Kou no

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

Council Member Kou shared that one of the functions of the Palo Alto Transportation Management Association (TMA) is that they are supposed to fundraise. The City has been the only entity that has been providing funding for the TMA. She wanted to know what the Regional TMA Group has to offer and if the City should leverage that group. She shared that the City should not be deciding on appropriate funds when revenue is uncertain and advised that funding be discussed at budget planning.

Vice Mayor DuBois preferred to discuss the TMA's request during the budget update process.

City Manager Comments

Ed Shikada, City Manager updated the Council regarding the Coronavirus Pandemic (COVID-19). The State of California as a whole was now in the Purple Tier due to an up rise in COVID-19 cases. The State of California was issuing a new relief package to support businesses which included tax deferrals. A modified Stay at Home Order had been issued through December 21, 2020, which limited gathering sizes and restricted activities outside the home between the hours of 10:00 P.M. and 5:00 A.M.. In response to the new Stay at Home Order, the City has reduced hours in neighborhood parks, open space reserves close at dusk, and the Palo Alto Art Center and Children's Theatre will remain closed. Santa Clara County issued new restrictions as of November 30, 2020, that restricted indoor capacity for indoor retail and other facilities open to the public, outdoor gatherings were limited to 100 people or less, temporary prohibitions were extended for contact sports, and several others. The City has provided an online portal that holds information for non-profits that are requesting assistance from the public as well as a list of support services for individuals who need assistance. Upcoming testing dates for the COVID-19 were December 4, 2020, and December 18, 2020. Free flu shots were being

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provided through Santa Clara County as well as several healthcare providers.

Council Member Cormack advised Staff to explore where the test results are recorded when a healthcare provider refers a patient to another City for testing.

Council Member Kniss explained that the test is reflected in the patient's home county numbers.

Council Member Kou urged power turn offs to be held off until Stanford University students were on break.

Mr. Shikada noted that Staff continues to work with the Utilities Department and will provide additional information to the Council and residents when it is available.

Action Items

10. Consideration of Follow-up Recommendations by the City Council Ad Hoc Committee on Boards, Commissions and Committees (BCCs), Including Adopting a Handbook and BCC Applications.

Council Member Cormack appreciated all the input that was provided by the community and Council Members. Small changes had been made in the wording of specific areas that were brought up. The Ad Hoc Committee met with all the Chairs of the Boards and Commissions and received feedback on concerns they had and what training may look like. The Ad Hoc Committee requested feedback on term limits.

Vice Mayor DuBois reconfirmed that the Chairs of the Architectural Review Board and the Historic Resources Board had suggested three, 3-year terms, or two, 4-year terms for their members. There was a suggestion to mirror the Council's timeframe that Staff follows for Agenda Packets distribution. If the Council motioned to move the appointments to spring, the City Attorney would have to bring back code updates to accommodate those changes.

Fred Balin appreciated the change to allow seven members on the Parks and Recreation Commission, the new language under the Code of Conduct regarding quasi-judicial hearings, the new language under proceedings, the new language under removal, and the new language regarding public participation.

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Aram James did not agree with the suggestion to have extended terms for members who have expertise in an area because it will cause unfairness and status issues among Board Members and Commissioners.

Jeff Greenfield announced that he was speaking on his own behalf. He shared that having the Work Plans due in June was a good idea but he had concerns regarding how new items are added to a Work Plan. He shared that moving the term start dates to March or April would be helpful. He strongly disagreed with the suggestion of having two terms, or 6-year limit, for the Boards and Commissions with 3-year terms. He suggested updating the City's website to reflect the new Handbook.

Valerie Stinger stated that she was speaking on behalf of herself. She found the Handbook to be a huge step forward and appreciated all the work that the Council and the Staff have done. She advised to include the Human Services Resource Allocation Process (HSRAP) Fund allocations and Emerging Need Fund allocations in the description of work for the Human Relations Commission. If the Human Relations Commission continues with three priorities as well as standing commitments, the workload is too much for five Commissioners to handle and she requested that Council keep the membership as is.

Council Member Kou asked the Ad Hoc Committee to repeat their proposal regarding term limits.

Vice Mayor DuBois restated that the suggestion was to have a limit of three, 3-year terms, or two, 4-year terms.

Mayor Fine inquired if the only way to remove a member from a Board or Commission is to have three Council Members draft a memo and have it agendaized for Council to consider.

Council Member Cormack shared that the language was added to address comments suggested by the public to have the removal process be conducted in a public session.

Molly Stump, City Attorney confirmed that removal of a member would be a rare occurrence. If it did happen, the Council would do that work in a public session.

Council Member Kniss felt uncomfortable having the language regarding removal in the Handbook. She inquired if it was essential to have that policy.

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Ms. Stump disclosed that it is not essential, but it is in other Cities' Boards and Commissions Handbooks.

Council Member Cormack concurred that other cities do have that policy in their Handbooks and it felt appropriate for completeness.

Council Member Kniss shared that the Council should give the member a chance to resign before enacting a full public meeting.

Vice Mayor DuBois agreed that would be the process.

Council Member Tanaka shared Council Member Kniss's removal concerns and suggested that there be a supermajority vote to remove a member from a Board or Commission. He mentioned that term limits should only apply if there are enough volunteers to fill the slots. He supported an increase of membership for the Human Relations Commission. He believed that the Chairs should be able to set their agendas. He supported the idea of having items go on the Consent Calendar for the Council if there was a unanimous vote among the members of the Board or Commission.

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

- A. Adopt the City of Palo Alto Boards, Commissions, and Committees Handbook;
- B. Use the Architectural Review Board Application as a template for all Boards and Commission Applications;
- C. Direct Staff to take the steps necessary to implement these changes;
- D. Update Human Relations Commission (HRC) description to include HSRAP and Emerging Needs Study; and
- E. Modify term limits to three terms for positions on the Historic Resources Board and Architectural Review Board, and two terms for all other BCCs.

Council Member Cormack felt that term limits should be based on the needs of the Board rather than the limits of the year. She believed that changeover is good for Boards and Commissions.

Council Member Kniss wanted to see the Human Relations Commission be increased to seven members.

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Council Member Cormack recalled that the Human Relations Commission often did not have enough applicants to fill positions.

Vice Mayor DuBois confirmed that is correct.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to keep the membership of the Human Relations Commission to seven members.(New Part F)

Vice Mayor DuBois accepted the Amendment but wanted to see it voted on as a separate item.

Council Member Cormack also accepted the Amendment but voiced that she would vote no because she wanted to see if the Human Relations Commission could continue its work with five members.

Council Member Kou asked when the new term limits would be applied.

Ms. Stump explained that Council must decide on when the term changes would apply.

Council Member Kou suggested that term limits be applied to the new appointees.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to apply term limits to currently serving BCC members who would be eligible to re-apply for an additional term. (New Part G)

Vice Mayor DuBois accepted the Amendment.

Council Member Cormack summarized that a member who is in their second term can apply and be appointed one more time and then that would conclude their service. She accepted the Amendment, but she wanted to know how many members this change would affect.

Council Member Kou wanted to see the Parks Master Plan be changed to the Parks, Trails, Natural Open Space and Recreation Master Plan.

Council Member Kniss asked if state law says that four Council Members are needed to approve the removal of a Board or Commission Member.

Ms. Stump explained that Council determines the vote.

Meghan Horrigan Taylor confirmed that surrounding City's Handbooks require a majority vote, not a supermajority.

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AMENDMENT: Council Member Kniss moved, seconded by Mayor Fine that the removal of a BCC member would require five votes by the City Council.

AMENDMENT FAILED: 3-4 Fine, Kniss, Tanaka yes

Council Member Filseth agreed with Council Member Cormack that the Council should wait a year to increase membership for the Human Relations Commission.

Mayor Fine agreed with Council Member Filseth's comment but felt regret shrinking the Human Relations Commission in the first place.

Council Member Tanaka inquired if there is an option to allow existing members to reapply if there are not enough applications for the vacant positions.

Ms. Stump reiterated that there are no state or federal laws that require Council to follow concerning managing appointments of Board and Commission Members.

Vice Mayor DuBois emphasized that the desire around not allowing existing members to reapply was to allow more community members to volunteer. Besides the Architectural Review Board and the Historic Resources Board, there has been no shortage of applications.

Council Member Cormack noted that Council and Staff can make the call to reappoint a member who has termed out when that scenario comes to the forefront.

Council Member Tanaka responded that taking it on a case by case basis felt cumbersome. He wanted to restore some power to the Chairs of the Boards and Commission and allow them to set their agendas.

Vice Mayor DuBois confirmed that the Ad Hoc Committee had explored the topic extensively. The Ad Hoc Committee felt that Staff provided professional insight that helped Boards and Commissions be more effective in their work.

Council Member Cormack added that Staff is very responsive to requests made by Boards and Commissioners.

Council Member Tanaka declared that many small items are lost because the Boards and Commission cannot agendaize them.

Council Member Cormack reiterated that amendments to the Work Plan can be brought to the Council.

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Council Member Tanaka restated that he wanted to see unanimously voted recommendations come to Council on the Consent Calendar.

Vice Mayor DuBois responded that unanimously voted recommendations are agendaized based on conversations made between the Mayor, Vice Mayor, and the City Manager.

Council Member Kou requested an amendment that the timing of providing Staff reports to Boards and Commissions mirror Council's 11 days timeframe.

Vice Mayor DuBois did not support the amendment because 11 days was too long and not flexible enough.

Council Member Kou suggested that the Staff reports be provided at least seven days in advance.

Council Member Cormack appreciated the desire to standardize but did not support the amendment.

AMENDMENT: Council Member Kou moved, seconded by Council Member Tanaka to require staff reports be provided to the BCCs seven days in advance of each meeting. (New Part H)

Council Member Kniss inquired what the current standard is.

Mayor Fine reported that there was no current standard for Boards and Commissions.

Mr. Shikada confirmed that Staff Reports are provided within 72-hours of a Board or Commission meeting and that followed the Brown Act requirements. He emphasized that there was a reluctance to set a standard that may result in unintended consequences, but Staff could evaluate the request further.

AMENDMENT PASSED: 4-3 Cormack, Filseth, Fine no

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

- A. Adopt the City of Palo Alto Boards, Commissions, and Committees Handbook; and
- B. Use the Architectural Review Board Application as a template for all Boards and Commission Applications;

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- C. Direct Staff to take the steps necessary to implement these changes;
- D. Update Human Relations Commission (HRC) description to include HSRAP and Emerging Needs Study;
- E. Modify term limits to three terms for positions on the Historic Resources Board and Architectural Review Board, and two terms for all other BCCs;
- F. Keep the membership of the Human Relations Commission to seven members;
- G. Apply term limits to currently serving BCC members who would be eligible to re-apply for an additional term;
- H. Require staff reports be provided to the BCCs seven days in advance of each meeting.

MOTION SPLIT FOR THE PURPOSE OF VOTING

MOTION AS AMENDED FOR PARTS A-E, G, AND H PASSED: 7-0

MOTION AS AMENDED FOR PART F FAILED 3-4: Kniss, Kou, Tanaka yes

Council took a break at 10:16 P.M. and returned at 10:22 P.M.

11. PUBLIC HEARING: Appeal of a Director's Interpretation Made Pursuant to Palo Alto Municipal Code Section 18.01.025 and Related to Seismic Rehabilitation. The Project is Exempt From the California Environmental Quality Act (CEQA) in Accordance With CEQA Guidelines 15061(b)(3).

Jonathan Lait, Director of Planning and Development Services reported that the item was an appeal of a zoning interpretation. The current Zoning Code allowed downtown property owners to rehabilitate their seismically vulnerable buildings and receive a Floor Area Bonus of at least 2,500-square feet. In the past, the City has allowed demolition to be a remedy to address seismic vulnerability, but that language was changed several years ago to not allow demolition anymore. Under the new change, Staff's interpretation was that the Zoning Code change allowed only a narrow band of properties to qualify for the Floor Area Bonus through demolition. The interpretation does not apply to historic buildings, the properties would still require structural analysis, peer review of the reports, and a determination from the Building Official that states that it would be infeasible to rehabilitate the building. The zoning interpretation was posted to the website on June 29, 2020, the appeal was filed on July 13, 2020, the appeal was placed on the

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Council's Consent Calendar on September 21, 2020 and was pulled by three Council Members. Any decision made by the Council was final and effective immediately. The interpretation purpose is to balance the strict interpretation of the code with broader public policy interests. The appellant's believed that a Text Amendment, which would require public hearings in front of the Planning and Transportation Commission and Council, was the appropriate path forward to implement the new policy. Staff was seeking recommendations on if the formal zoning interpretation authority appropriately applied to this interpretation.

Public Hearing opened at 10:33 P.M.

Karen Holman noted that the only requirement is to post the interpretation on the City's website, but she believed there should be an informational item presented to the Council to ensure transparency. The appellants believed that rehabilitation and demolition are not the same things and that they should not be used interchangeably. The code states the buildings must be seismically rehabilitated to contemporary structure standards but, demolished buildings by definition are not retained or rehabilitated buildings. The Staff Report referenced that the Comprehensive Plan related to reducing exposure due to seismic risk, but the Comprehensive Plan does not replace existing code and does not authorize Staff to supersede the code. Staff has the authority to interpret when there is an ambiguity, but there is no ambiguity in the code. If the Council agreed with Staff's interpretation, that will set a precedent, and that the interpretation will apply to other situations without public or Council awareness. The Staff report asserted that the current Transfer Development Rights (TDR) program is not enough to incentivize rehabilitation and such a statement was not substantiated by objective evidence. Another consideration point was once a project received TDRs, can the generating site then be demolished. Only a handful of seismically vulnerable buildings remain in the downtown area and Council needs to consider what the scope is when it comes to a policy change. The Staff report indicated that the historic rehabilitation requirements and interpretation of seismic TDRs are not in conflict. The appellant disclosed that language needs to be added to the code to make clear that seismic materials cannot jeopardize the historic preservation, programs, and requirements. If the word rehabilitation is interpreted as demolition, then there is a direct conflict with CEQA requirements regarding historic rehabilitation. Several items that the Council should consider if they wish to amend the TDR program was can the seismic building support additional floor area; and if the project can retain all or most of the vulnerable walls, then can the project receive a percentage of the TDRs.

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Pat Burt explained that the change to seismic rehabilitation was coming forward because in 2017 Council had directed Staff to explore ways to make seismically vulnerable buildings in downtown seismically compliant. Staff never returned with the result of that work.

Ken Hayes confirmed that he was working with the Mills family and he supported the Director's interpretation of allowing demolition as a remedy for seismically vulnerable buildings. Within the first 28-years of applying the Seismic Ordinance, 46 percent of the seismically vulnerable buildings that were being rehabilitated were demolished and received the allowed incentives. The Mills family's building is not a historic structure. Many structural studies have been submitted to the City and all determine that the building in question should be demolished.

Leslie Mills explained that her family owns an unreinforced masonry building and the building is structurally unfit to withstand a seismic event. In 2014, the Council overlooked the purpose of the Seismic Ordinance and focused on the word rehabilitation to prevent new buildings from getting the Floor Area Bonus. This sentiment was passed down to the Planning Department who began to require that buildings retain 50 percent of the structure to qualify for the incentives. She concluded that the City should be encouraging the total removal of seismically vulnerable buildings, not discouraging it. The City will still receive In-Lieu Parking Fees from the additional bonus square footage and the project complies with all requirements.

Ms. Holman restated that there is no opposition to making buildings safer, but the reason for the appeal is to make sure that Staff is not making policy decisions.

Pat Burt confirmed that the Mills' project is not what is being appealed. It is the Director's decision that is being appealed and for that reason, the Director should supply a response.

Mr. Lait confirmed that he was available for questions from the Council.

Mr. Burt emphasized that the intention is to strengthen the movement toward seismic upgrades and that has not happened.

Public Hearing closed at 10:55 P.M.

Council Member Filseth requested a status update on the direction that was set forth by Council in 2017 that Staff return with alternatives regarding the Seismic Ordinance. He asked how the newly proposed Mills building compared to the existing building.

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Mr. Lait explained that the newly proposed Mills building included the new bonus floor area and that it has received approval through the Architectural Review Board. Council had received an update on the work that was completed on October 16, 2017. There were additional directions to engage the Policy and Services Committee, hire a consultant to do technical studies, and elaborate on mandatory and voluntary incentives that could be applied. Staff had intended to come forward with a budget request to complete the work, but due to budget constraints the proposal was never brought forward.

Vice Mayor DuBois remarked that the Seismic Ordinance specifies that a project will receive an additional 2,500-square feet, or an additional 25 percent, whichever is greater.

Mr. Lait answered yes.

Vice Mayor DuBois inquired if the bonus floor area cannot be used, can they be sold as TDRs.

Mr. Lait confirmed that the extra square footage is eligible for the City's TDR Program and can be sold.

Vice Mayor DuBois challenged why Staff never changed the language in the Ordinance.

Mr. Lait expressed that Council would have to direct Staff to make those changes.

Vice Mayor DuBois wanted to know what Findings are required to be found to allow for demolition.

Mr. Lait emphasized that Staff spends a lot of time with projects and makes sure they can be rehabilitated without being demolished. He noted that 10 existing masonry buildings need to be rehabilitated throughout the City.

Vice Mayor DuBois challenged if it made sense to limit the Seismic Ordinance to Category 1 buildings.

Mr. Lait mentioned that if Council directed Staff to make a Text Amendment then it was appropriate to limit the Ordinance to Category 1 buildings only.

Council Member Cormack wanted further clarification on what Staff was seeking from Council.

Mr. Lait explained that Council is making a policy decision and not about the Mills project. The questions Council needed to answer where was this the

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appropriate use of the Zoning Administrators' authority to make an interpretation that would allow for demolition in discreet instances, does demolition qualify as rehabilitation, and is it eligible for floor area bonus. If yes, then the next question was does the Council agree with the Director's interpretation. If Council did not agree with the interpretation, the interpretation would be invalidated, and any policy change would be done via Text Amendment.

Council Member Cormack inquired if the Director has even made other interpretations.

Mr. Lait disclosed that this was the first formal interpretation since the code was amended in 2016. Staff makes interpretations every day because the code does not cover every scenario.

Council Member Kou summarized that the Director's interpretation changed a policy that the Council made and then made a new policy.

Mr. Lait clarified that the interpretation was a formal interpretation of the Zoning Code as well as the considerations of the City's other public policy interests to mitigate unsafe buildings.

Council Member Filseth believed that the interpretation was a policy change, but he supported the Planning Department's instincts when it came to the determination of the Mills' building.

MOTION: Vice Mayor DuBois moved, seconded by Council Member Filseth to allow the current interpretation for up to one year; and direct Staff to return to Council with a text amendment to clarify that the Floor Area Ratio (FAR) bonus is for rehabilitation and, in the case of a Category 1 building, it would include demolition assuming all other requirements to qualify are met.

Vice Mayor DuBois remembered the Council had discussions regarding the Seismic Ordinance and that there were very large incentives included in the Ordinance. He remarked that it was not good practice to interpret rehabilitation to mean demolition.

Mr. Lait shared that Staff is comfortable with the Motion.

Council Member Filseth voiced that the Motion is a cleaner way of addressing the issues.

Mayor Fine requested if the fact is true that when the Seismic Ordinance was established, roughly half the buildings that fell under the Ordinance were demolished.

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Mr. Lait confirmed that is correct.

Mayor Fine was concerned that only Category 1 buildings are allowed to be demolished and wished to see Category 2 and 3 buildings be included.

Council Member Cormack requested clarification between Category 1, 2, Unreinforced Masonry (URM), and Category 3 buildings.

Mr. Lait explained that Category 1 is unreinforced masonry buildings within the City, Category 2 is all pre-1935 buildings other than URM with an occupancy of 100 or more people, and Category 3 are all buildings with 300 occupants or more that were constructed between 1935 and 1976.

Council Member Cormack asked which categories the 10 remaining buildings fell under.

Mr. Lait clarified that the buildings are URM buildings.

Council Member Cormack wanted to know how many Category 2 buildings have not been rehabilitated.

George Hoyt, Chief Building Official restated that for downtown buildings, three Category 2 buildings and nine Category 3 buildings were remaining.

Council Member Kou questioned if the three Category 2 buildings and nine Category 3 buildings are unreinforced.

Mr. Lait reiterated that URM buildings are more vulnerable than other category buildings. There are ways to strengthen those buildings but adding floor area to them is very hard.

SUBSTITUTE MOTION: Mayor Fine moved, seconded by Council Member Tanaka to deny the appeal upholding the director's interpretation related to seismic retrofitting.

SUBSTITUTE MOTION FAILED: 3-4 Fine, Kniss, Tanaka yes

Council Member Cormack requested if Staff felt that Category 2 needed to be added to the Motion.

Mr. Lait suggested that Staff continue to study the item and bring back an analysis for the Planning and Transportation Commission and Council to consider.

MOTION PASSED: 6-1 Kniss no

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Vice Mayor DuBois left the meeting at 11:35 P.M.

11A. (Former Agenda Item Number 9A) City Council Endorsement of the Letter Expressing Concerns and Resolution 9928 Entitled "Resolution of the Council of the City of Palo Alto [in] Objection to the Valley Transportation Authority (VTA) Measure B Funding Proposal (Previously Agenda Item Number 9A)."

Ed Shikada, City Manager recapped that the item was brought to Staff's attention by actions taken from Valley Transportation Authority (VTA) Staff where they proposed a 10-year cost analysis scenario that relocated funds within the Measure B Funding Program to the Bay Regional Rapid Transit(BART) program. The letter raised objections and concerns about the actions that VTA was proposing.

Mayor Fine added that VTA was proposing to use up to 80 percent of the Measure B funding for the BART project which would result in the City not receiving funding for road repairs and grade separation.

Council Member Kniss reported that VTA did the same thing with Measure A funds. It takes a supermajority vote to redirect funding in a different direction than what the measure was originally intended for. She felt that VTA Board Members were the driver of the change, not VTA Staff. She supported Supervisor Joe Simitian's letter and urged Council to encourage Supervisor Simitian to run for a position on the VTA Board. Council Member Cormack has been selected to sit on the VTA Board for the next 2-years. She strongly urged the Council to support the letter of opposition.

Council Member Filseth agreed with Council Member Kniss's comments and disclosed that there are governance issues within VTA that need to be addressed.

Council Member Cormack supported the letter.

MOTION: Mayor Fine moved, seconded by Council Member Kniss to endorse the letter submitted by Mayor Fine expressing concern and opposition to the Valley Transportation Authority's (VTA's) proposed cash flow limiting the availability of Measure B transportation funds, and to adopt the Resolution opposing the Valley Transportation Authority's 2016 Measure B 10-year outlook base scenario.

MOTION PASSED: 6-0 DuBois absent

Council Member Questions, Comments and Announcements

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Council Member Kniss encouraged Council to use their resources to voice strong opposition to what Valley Transportation Authority (VTA) was trying to do with Measure B funds.

Adjournment: The meeting was adjourned at 11:49 P.M.