



# CITY COUNCIL SUMMARY MINUTES

Regular/Special Meeting  
June 06, 2022

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

Present in person: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Present virtually: None

Absent: None

## SPECIAL ORDERS OF THE DAY (5:00 -5:10 PM)

### 1. Adoption of Resolution for Sascha Priess Upon His Retirement

Council Member Cormack read the resolution for Sascha Priess regarding his retirement from the Palo Alto Police Department in to the record.

**MOTION:** Council Member Cormack moved, seconded by Mayor Burt to adopt a resolution celebrating Sascha Priess on his retirement.

## PUBLIC COMMENTS

None

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

Police Chief Robert Jonsen confirmed Mr. Priess had a remarkable career. His professionalism and respect towards everyone, even through tough times, was a true testament to who he is. He personally thanked Mr. Priess for his work for the City and the community.

Captain April Wagner summarized what Mr. Priess taught her as her field training officer. She concluded that Mr. Priess, and his teachings, would live on through the officers he trained and worked with.

Police Agent Sascha Priess noted he was not a man of many words but rather liked to let his work product do the talking for him. For 27-years he treated Palo Alto citizens with respect, dignity and professionalism. That was expected from the folks he trained, worked with and supervised at all times.

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## Agenda Changes, Additions and Deletions

None.

## PUBLIC COMMENT

Khashayer "Cash" Alaei spoke as the President of the Palo Alto Rotary Club and shared that the Rotary Club recently sent representatives to the City of Bloomington, Indiana to advance the new sibling city relationship. He gave a summary of the activities he attended during his visit. The Palo Alto Rotary Club and the Palo Alto University Rotary Club would host a Bloomington, Indiana Rotary delegation in November of 2022.

Emily requested a discussion with Staff about enforcement of the Noise Ordinance in her apartment building.

Bob Wenzlau, President of Neighbors Abroad, stated the organization raised \$120,000 for children in Ukraine. He confessed the group was struggling to establish a long-term plan and next steps. One possible option was to form a sister city in Ukraine. On August 27, 2022 the first Sip Sis Festival was to be held in King's Plaza. The festival was in honor of the visits of the delegation from Bloomington, Indiana as well as the delegation from Oaxaca.

Mark Shull stated San Francisco International Airport (SFO) bypassed Palo Alto and returned to the SFO Round Table to obtain community approval to proceed with the new Ground Based Augmentation System (GBAS). GBAS would heavily impact Palo Alto and the process only received outreach from the City of East Menlo Park. The noise increase caused by GBAS was projected to be in the range of 7 to 8 decibels for Palo Alto. He found the City's consultant report on the matter timid and out of step with the decision process. Palo Alto's issues were being ignored by SFO, congressional representatives and the Federal Aviation Administration (FAA).

Rebecca Ward echoed Mr. Shull's comments and concurred the SFO Roundtable's recent vote that supported the implementation of GBAS was outside the bounds of their jurisdiction. She strongly urged the City to request that the SFO Roundtable remove the proposed flight procedures over Palo Alto.

Matt Schlegel appreciated the community embracing and implementing the City's Sustainability and Climate Action Plan (S/CAP). The City and residents must create a community that was free of burning fossil fuels. The City of Palo Alto had the values, the knowledge and the funding to eliminate the use of fossil fuels.

Rebecca Eisenberg echoed and supported Mr. Schlegel's comments. She recommended the City reinvest in electric shuttles and decrease the use of cars in

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the City. An article in the Wall Street Journal mentioned that parts of California were sinking due to the elimination of groundwater.

Aram James made a Public Records Request for all documents related to the contractual agreement between the City of Palo Alto, City Manager Ed Shikada and Terry Black. Mr. Black was hired to assist in the hiring process of the new Chief of Police. He expressed frustration that the City Manager was not allowing the Council and the public to discuss radio encryption for police radios.

## Consent Calendar

Council Member Cormack registered a no vote on Agenda Item Number 3.

Council Member Tanaka registered a no vote on Agenda Item Number 4.

## PUBLIC COMMENT

Rebecca Eisenberg asked why the Council was approving Item Six and wanted to understand what happened to the work the community working group had put forth.

Bob Wenzlau (in person) supported the work of the City with respect to Item Nine. He encouraged the Council to address cardboard that would continue to be sent overseas. Also, to provide more education to the community about their recycling and where it goes.

Cedric Pitot de La Beaujardiere supported Item Six because it allowed the consultants to continue their work for the North Venture Coordinated Area Plan.

**MOTION:** Council Member DuBois moved, seconded by Council Member Cormack to approve Agenda Item Numbers 2-9.

## **MOTION SPLIT FOR THE PURPOSE OF VOTING**

**MOTION PASSED for Items 2, 5-9 : 7-0**

**MOTION PASSED for Items 3 : 6-1, Cormack no**

**MOTION PASSED for Item 4: 6-1, Tanaka No**

2. Approve Minutes from the May 16, 2022 City Council Meeting
3. Adoption of **Resolution 10044** Authorizing Use of Teleconferencing for Council Meetings During Covid-19 State of Emergency

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4. Approval of the Second Amended and Restated Purchase Order Number 4521000199 with Altec Industries, Inc., to Increase the Purchase Order Amount by \$40,024 to a New Not-to-Exceed Amount of \$707,092, for the Purchase of Two Peterbilt Crane Trucks through a Cooperative Contract, in the Scheduled Vehicle and Equipment Replacement -Fiscal Year 2020 Capital Improvement Project (VR-20000), with the Not-to-Exceed Amount Including \$687,222 for the Two Trucks and a Contingency Amount of \$19,870.
5. Adoption of **Resolution 10045** Calling for a General Municipal Election to be held November 8, 2022
6. Approval of Amendment No. 4 to Contract Number C18171717 With Perkins + Will for Preparation of the North Ventura Coordinated Area Plan (NVCAP) for a Term Through December 31, 2023.
7. Adoption of the first reading of an Ordinance Amending the City's Surveillance and Privacy Protection Ordinance to Exempt the Foothills Fire Early Warning System (PAMC 2.30.680).
8. Adoption of Side Letter of Agreement and Salary Schedule for the Service Employees International Union (SEIU) -Hourly Unit and Adoption of Salary Schedule for Limited Hourlies
9. Approve a Fiscal Year 2023 Program for Domestic Recycling of Mixed Paper and Mixed Rigid Plastics; Authorize Staff to Negotiate a Corresponding Contract Amendment with GreenWaste of Palo Alto for Program Costs in an Amount Not to Exceed \$1.2M

Council Member Cormack believed the conditions in Item 3 ceased to exist.

Council Member Tanaka noticed Item 4 was a request to increase the cost over what was originally approved by the Council. He believed items requesting an increase should be delayed until the extra charge could be made up or the contract could be renegotiated.

## City Manager Comments

Ed Shikada, City Manager reported the Centers for Disease Control and Prevention (CDC) approved the use of boosters for children between the ages of 5 and 11. The Santa Clara County of Public Health Department was issuing free masks to residents and COVID-19 home tests were available from the Federal Government. In the wake of recent events, the Palo Alto Police Department increased its visibility around Palo Alto Unified Schools and continued to hold discussions with Palo Alto Unified School District (PAUSD). On June 18, 2022 the City would hold an open house at the Municipal Services Center and the annual Twilight Concert Series

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would begin on June 25, 2022. The next meeting for the Sustainability and Climate Action Plan (S/CAP) Ad Hoc Committee was scheduled for June 14, 2022. The Ad Hoc Committee meeting would focus on the Residential Building Electrification Working Group Teams' update and their progress to date. The City invited the community to a community meeting regarding the Greer Park skatepark on June 15, 2022 via Zoom. Registration for the City's summer camps was open and he encouraged folks to sign up. Upcoming for the Council's June 13, 2022 meeting was the draft Business License Tax and/or Utility Tax Ballot Measure, the third survey results and the Utility Rate Schedule. The City Council meetings scheduled for June 20, 2022 and June 21, 2022 were scheduled to begin earlier than normal.

## Action Items

10. PUBLIC HEARING: Adoption of an Ordinance Amending Palo Alto Municipal Code Section 18.52.070 (Parking Regulations for CD Assessment District) to Continue a Temporary Ban on Eligibility of Commercial Office Uses Above the Ground Floor to Participate in the Downtown Parking In-Lieu Program and Making Clerical Amendments to PAMC Section 16.57.010 (Applicability) in Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District)

Planning and Development Services Director Jonathan Lait reported in the year 2019 the City established the ban. Concurrently, the Council adopted a new ordinance language that provided more housing opportunities. The intention was to study the impacts in lieu parking had to support or not support housing production in the downtown area. Staff and the Planning and Transportation Commission (PTC) recommended continuing the ban.

## PUBLIC COMMENT:

Rebecca Eisenberg commented that the City was designed around cars and not around human beings. She encouraged the City to invest in more public transit to remove cars from the street.

John Shenk, Thoits Brothers, encouraged the City expire the temporary ban. It was the reason the downtown was not seeing upgrades and/or additions to existing buildings. The temporary ban had unintended consequences including impacts to Transferable Development Rights (TDR). He urged the City to restart the Hamilton/Waverly garage project.

Council Member DuBois inquired if housing development would be incentivized if housing was allowed to use City garages overnight or to pay an In-Lieu Fee.

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Mr. Lait responded the Housing Element would explore that concept as well as adjustments to Development Standards to increase production of housing in the City.

Council Member DuBois suggested the Staff explore incentives and requirements for the City's Seismic Standards.

Mr. Lait noted as part of the Budget there was a proposal for consultant funding to advance the Seismic Standard project.

Council Member DuBois commented that the ban on paying the In-Lieu Fee had leveled the playing field and he looked forward to seeing that explored more in the Housing Element. He remarked he was interested in making the ban permanent with the understanding that the Council could reinstate the fee. If the ban was not permanent, he recommended it be extended for 3-years.

Council Member Cormack asked when parking was decoupled from TDRs.

Mr. Lait recalled the policy was changed within the past 7-years.

Council Member Cormack disclosed that 3-years was too long.

Mr. Lait specified the recommendation of extending the ban for 3-years corresponded with the Housing Element and the first round of Zoning Code amendments being completed. Those two projects would inform the City's Development Standards for downtown.

Council Member Cormack indicated there was a big difference between a 3-year extension and a permanent ban. She remarked she was not prepared to make a permanent decision and believed a 3-years ban would provide more insight as to who would be returning to the City to work.

**MOTION:** Council Member DuBois moved to continue the ban permanently.

## **MOTION FAILED FOR LACK OF A SECOND**

**MOTION:** Mayor Burt moved, seconded by Council Member Cormack to adopt an ordinance amending:

- A. Palo Alto Municipal Code (PAMC) Section 18.52.070 (Parking Regulations for CD Assessment District) to continue a temporary ban for three years on the eligibility of commercial office uses above the ground floor to participate in the Downtown Parking In-Lieu Program; and

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- B. PAMC Section 16.57.010 (Applicability) in Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District) in Title 16 (Building Regulations) to be consistent with PAMC Section 18.52.070.

Mayor Burt concurred within the next 2-years the City will have made substantive updates on the Housing Element and the Zoning Code. Both projects will help frame the issue moving forward.

Council Member Cormack mentioned the Staff report was clear that office was a valuable use to the community and the downtown area. The COVID-19 Pandemic had affected the City's ability to assess whether or not the ban was having the intended effect. She announced her support for the motion.

Vice Mayor Kou requested Council Member DuBois restate his motion.

Council Member Filseth was divided but believed 3-years dovetailed well with the Housing Element process. The ban was in alignment with the City's long-term plan for the downtown relative to housing and office. The City should encourage car-centric commuting professional uses and commercial uses be located in the Stanford Research Park as opposed to the downtown.

Council Member Tanaka could not support the motion because 3-years was too long. The growth of the City compared to neighboring cities was less and the City needed revenue. He supported the comment that fees should be used to build a parking structure. He echoed Council Member Cormack's comments regarding the shift to folks working from home.

## **MOTION PASSED:** 6-1

11. PUBLIC HEARING: Adoption of Resolution **10046** Providing that the City will Not Levy Assessments for the Downtown Business Improvement District for FY2023

Administrative Services Director David Ramburg reminded the Council that they preliminary approved the resolution on April 4, 2022.

## PUBLIC COMMENTS

Rebecca Eisenberg expressed confusion why the Council assumed that a bad economy was bad for everyone. She recommended folks who could not afford the fee request a waiver.

**MOTION:** Council Member Filseth moved, seconded by Council Member DuBois to adopt a resolution declining to levy assessments for Fiscal Year 2023 for the Downtown Business Improvement District (BID).

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Council Member Filseth did not support forcing businesses on University Avenue to assess themselves.

Council Member DuBois supported Council Member Filseth's comment.

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

12. 1310 Bryant Street (Castilleja School Project) PUBLIC HEARING/QUASI JUDICIAL/LEGISLATIVE: Certification of an Environmental Impact Report (EIR) and Approval of Applications for (1) a Conditional Use Permit (CUP) Amendment to Increase Student Enrollment Initially to 450 Students Followed by Phased Conditional Increases to 540 Students; (2) a Parking Adjustment to Enable On-Site Parking Reduction; (3) a Variance to Replace Campus Gross Floor Area; (4) Architectural Review of Campus Redevelopment. Additionally, (5) Adoption of a Zoning Text Amendment Exempting Some Below-Grade Parking Facilities from Gross Floor Area. Zone District: R-1(10,000). Environmental Review: Final Environmental Impact Report (EIR) Published July 30, 2020; Draft EIR Published July 15, 2019 (Item Continued from May 23, 2022 Meeting)

[The Council took a short break]

Mayor Burt reminded the Council that the public hearing was closed and there would be no public comment.

Council Member DuBois requested Staff explain the concerns about Impact Fees and the options available to the Council.

Planning and Development Services Director Jonathan Lait explained as drafted the below-grade garage was exempt from Gross Floor Area (GFA) and would not count towards the Development Impact Fee calculation. The Council could decide that GFA for the garage would count towards Development Impact Fees.

Council Member DuBois wanted to know if Council could require a shorter timeline for construction.

Ms. Lait explained the applicant presented a shorter timeline proposal that involved moving school operations to a temporary location during construction to the Architectural Review Board (ARB) and the Planning and Transportation Commission (PTC). The applicant had not identified a site and if the site was located within Palo Alto. The City would have to study the site as part of the Environmental Impact Report (EIR).

Council Member DuBois was hopeful the project could be adjusted to be more compatible with the neighborhood but believed denying the project was the best



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option due to lingering concerns. He acknowledged that the project was complex and there were errors made during the application process. It was too late in the process to review an entrance on Bryant Street and exiting on Embarcadero Road. He wanted to see a project that worked for Castilleja as well as the neighborhood and that impacts be mitigated before enrollment increases were allowed. In many ways, Castilleja School was a gated community and did not have an open campus. An open campus would allow more interaction between the school and the neighborhood. If the project were approved, he wanted to see a shorter construction timeframe as well as to leave enrollment at the current level unless the campus were moved off-site for construction. He supported the establishment of a Citizen Oversight Committee. The Committee would review the TDM reports and impacts from events as well as plan the twice-annual community meetings. He supported allowing the school to have 50 events plus five large events with the understanding the number of events could increase if the Citizen Oversight Committee found it appropriate. Option E for the parking garage fully accomplished Council's request. For the TDM, he proposed the project be approved but Staff would bring back a more detailed TDM plan before the Occupancy Permit was issued. The maximum enrollment allowed should be 540 students and that should be memorialized in the Record of Land Use action. He supported having the Text Amendment be applied to 6-acre sites or larger that are located in residential neighborhoods.

Mayor Burt requested Staff address the TDM prohibiting juniors driving to school as well as the requirement that a certain percentage of students live within bicycle distance of the school.

Mr. Lait remarked Council could consider those and there was an opportunity to impose conditions to address those interests.

Mayor Burt recalled many of the Council Members were interested in making sure that all trips are counted, not just the trips to campus. Dropping off or parking in the neighborhood and then walking to campus undermined the intent of the TDM Plan. He believed the primary administration of the TDM could be through the school and the school could administer penalties if needed.

Mr. Lait agreed the applicant should have ownership and responsibility for monitoring and reporting school activity in the neighborhood. He requested Council provide a statement of expectations of where students should park.

Mayor Burt invited the applicant to respond to his concept.

Applicant Kathy Lamdacker supported monitoring the neighborhood. In the Conditions of Approval, the school was required to monitor the parking in the neighborhood daily. The TDM restrictions and consequences would be included in the school's Parent-Student Handbook.

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Council Member Stone asked at what length was the Parent-Student Handbook reviewed.

Applicant Nanci Kauffman confirmed the handbook was reviewed by every student and every family. Every family must sign an agreement that they have read it and will abide by it. There were consequences in place if the agreement was not signed or if rules were broken.

Council Member Stone inquired what the enrollment figure was for the 2022-2023 school year.

Ms. Kauffman answered 416 students.

Council Member Stone wanted to know if any sites have been identified for a temporary campus.

Ms. Kauffman informed that the school's realtors made the school aware of when potential properties become available.

Council Member Stone re-suggested his concept of allowing the school to increase its enrollment to 450 students if the school moved to a temporary campus during construction. If a temporary campus was not found, the school would remain at its current enrollment figure until after construction was complete.

Ms. Kauffman indicated having a temporary campus was a better alternative than housing school operations on campus during construction.

Council Member Tanaka found it odd the City was limiting parking rather than requiring the project to be fully parked. The proposal created disincentives to create additional underground parking spaces by counting the garage against GFA. He asked if the EIR approval could be separated from the other considerations.

**MOTION:** Council Member Tanaka moved, seconded by Council Member Cormack to adopt a Resolution 10047 certifying the subject project's environmental impact report (Attachment B).

Council Member DuBois asked if pile drivers were allowed to be used for the project.

City's Environmental Consultant Katherine Waugh requested a couple of minutes to review the documents.

Council Member DuBois asked if the use of secant walls was to be used if construction hit groundwater.

Ms. Waugh confirmed the EIR considered secant walls.

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Council Member DuBois wanted to know what exit treatment was to be used for the garage.

Ms. Waugh responded a buzzer would be used to warn pedestrians a car was about to exit. The buzzer was subject to and shall comply with the City's Noise Ordinance.

Council Member DuBois requested that no buzzer be used and suggested lights instead.

Mr. Lait opined the Chief Transportation Official and the Director of Planning would consider the most appropriate method for the exit treatment.

Ms. Waugh noted the buzzer could be placed in different locations so that cars and pedestrians could hear it but not nearby homes.

Council Member DuBois understood if the EIR were approved the Council could still refine the TDM Plan.

Mr. Lait mentioned the TDM was more restrictive than the EIR. He asked legal Staff if the Council could approve the EIR and still require the school to find a temporary campus.

Assistant City Attorney Albert Yang believed the City had done the amount of analysis it could feasibly do for the EIR.

Vice Mayor Kou did not support decoupling the EIR from the rest of the project. The EIR should be considered alongside the remaining directives.

Mayor Burt understood the EIR was a separate decision from the project consideration.

Mr. Lait confirmed that is correct and it was common practice to decouple an EIR from other directives of a project.

Council Member Cormack recalled approving the EIR for the downtown garage but then later denied the project.

City Attorney Molly Stump proclaimed that is correct.

Council Member Tanaka wanted to know Staff's opinion on the EIR.

Mr. Lait disclosed the EIR had the benefit of being refined and adjusted over the past several years.

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Vice Mayor Kou asked if feasibility would be limited of changing a condition if the EIR were approved.

Mr. Lait concurred the EIR did included the Mitigation, Monitoring and Reporting Program (MMRP). That did not preclude the Council from imposing stricter standards that were not otherwise contemplated in the EIR or that were contemplated but came in at a lower threshold.

Council Member Stone supported the motion.

## **MOTION PASSED: 6-1, Kou no**

Council Member Filseth identified his comments with Council Member DuBois's comments. He inquired if Development Impact Fees were assessed for office buildings with underground garages in the Stanford Research Park.

Mr. Lait noted Development Impact Fees are based on GFA and if the GFA was not exempted then the GFA would count towards Impact Fees.

Mr. Yang answered in that scenario the underground garage GFA would not be included in the Impact Fee.

Council Member Filseth suggested the Council consider the City's overall City policy and GFA exemptions for Impact Fees should not be made on a case-by-case basis. He wanted to see a different exit treatment for the garage be used instead of a buzzer.

Council Member DuBois acknowledged that Castilleja had done a great job with their current TDM but the proposed TDM required more from the school. There was uncertainty from the Council and the community on whether the school could achieve the proposed TDM plan. He understood the applicant was amendable to limiting parking to only the parking garage, parking lots and the school side of the neighborhood street.

Ms. Kauffman concurred.

Council Member DuBois asked if the school was amendable to prohibiting juniors from driving to campus.

Ms. Kauffman was not supportive of enforcing a rule that excluded a student from coming to the school who had a unique situation. She requested the school be allowed three exceptions per grade.

Council Member DuBois wanted to know if a TDM company would be hired to help with traffic flow and monitoring.

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Ms. Kauffman confirmed the school had hired companies in the past for events. The school would be hiring a full-time compliance position that oversaw the school's compliance.

Council Member DuBois rephrased if the school would be amendable to having a Condition of Approval that required the school to hire an outside company for the TDM.

Ms. Kauffman answered if the school was allowed to increase enrollment then the school was amendable to hiring an outside TDM company.

Council Member DuBois acknowledged the errors made regarding the gym and art buildings' square footage. The proposed Variance was now exceptionally large and suggested that the Variance apply only to Castilleja's site. The parking garage was a necessary component of the growth. He supported excluding it from GFA but suggested the Council consider assessing it for Impact Fees.

**ORIGINAL MOTION:** Council Member DuBois moved, seconded by Council Member Filseth to incorporate the staff motion to approve the project, approve the CUP, approve the variance, approve the parking adjustment and approve the ARB findings and adopt a record of land use action subject to the following conditions/modifications:

1. Adopt zoning text amendment - C1 for parcels six acres or greater
2. Direct staff to amend the ordinance to state the square footage of below grade parking structures is excluded from gross floor area for purposes of development standards under Title 18 but included for purposes of calculating development impact fees under Title 16.
3. Construction - If students are on the Castilleja campus during construction, maintain enrollment at 416 until construction is completed, then go to 450. If students are moved off site during construction, then can go to 450 immediately.
4. Establish a 3-person Neighborhood Committee (in place of the TDM committee), appointed by council. Committee's role will be to:
  - a. Review TDM reports, events, noise complaints, and organize twice annual community meetings with the school.
  - b. Make recommendations to the Planning Director regarding the school's compliance with community conditions of approval.
  - c. Recommend to the Planning Director whether Castilleja has met the conditions that will trigger increases or decreases in enrollment.

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- d. The Planning Director will approve changes in events, enrollment, and TDM changes.
- 5. Authorize 50 events (50+ attendees) and 5 major events (500+ attendees), the school can request additional events and the Neighborhood Committee can review and make recommendations adjusting if the school demonstrates ability to manage these events well.
- 6. Approve Alternative E for the garage.
- 7. Staff to draft detailed TDM and return for a public session with Council, ideally within 6 months. This item can be placed on consent. TDM to be approved before issuing occupancy permit. TDM should include details on measurement and enforcement including but not limited to:
  - a. Applicant agrees to only use onsite and street parking along the perimeter of school building for all parking.
  - b. Requirements for satellite parking.
  - c. Impose conditions that generally no juniors drive to school, school has ability to make up to 5 exceptions for individual cases.
  - d. The school shall be responsible for traffic control, enforcing no parking/drop-offs in unauthorized streets / areas and monitoring of streets around school for student parking or drop-offs. The TDM Firm will provide information on student parking and drop off compliance as part of their reports 3 times per year.
  - e. Impose condition that applicant agrees they will be excluded from any possible future RPP.
  - f. Increase the percentage of students within 5-mile radius to 40%, +/- 2%, prior to exceeding 450 students.
- 8. Clarify conditions of approval to include:
  - a. No use of pile drivers or exceptionally loud equipment during construction -
  - b. Use of secant walls if hit groundwater - Conditional of approval.
  - c. Avoid buzzer/ noise when cars exit the garage and use non-audio safety measures

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- i. Record land use action that 540 is the max number of students permitted, and no further increase in enrollment shall occur at this property. Staff will work with school leadership to draft a joint statement of intention around a maximum enrollment of students.

Council Member DuBois believed the motion provided a combination of flexibility for adjustments to be made in the future but addressed the concerns raised by the Council and the community.

Council Member Filseth acknowledged that the school had been a part of the community for over a century. He believed the GFA exemption should be consistent with Citywide policy but felt the motion struck the right balance for enrollment. He was sensitive to the argument that some students may have unique situations and must drive to school. He encouraged the Council to consider allowing the school to determine a small number of students to be exempted from the prohibition.

Council Member Stone agreed the motion found a way to strike a compromise between the school, the neighborhood and the community. It allowed the school to rebuild trust with the community. He strongly supported the establishment of the Citizen Oversight Committee. It allowed Castilleja to reach its desired enrollment of 540 students while allowing the neighbors to provide feedback. He supported the proposal for 50 events with five major events but did not want to see true student events be limited. He appreciated the redesign of the garage and the saving of the trees that Option E provided.

Council Member Cormack expressed concern about the title of the Citizen Oversight Committee and suggested it be called the Neighborhood Committee.

Council Member DuBois agreed.

Council Member Filseth accepted the proposed change.

Council Member Cormack asked how Staff envisioned the Neighborhood Committee would work.

Mr. Lait commented Council could be more specific about its role if it chose to.

Council Member Cormack found the proposed limited number of events to be overreaching and recommended the maker and seconder return the number of events to 70. She noted that the Neighborhood Committee could recommend the number of events be decreased if impacts were identified.

Council Member DuBois remarked that 50 was a good place to start but suggested the number not be decreased below 50.

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Council Member Cormack stated her concern was that the City was arbitrarily removing the opportunity for students and families to participate in important events together.

Council Member DuBois noted parent events could be done at a different location.

Council Member Cormack wanted to know what happened if the Council did not approve the TDM.

Mr. Lait believed Item Seven of the motion provided clear direction to Staff and could be incorporated objectively into the TDM.

Council Member Cormack asked the maker to explain Item Seven (b) of the motion.

Council Member DuBois understood from the Staff report that a detailed TDM plan was being worked on.

Mr. Lait restated the TDM was largely included in the Packet. The intention was that Staff would put together the TDM Plan in a more formal document and incorporate all of the conditions that the Council directed Staff to add.

Council Member DuBois clarified Item Seven (b) was meant to say that if there was a need for satellite parking. Then requirements for that would be included in the TDM.

Mr. Lait understood Staff would include process language in the TDM Plan about when satellite parking may be required and how that would be implemented.

Council Member Cormack wanted to understand if it was feasible to not use a buzzer at the garage.

Mr. Lait acknowledged there was technology available that could reduce noise and provide a universal design.

Council Member Cormack asked why limiting events to 50 could be detrimental to students.

Ms. Kauffman mentioned the COVID-19 Pandemic highlighted that students needed to share a physical space with their peers, parents and teachers. The concern about having car doors slamming during evening events was eliminated with the underground garage. It was difficult to keep families engaged with their students with limited events.

Vice Mayor Kou agreed the project had been difficult and the process had caused a lot of turmoil in the community. She requested an inclusion under Item Eight that



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required continuous noise monitoring for the pool area. She was concerned about placing the burden on neighbors to file complaints.

Council Member DuBois commented continuous monitoring sounded too burdensome. He believed the sound baffle and lowering the elevation of the pool would help with the noise. He invited Staff to give more details regarding sound mitigations for the pool area.

Mr. Lait confirmed there was a mitigation measure that required testing of amplified noise and that would be reported to the City. Also, Condition #12 allowed the Director of Planning to require the placement of noise monitors.

Council Member DuBois added if noise from the pool area became an issue the Neighborhood Committee could discuss it.

Vice Mayor Kou restated her concern about placing the responsibility on neighbors to handle noise complaints. The Council should instill guidelines and/or have the responsibility of making sure there were no impact.

Council Member DuBois agreed but believed having the Neighborhood Committee was a good trade-off.

Vice Mayor Kou emphasized that she did not Certify the EIR and the Council was not examining the Municipal Code in conjunction with the Variance's findings as stated in the motion. She strongly stated that the Council was approving the Variance when it could not make the findings. While she appreciated the thoughtfulness of the motion, she could not support it.

Mayor Burt wanted to know how the enrollment increases would be implemented beyond the initial 450 students.

Council Member DuBois stated it was the Staff proposal of an increase of 25 students once Castilleja demonstrated three successful monitoring reports.

Mr. Lait remarked Item Four (d) of the motion was unclear. The Conditions of Approval provided a schedule for when enrollment happened as well as a schedule for the TDM Plan. He predicted Staff could make changes to the TDM plan easily outside of the CUP. He inquired how Item Four (d) changed the hard condition of 50 events plus five major and was the intention to have that done at the Director level.

Council Member DuBois explained if the Neighborhood Committee recommended the school be allowed to increase their events. The Planning Director would then review the recommendation and approve or deny the recommendation. He was amendable to adding into the motion an appeal process.

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Mayor Burt mentioned the motion did not indicate that Castilleja was allowed to request an increase in the number of events. The proposal would be reviewed by the Neighborhood Committee and then approved or not approved by the Director of Planning.

Council Member DuBois clarified the language in the motion.

Mayor Burt understood under Item Four (c) the scope was limited to recommending increases or decreases in enrollment.

Council Member DuBois agreed the item could be organized better.

Council Member Filseth suggested Item Four (c) be removed.

Mayor Burt understood Item Four (c) was to have the Neighborhood Committee make recommendations on whether the school had met the conditions to increase or decrease enrollment.

Council Member Filseth clarified that was covered in Item Four (a) and (b).

Council Member Dubois agreed Item Four (b) covered it.

Council Member Cormack recommended Item Four (c) be added to Item Four (a).

Council Member DuBois stated the intention of Item Four (c) was to establish the scope of the Neighborhood Committee.

Mayor Burt supported keeping Item Four (b) and (c) in the motion because they addressed different functions. He suggested language for Item Four (c).

Council Member DuBois agreed to the changes.

Mayor Burt recommended combining Item Four (b) with Item Four (d) and that the motion be clean and clear.

Mr. Lait noted the Conditions of Approval set forth a process for enrollment fluctuations. He was concerned about the Planning Director being involved in changes to that process.

Mayor Burt wanted to understand what would happen if there were violations.

Mr. Lait restated that if there were violations the Conditions of Approval outlined the administrative processes. He understood Item Four of the motion increased flexibility for modifications to events as well as the TDM plan without having to go through a protracted process.

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Council Member DuBois clarified the motion provided a public process around the process outlined in the Conditions of Approval.

Mr. Lait understood Item Four was soliciting additional input before the decision was made to increase enrollment based on how the conditions had been written.

Mayor Burt requested Council Member DuBois explore language that clarified that intent.

Mr. Lait explained Staff was taking the points as direction and Staff would refine the language.

Mayor Burt noted the motion did not suggest an increase in the percentage of students within biking distance.

Council Member DuBois confirmed that was not included in the motion.

Mayor Burt recommended the distance be 5 miles but was unsure of the right percentage. He requested the provision be included when Staff returned to Council with the TDM.

Mr. Lait agreed Staff could provide that language. The applicant had indicated that approximately 35 percent of students lived within biking distance of the school. He disclosed if the intention was adherence and if not met it would be a violation of the CUP. That was a distinction that should be made.

Mayor Burt disclosed if it was an adherence requirement then the school could readily monitor it because they knew the geography.

Council Member DuBois requested Mayor Burt explain why he wanted the increase.

Mayor Burt responded it better served the community and was a way to have another element to the TDM program.

Council Member DuBois supported a target rather than a hard requirement.

Mayor Burt proposed language for Item Seven (f). He believed if the requirement were a goal then it would be considered inconsequential.

Council Member Filseth did not accept the language proposed.

Council Member DuBois requested the applicant address the proposed condition.

Ms. Lamdacker confirmed the school could work with the condition.

# SUMMARY MINUTES

Council Member DuBois was comfortable accepting Item Seven (f) as proposed by Mayor Burt.

Council Member Filseth supported the language because the applicant was comfortable. He noted that Council was walking a thin line between its role and going beyond the scope.

Mr. Yang provided clean-up language to the motion.

Mayor Burt asked if there was a need to amend the CUP for Item Four (d).

Mr. Yang believed neither the TDM Plan nor enrollment required an amendment to the CUP.

Mayor Burt commented that the intention was to prevent satellite parking in the neighborhood and asked if that was covered in the motion.

Council Member DuBois informed that it was covered under Item Seven (a).

Mayor Burt was concerned the motion encouraged folks to park outside of the 2-block radius. The TDM plan should consider trips to the community and not just to the school site. He recommended the motion delete "in a 2-block radius" from Item Seven (d).

Council Member DuBois supported the amendment.

Mayor Burt wanted to know if the motion addressed the proposal to have half of the public art spending to be placed in the Public Art Fund.

Council Member DuBois recalled that public art would be publicly accessible.

Council Member Tanaka wanted to understand the process for increasing the number of events.

Mr. Lait confirmed with no violations the Neighborhood Committee could increase the number of events. Also, increasing the number of events would not require a CUP amendment.

Council Member Tanaka understood there was a pathway for enrollment increases.

Mr. Lait clarified that Castilleja was currently at 416 students. At the end of construction, enrollment would increase up to 450 students. Thereafter, enrollment would increase by 25 students upon demonstration of no violations up to 540 students. Castilleja was allowed to hold 50 events with five major events. That would only increase if the Neighborhood Committee made the recommendation to the Director of Planning or they filed for a CUP amendment.

# SUMMARY MINUTES

Council Member Tanaka was concerned about the limited number of events because its limited community involvement. He suggested the number of events be increased to 60 events.

Council Member DuBois did not support the amendment.

Council Member Filseth agreed and stated that Castilleja could hold events at other locations.

Council Member Tanaka asked what major impacts would the current proposal cause to the school.

Legal Counsel For Castilleja Mindie Romanowski appreciated where the motion was headed. There was concern about the requirement to hire a TDM company. The school currently and in the past years had successfully submitted monitoring reports. She requested that Castilleja be given the chance to prove they could monitor themselves. If there were concerns, the Neighborhood Committee could recommend that a TDM company be hired.

Council Member DuBois understood there was an outside firm that currently submitted the reports to the City.

Ms. Romanowski answered yes.

Council Member DuBois shared that his idea was that the company would have an obligation to monitor offsite unauthorized parking.

Ms. Romanowski stated the school was comfortable providing a snapshot of neighborhood street monitoring but daily monitoring would be burdensome.

Mr. Lait understood that Council Member DuBois was requesting that three times a year the school would provide a snapshot of the neighborhood with the reporting cycle.

Ms. Romanowski disclosed the school had already anticipated that type of monitoring to be included in the three-monitoring report.

Council Member DuBois amended Item Seven (d) of the motion.

Ms. Romanowski wanted to be clear that Item Seven (a) did not preclude parents living in the neighborhood from parking their car in front of their homes and walking to school.

Mayor Burt explained that was not the intent.

# SUMMARY MINUTES

Council Member Filseth did not support including the garage floor area in the Development Impact Fees. Castilleja was a commercial enterprise with an underground garage and he found it inconsistent to include the square footage when it was not required for other commercial enterprises.

Council Member DuBois mentioned he judged that the additional square footage was causing an impact on the neighborhood and therefore, should be assessed.

**Amendment to MOTION:** Council Member Filseth moved, seconded by Council Member Tanaka to delete Item 2.

Council Member Tanaka believed that to have the least amount of impact on the neighborhood was to park as many cars on site as possible.

Mayor Burt remarked decreasing trips to the neighborhood would decrease impacts.

**MOTION FAILED:** 4-3 Kou, Burt, DuBois, Stone no

Council Member Cormack understood the intention was that the applicant would find a temporary campus within Palo Alto.

Council Member DuBois confirmed he was comfortable with the language as proposed.

Council Member Cormack shared Council Member Filseth's concerns regarding Item Seven (f) and whether or not the Council should dictate who attended Castilleja. With respect to public art, she understood the City cannot require the applicant to pay or provide public art.

Mr. Lait specified the applicant could choose to either install the public art or pay an In-Lieu Fee. The applicant had expressed interest in installing an art piece at the corner of Bryant Street and Embarcadero Road.

Mayor Burt believed Item Nine of the motion would carry more weight if Castilleja agreed that 540 students would be the maximum build-out for the school. He asked if that commitment could be included in the Record of Land Use action.

Mr. Yang concurred that the school's commitment could be included in the Record of Land Use action.

Ms. Kauffman was unclear if the school's governance would allow her to make that commitment. She did not want to agree to something that the school was legally not allowed to do.

Board of Castilleja Foundation Mary Spizer wanted to consult the Executive Committee of the Board about such a commitment.

# SUMMARY MINUTES

Mayor Burt recommended the motion include a direction that Staff confer with the applicant after the meeting and that an agreement be brought back to Council.

Mr. Lait specified that the Record of Land Use action would not be returned to Council.

Ms. Stump opined that the two organizations faced similar interests on limitations in their authority. She recommended Staff work with the applicant to draft a good faith statement of current intentions. She provided language for Item Nine after seeing approval nods from the applicant.

**FINAL ADOPTED MOTION:** Council Member DuBois moved, seconded by Council Member Filseth to incorporate the staff motion to approve the project, approve the CUP, approve the variance, approve the parking adjustment and approve the ARB findings and adopt a record of land use action subject to the following conditions/modifications:

1. Adopt zoning text amendment - C1 for parcels six acres or greater
2. Direct staff to amend the ordinance to state the square footage of below grade parking structures is excluded from gross floor area for purposes of development standards under Title 18 but included for purposes of calculating development impact fees under Title 16.
3. Construction - If students are on the Castilleja campus during construction, maintain enrollment at 416 until construction is completed, then go to 450. If students are moved off site during construction, then can go to 450 immediately.
4. Establish a 3-person Neighborhood Committee (in place of the TDM committee), appointed by council. Committee's role will be to:
  - a. Review TDM reports, events, noise complaints, and organize twice annual community meetings with the school.
  - b. Make recommendations to the Planning Director regarding the school's compliance with community conditions of approval.
  - c. Recommend to the Planning Director whether Castilleja has met the conditions that will trigger increases or decreases in enrollment.
  - d. The Planning Director will approve changes in events, enrollment, and TDM changes.
5. Authorize 50 events (50+ attendees) and 5 major events (500+ attendees), the school can request additional events and the Neighborhood Committee

# SUMMARY MINUTES

can review and make recommendations adjusting if the school demonstrates ability to manage these events well.

6. Approve Alternative E for the garage.
7. Staff to draft detailed TDM and return for a public session with Council, ideally within 6 months. This item can be placed on consent. TDM to be approved before issuing occupancy permit. TDM should include details on measurement and enforcement including but not limited to:
  - a. Applicant agrees to only use onsite and street parking along the perimeter of school building for all parking.
  - b. Requirements for satellite parking.
  - c. Impose conditions that generally no juniors drive to school, school has ability to make up to 5 exceptions for individual cases.
  - d. The school shall be responsible for traffic control, enforcing no parking/drop-offs in unauthorized streets / areas and monitoring of streets around school for student parking or drop-offs. The TDM Firm will provide information on student parking and drop off compliance as part of their reports 3 times per year.
  - e. Impose condition that applicant agrees they will be excluded from any possible future RPP.
  - f. Increase the percentage of students within 5-mile radius to 40%, +/- 2%, prior to exceeding 450 students.
8. Clarify conditions of approval to include:
  - a. No use of pile drivers or exceptionally loud equipment during construction -
  - b. Use of secant walls if hit groundwater - Conditional of approval.
  - c. Avoid buzzer/ noise when cars exit the garage and use non audio safety measures
9. Record land use action that 540 is the max number of students permitted, and no further increase in enrollment shall occur at this property. Staff will work with school leadership to draft a joint statement of intention around a maximum enrollment of students.

**MOTION PASSED:** 6-1, Kou no



# SUMMARY MINUTES

13. Adoption of an Ordinance Amending Title 8 of the PAMC to Expand Tree Protection to Include Additional Protected Tree Species, Revise Grounds for Tree Removal, and Make Clarifying Changes and Amending Titles 2, 9, and 18 to make Clerical Updates

[The Council took a 5-minute break]

Public Works Director Brad Eggleston reported the Council saw the draft Tree Ordinance in October of 2021. At that time, Staff stressed the need to have a community engagement progress as well as time to analyze the Staff resources needed to implement the ordinance. Staff held a community meeting as well as discussed the draft with the Parks and Recreation Commission (PRC) and the Architectural Review Board (ARB). Included in the Packet was a supplemental memo that addressed several items in the ordinance that were identified after the Staff report was published. Staff recommended the Council adopt the proposed updated Tree Ordinance.

Manager of Urban Forestry Peter Gollinger shared the Tree Ordinance had not been updated since 2001. The City's current ordinance lagged behind other jurisdictions, the City's policy documents and changes in State law. Trees provided many benefits to the community including increased property values, benefits to the wildlife and cleaner air. Major changes included in the ordinance was the expansion of the definition of protected trees, updates to the allowable reasons for the removal of protected tree, maintenance of private protected trees, revisions to notifications and appeals for protected tree removal and Staffing resources required to implement the ordinance. The definition of protected trees was expanded to include several new species and introduced the diameter at breast height (DBH) size threshold. Other protected tree categories included any tree designated for protection during the review and approval of a development project, any tree designated for carbon sequestration and any replacement tree required as part of an approved plan. Prohibited acts were broken down into categories and those categories included trees located outside the development process, as part of a development on a residential lot, as part of a project with a subdivision of land, as part of any other project requiring discretionary approval and any circumstance other than listed. Trees removed outside of development must demonstrate that the tree was detrimental, crowding an adjacent tree, or impacting the foundation or eaves of a structure. The same language applied to residential projects along with the new definition of financially feasible. Allowable reasons to remove a tree for discretionary projects included retention of the tree would result in a reduction of permissible buildable area of the lot by more than 25 percent and no financially feasible design; or the tree was dead, hazardous, or a nuisance. Changes to the care of protected trees included an expanded list of actions that may negatively impact a protected tree. Also, requirements for owners to notify the City and publicly post their intent to work on a protected tree 7-days in advance of work.

# DRAFT SUMMARY MINUTES

The ordinance clarified the application process and notification requirements as well as clarified the use of the appeal process through the Public Works Department. The adoption of the ordinance would significantly increase the resources needed by Staff for development review, Tree Removal Permit review, violations and investigations and enforcement. Staff recommended an additional 2.48 Full-Time Equivalency (FTE) employee positions to handle the workload.

Council Member Cormack asked if Eucalyptus trees were protected.

Mr. Gollinger explained there were two Eucalyptus species listed on the California Invasive Plan Council's (Cal-IPC) list. The others were protected under the 15-inch provision.

Council Member Cormack inquired if the accessory dwelling unit (ADU) language that conflicted with Housing and Community Development Department (HCD) was resolved in the At Places memo.

Mr. Eggleston answered yes.

City Attorney Molly Stump added that the commenter did not believe the At Places Memo fully resolved his concern and he maintained that the ordinance placed a constrain on ADU production.

Council Member Cormack wanted to understand how the ordinance addressed a scenario where a neighbor's protected tree was damaging an adjacent property.

Mr. Gollinger confirmed that if the property was a home, an ADU, or required covered parking the ordinance addressed it.

Council Member Cormack inquired who was responsible for excessive pruning and other misdemeanor items.

Mr. Gollinger believed it was the property owner or the person hired to do the work.

Council Member Filseth wanted to know how many trees between 15- and 36-inches in diameter were lost annually.

Mr. Gollinger disclosed Staff did not have any data as they had not been previously protected and were not in any inventory or database. Overall the City had increased its canopy.

Council Member Filseth asked if the ordinance disincentivized folks from planting large trees.

Mr. Gollinger answered no.

# SUMMARY MINUTES

Council Member DuBois understood the ordinance would apply to all zones in the City. He asked if discretionary projects only applied to high-density residential or commercial projects.

Mr. Gollinger confirmed it applied to all projects that required approval under Title 18. The one exception was Individual Review because that was only for residential projects.

Council Member DuBois reference the penalty section for private trees in the Packet and wanted to know why the penalty for poisoning or moving a tree was not twice the value of the tree.

Mr. Eggleston commented the language was in response to if a tree was pruned too much and that resulted in the death of the tree.

Council Member DuBois believed the language provided a loophole. He understood the clarification for ADUs was that they would fall back under the conditions for low-density residential.

Mr. Eggleston concurred.

Council Member DuBois understood a tree could be removed if there was no feasible alternative. If an ADU could be moved to a different location then the tree must remain.

Mr. Eggleston answered yes.

Council Member DuBois mentioned there was a requirement to place a notice on a tree if pruning was to take place. He asked if the City would also be notified about pruning.

Mr. Gollinger affirmed that is correct.

Council Member DuBois suggested Staff revise the language because it was not explicit that a notice be placed on the tree when it is pruned.

## PUBLIC COMMENT

Bob Sanner encouraged Council to reject the statute because it had many defects. The ordinance was not compliant with State law when it only protected residences and not businesses from the damage of neighboring trees. He remarked he educated Staff on the current statutes imposed by the State and surrounding jurisdictions. Staff told him that they were not following State law.

John Kelley echoed Mr. Sanner and Mr. Dale Price's comments and urged Council not to adopt the proposed ordinance. The City did not have the data and was

# SUMMARY MINUTES

creating disincentives for doing the right thing. The outreach process had failed and the ordinance would restrict housing development in the City.

Winter Dellenbach reminded the Council that this was the seventh meeting on the ordinance. The City did not have the data on how many trees were lost annually because the City's current ordinance was weak. A stronger tree ordinance that required a reason, a permit and accountability would produce data. If the ordinance was not adopted, there would be fewer protections for trees and many trees would be lost.

Catherine Martineau, Executive Director of Canopy, expressed Canopy's support for the updates to the ordinance. The ordinance allowed the City to catch up to neighboring jurisdictions in terms of the number of species protected. Allowing more trees in the City would protect the City from wildfire because trees are made up of 80 percent of water.

Rebecca Eisenberg stated every tree was important, essential to the environment and one of the more effective ways to combat climate change. Many trees in the City were killed and/or removed during the summer. Passing the ordinance now was necessary to protect the trees in the City.

Jeff Greenfield, Chair of the PRC, reported the PRC was in strong support of the proposal and looked forward to taking up the role as the urban forestry community forum. As an individual, he urged Council to adopt the proposal and the changes in the At Places Memo. Many folks were concerned about the net financial expense of the proposal but he found the Staff proposal appropriate. Public outreach had been extensive and the public's feedback had helped refine the ordinance.

Mary Ann Morton supported adopting the Staff recommendation.

Tiffany Griego, Senior Managing Director for Stanford Research Park, commented that many projects in the Stanford Research Park would not have been approved if the proposed ordinance was in place. She expressed there were concerns about unintended consequences and that it may constrain future development in Stanford Research Park. She requested the ordinance be brought closer in alignment with neighboring jurisdiction's ordinances.

Randy Popp believed the language in the ordinance was inconsistent with State law. He mentioned his letter contained a letter from HCD that stated the State exempted ADUs must be permitted even if that meant a tree had to be removed. To require a tree report listing all trees on a property as well as neighboring properties for the new development was an enormous overreach of the City.

Karen Holman was saddened to see lots being cleared to build developments instead of encouraging more creative development that took advantage of the

# SUMMARY MINUTES

existing trees. The goal of the ordinance was to have designers and applicants consider trees first.

Ram Sunder strongly supported the proposed ordinance. There was a common desire among all residents in Palo Alto to have as many trees as possible. He encouraged the City to have a strong arborist program and that it be aggressive in protecting trees.

Rob Levitsky predicted that hundreds of trees were being cut down annually. He strongly recommended the Council adopt the proposed ordinance.

Council Member Cormack appreciated the addition of the four species to the protected tree list and she inquired about Staffing.

Mr. Eggleston explained that the 15-inch definition dramatically increased the number of Building Permit applications that would have to be reviewed. Also, he predicted an increase in Staff time to process protected tree removals, appeals and notification.

Council Member Cormack wanted to know how many trees could be planted with \$300,000.

Mr. Gollinger predicted 400.

Council Member Cormack asked if the proposed ordinance increased the City's tree canopy.

Mr. Gollinger believed by avoiding the removal of some of the trees would increase the tree canopy.

Council Member Cormack pressed that the ordinance does not add trees.

Mr. Gollinger answered that it did not add trees.

Council Member Cormack inquired how long would it take to hire Staff to implement the ordinance.

Mr. Eggleston noted it would be a high priority to fill the positions and predicted 3-to 4-months.

Council Member Cormack wanted to know if neighboring jurisdictions permitted neighbors to appeal City decisions about trees.

Mr. Eggleston informed not to his knowledge.

# SUMMARY MINUTES

Council Member Cormack asked if the Planning and Transportation Commission had reviewed the ordinance.

Mr. Eggleston proclaimed no.

Council Member Cormack inquired if the City should encourage projects to have the right tree in the right location.

Mr. Gollinger indicated that was a priority when Staff recommended plantings to residents.

Council Member Cormack expressed that the ordinance believed that every tree was the right tree in the right location no matter what condition it was in. She wanted to know if a tree in poor condition qualified for removal.

Mr. Gollinger disclosed it depended on the individual situation.

Council Member Cormack asked how Staff would educate the community on the new ordinance.

Mr. Gollinger responded that Canopy would implement the outreach and education plan along with Staff.

**MOTION:** Vice Mayor Kou moved, seconded by Council Member Stone to adopt the proposed changes to Palo Alto Municipal Code amending Chapter 8.04 (Street Trees, Shrubs, and Plants); Chapter 8.08 (Weed Abatement); Chapter 8.10 (Tree Preservation and Management Regulations); and Chapter 2.25 (Parks and Recreation Commission); and Making Clerical Changes to Chapter 9.56 (Abatement of Nuisances) and Title 18 (Zoning) of the Palo Alto Municipal Code.

Vice Mayor Kou declared the City's highest priority was to address climate change as well as sustainability. The best way to engage in a hopeful future was to plant more trees. Palo Alto was forward thinking in planting, protecting and preserving trees.

Council Member Stone acknowledged that trees were being removed in the City at an alarming rate. He noted the ordinance did not apply west of Interstate 280 where the majority of the City's fire danger was. The idea that the item was not well agendized was false. The City held seven public meetings over the past several years. He was struck by the concerns about the cost of implementation. Trees played a major role in the City achieving its Sustainability and Climate Action Plan (S/CAP) goals and therefore should be protected.

Council Member DuBois agreed there had been many public meetings and opposition was not expressed during those meetings. The proposed ordinance was

# SUMMARY MINUTES

not extreme and the current ordinance was very outdated. He inquired if Staff planned to use a tree inventory management system to track trees.

Mr. Gollinger concurred Staff had evaluated different systems. The City had a strong inventory of public trees but not private trees.

Council Member DuBois stated a management system could easily identify if a large tree was removed. He echoed Council Member Stone's remarks about the net cost.

Mayor Burt echoed the comments that a mature tree captured more carbon monoxide than a newly planted tree. The tree canopy was very important and that was where mature trees provided benefits. He found the net cost modest compared to the benefits. He acknowledged the concerns that the ordinance would cause unintended consequences. He asked what the process was to adjust the ordinance without going through another multi-year process.

Mr. Eggleston responded the Public Works Department would work with Planning and Development Services and the City Attorney's Office to draft amendments to the ordinance. Those would be brought forward to Council for consideration and adoption.

Mayor Burt believed there was a strong possibility that unintended consequences would arise. He invited Staff to compare the proposed ordinance with the State's statute.

Mr. Eggleston agreed the proposed ordinance had less discretion than the ordinances of neighboring cities. Concerns had been raised multiple times about the State's statute. The State's statute was a general definition of what a nuisance was and neighboring jurisdictions used that language as a qualifier in their Tree Protection Ordinance for when trees could be removed.

Mr. Gollinger mentioned the allowable reasons for the removal of a tree for a project under Title 18 had not changed dramatically. Staff strived to make the conditions more objective instead of subjective.

Mayor Burt asked if Staff reviewed the letter about Stanford Research Park and the potential development impacts the ordinance will cause.

Mr. Gollinger confirmed he read the letter but not in depth.

Mayor Burt referenced the definition of nuisance and asked what the distinction was between whether a tree did cause impacts or if the word "will" meant that it was anticipated that the tree would cause impacts.

Mr. Gollinger explained Staff was attempting to be more concise. The intention was not to address a nuisance tree later but when the nuisance was observed.

# SUMMARY MINUTES

Mayor Burt wanted greater clarity be added to make sure the intent was clear. He wanted to know what measures assured there would be high compliance with the ordinance.

Mr. Gollinger explained Staff planned to update the administrative penalties list to include chapters from the ordinance. That would allow the City to issue citations.

Mr. Eggleston added that the additional Staff would provide more enforcement in the field.

Council Member Stone asked if the motion could require the ordinance be applied to removal applications now.

Ms. Stump understood the ordinance required review where currently no reviews were required. The Council could require that the new rules apply to projects that had not received their final approval.

Mr. Gollinger plugged the recommendation was to apply the ordinance to new applications.

Ms. Stump indicated the ordinance would be affected 31-day after the second reading. An urgent ordinance would have to be adopted if the Council wanted the rules to apply now.

Mr. Eggleston requested Council provide feedback on whether to apply the ordinance to new applications or whether to apply the ordinance to all projects in the pipeline.

Council Member Stone supported applying the ordinance to all projects in the pipeline.

Council Member Filseth agreed with Council Member Stone's comments regarding fire danger and otherworldly concerns. He expressed his disappointment that more data was not available and acknowledged that the City's process was extremely hard to understand. Big trees are important but they took a long time to develop and it was not clear that the City systematically replaced big trees with big trees. He supported the adoption of the proposed ordinance but wanted to make sure that the ordinance encouraged folks to plant large trees.

Council Member Tanaka echoed Council Member Filseth's concern that the ordinance created a disincentive to plant large trees. Another large issue was the region was in a drought and that greatly affected the planting of large trees. He suggested sending the ordinance to the City's Boards and Commissions. He inquired if the maker and seconder would support incorporating into the motion concepts around providing incentives for large trees to be planted and the drought.



# SUMMARY MINUTES

Vice Mayor Kou indicated she would not support the amendment.

Mr. Eggleston noted changes were being made to the Tree and Landscape Technical Manual that incentivized folks to plant large trees.

Mr. Gollinger concurred with the manual prioritized preferences for large canopy native species and drought tolerant climate adaptive species.

Vice Mayor Kou inquired if the motion had to include approval of the supplemental report.

Mr. Eggleston clarified Staff was recommending that the Council adopt the supplement version of the ordinance.

Ms. Stump confirmed there was no need to add extra language.

**Substitute Motion:** Moved by Council Member Cormack, seconded by Council Member Tanaka to refer to this item to the Planning and Transportation Commission and refer to the Parks and Recreation Commission a proposal to determine how to increase the tree canopy.

Council Member Cormack believed the City should be looking to increase the tree canopy and not just protect it.

Mayor Burt echoed the concern that the item was not reviewed by the PTC. He wanted PTC review to be done concurrently with any determination of potential changes but he also did not want to delay the implementation of the ordinance.

**MOTION FAILED:** 2-5, Stone, Burt, Kou, Dubois, Filseth no

Mayor Burt proposed an amendment to the main motion with respect to PTC review.

Vice Mayor Kou accepted the amendment.

Council Member Stone agreed.

Mr. Eggleston stated there were no concerns from Staff.

Council Member DuBois heard that Staff would return to Council with refinements.

Mayor Burt restated that he wanted PTC to review the proposal at the same time Staff was drafting amendments.

Council Member DuBois understood that Development Agreements did not fall under Section 8.

# SUMMARY MINUTES

Ms. Stump informed the Council that the City does not do many Development Agreements. Development Agreements were a custom set of procedures that made special rules for projects.

City Manager Ed Shikada believed setting a 1-year timeframe was reasonable for Staff to gain experience and provide a robust follow-up to Council.

Council Member Filseth supported Mayor Burt's amendment. He encouraged Staff to make the Tree Ordinance easier to understand.

**FINAL MOTION:** Vice Mayor Kou moved, seconded by Council Member Stone to:

- A. Adopt the proposed changes to Palo Alto Municipal Code amending Chapter 8.04 (Street Trees, Shrubs, and Plants); Chapter 8.08 (Weed Abatement); Chapter 8.10 (Tree Preservation and Management Regulations); and Chapter 2.25 (Parks and Recreation Commission); and Making Clerical Changes to Chapter 9.56 (Abatement of Nuisances) and Title 18 (Zoning) of the Palo Alto Municipal Code and
- B. Directs staff to evaluate prospective modifications to the ordinance that will come to light over the next year, as well as planning implications to be reviewed by the Planning and Transportation Commission and Parks and Recreation Commission in the following months.

**MOTION PASSED:** 5-2, Cormack, Tanaka no

## Council Member Questions, Comments and Announcements

Vice Mayor Kou reported at the last San Francisco (SFO) Roundtable meeting there was a presentation on the Big Surfer Route. No comments or questions were allowed after the presentation. She indicated that the Federal Aviation Administration (FAA) considered that meeting a community engagement effort. She encouraged the Mayor to draft a letter expressing the point that the presentation was not a community engagement effort.

Mayor Burt suggested the City Manager pursue the concept and proceed with drafting a letter.

Vice Mayor Kou remarked that other legislation was being considered by the State including Assembly Bill (AB) 2011 which under minded local land use planning efforts. She commented that legislation was not coming to the Council soon enough for discussion. She shared her experience on her police ride-along.

Council Member DuBois highlighted his discussions with the business community and the Mayor on his trip to Bloomington, Indiana.

# SUMMARY MINUTES

Mayor Burt encouraged the Council to consider moving Council Member questions, comments and announcements to the beginning of meetings. He shared he attended the US Conference of Mayors. The City received an honorable mention award for one of its climate projects. He shared positive developments were coming from the Sustainability and Climate Action Plan (S/CAP) Ad Hoc Committees on evolving priorities and methods to achieve those priorities. The City was on the cutting edge for both electrifications of transportation and vehicles. At the conference, there was a discussion about the federal dollars that have come forward for climate change and transportation. The federal delegation highlighted that the funds available for climate change projects had never been available until now and encouraged cities to pursue them. In the coming weeks, the Federal Government would issue new electric vehicle charging standards. Also, the Biden Administration issued the Defense Production Act which pursued domestic solar panel production as well as accelerated heat pump manufacturing and transformer production domestically.

Adjournment: The meeting was adjourned at 11:17 P.M.