



# CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting  
November 5, 2012

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:02 P.M.

Present: Burt, Espinosa, Holman, Klein, Scharff, Schmid arrived at 7:00 P.M., Shepherd, Yeh

Absent: Price

## STUDY SESSION

### 1. Public Art Commission.

The Public Art Commission (Commission) gave a brief overview of the Commission's purpose and the variety of programs it hosts. The Commission showed some recently completed projects, such as the maintenance and restoration efforts of the past year, temporary public art partnerships, youth art engagement and the Oliver Ranch Tour. Present endeavors, such as the Mitchell Park Artworks were discussed along with the art being fabricated for the Main Library, Art Center, Hoover Park and the Juana Briones Park restroom. The Public Art Commission also showed the upcoming temporary art installation, *Aurora*, by Charles Gaden and discussed larger scale projects involving bridges, tunnels and transit hubs and mural programs for downtown. Discussions after the presentation included Percent for Art in public and private developments, mobile apps for the art, temporary art and possible artwork to be included in the various bridges and tunnels previously mentioned.

## CITY MANAGER COMMENTS

James Keene, City Manager spoke regarding; 1) the potential Residential Pilot Compostables Collection Program public meetings are scheduled for November 7, 2012 and November 10, 2012. The public may also participate through an online survey available at [zerowastepaloalto.org](http://zerowastepaloalto.org) or by phoning 650-496-5910, 2) the Palo Alto Children's Theatre opened their season with

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Sleeping Beauty and it will play through November 10, 2012, 3) Painting and light repair in the University Avenue underpass was scheduled from November 5<sup>th</sup> through the 16<sup>th</sup>, 2012, 4) the Cubberley Community Advisory Committee would hold a community forum on November 7, 2012.

Mayor Yeh announced that at 6 P.M. on Tuesday, November 13, 2012 there would be a tribute to honor former Mayor Gary Fazzino in the Council Chambers. The public was invited to participate.

## ORAL COMMUNICATIONS

Stephanie Munoz said changing zoning laws to replace undesirable residents with wealthy residents was dishonest. Mobile homes were allowed only in designated outlying areas. Residents of the mobile homes were persuaded to vote for annexation into Palo Alto but were being evicted to make more money for the City.

Marianne Neuwirth explained she was attempting to obtain her security deposit from her previous landlord. She contacted the Palo Alto Mediation Group who referred her to the City Attorney's Office, who referred her to the District Attorney's Office, who referred her to the Police Department. She wanted to bring the situation to the Council's attention and ask for advice on next steps.

## MINUTES APPROVAL

**MOTION:** Council Member Espinosa moved, seconded by Council Member Klein to approve the minutes of September 24, 2012 and October 1, 2012.

**MOTION PASSED:** 8-0 Price absent

## CONSENT CALENDAR

Rita Vrhel reported all issues had not been resolved with regard to Agenda Item Number 8;—Record of Land Use Action for a Conditional Use Permit Amendment Allowing the Operation of a New Pre-Kindergarten Program. The church would not honor the existing fence line and further negotiation was needed. The dispute could lead to litigation. She asked for this Item to be removed from the Consent Calendar.

John Miller, architect for the project referenced in Agenda Item Number 8; Record of Land Use Action for a Conditional Use Permit Amendment Allowing the Operation of a New Pre-Kindergarten Program, reported the Diocese of San Jose wanted to maintain the use of its property. The project needed to

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be approved tonight in order for the preschool and kindergarten to open in mid-August. He wanted to find some way to resolve the problem and move ahead with the project.

Paul Albriton, outside counsel for AT&T Mobility, was present to answer questions regarding the DAS project referenced in Agenda Item Number 11; Appeal of Director's Architectural Review Approval of the Collocation by AT&T Mobility LLC . He asked the Council to approve Phase II of the project. City Staff, AT&T's consultant, and the third-party consultant indicated interpretation of the Noise Ordinance should be based on the originating land use zoning. He encouraged the Council to approve the facility as it appeared on the Consent Calendar.

Stephanie Munoz stated giving the license to AT&T increased its power which tended toward a monopoly. The only thing that saved AT&T customers was the possibility of competition. She asked the Council to find a way to mitigate the problem as it discussed the project.

Tony Kramer asked the City Council to remove Agenda Item Number 11; Appeal of Director's Architectural Review Approval of the Collocation by AT&T Mobility LLC, from the Consent Calendar and to schedule it for a public hearing. His appeal was directed toward the incorrect application of the Palo Alto Noise Code to the noise generated by the DAS equipment. He gave reasons why the Planning Department's interpretation of the Noise Code was incorrect. The City Council needed to further evaluate the issue in order to make an informed decision regarding the proper application of the Palo Alto Noise Code to streets and sidewalks in a residentially zoned area.

Elaine Keller expressed concern that the noise generated by the DAS facility would exceed the guidelines for residential noise pollution as outlined in the Noise Ordinance. One DAS antenna would be located 30 inches from her gate. The City should reevaluate the requests of the public versus the residential Noise Ordinance.

Brant Wenegrat inquired about the effect on the property values of a cell phone antenna adjacent to the property. He learned from studies provided by AT&T indicated values could increase due to satisfied customers and would not decrease. He found that to be implausible. He asked if the City had vetted AT&T's studies and why the City was giving concessions to a private firm at the cost of City residents.

Leland Wiesner was in favor of Agenda Item Number 11; Appeal of Director's Architectural Review Approval of the Collocation by AT&T Mobility LLC, removal from the Consent Calendar to be evaluated more carefully. He

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expressed concern about property values and noise levels as additional telecommunication companies installed towers. He suggested the Council designate areas for installation of towers as they were needed.

Bill Fitch wanted the AT&T process expedited for the benefit of his business.

Mayor Yeh indicated Council Members could not discuss the Items mentioned by the public; however, questions directed to Staff would be appropriate.

Council Member Holman inquired whether the problem with Agenda Item Number 8; Approval of a Record of Land Use Action for a Conditional Use Permit Amendment, resulted from a misunderstanding or a change.

Curtis Williams, Director of Planning and Community Environment assumed there was a misunderstanding among the parties and felt the issue could be resolved.

Council Member Holman recalled the reference to possible legal action and felt that was not an indication of possible compromise.

Council Member Klein recused himself from Agenda Item Number 13; Final Annual Public Review of Stanford University's Compliance with Development Agreement for the Sand Hill Road Corridor projects, because it involved Stanford University and his wife was a member of the Stanford faculty.

**MOTION:** Council Members Klein, Holman, and Schmid moved to withdraw Agenda Item Number 8 from the Consent Calendar; Approval of a Record of Land Use Action for a Conditional Use Permit Amendment Allowing the Operation of a New Pre-Kindergarten Program Within an Expanded Building and an After-School Day Care Program Associated with an Existing Private School (K-8 Program) at 1095 Channing Avenue, and direct Staff to set a public hearing at a future date.

Molly Stump, City Attorney, reported the Council's customary practice was to remove an Item from the Consent Calendar once three Council Members indicated their wish to remove it.

Mayor Yeh noted a vote was not necessary once three Council Members requested withdrawal from the Consent Calendar.

Council Member Burt recalled speakers' assertions in relation to Agenda Item Number 11, Appeal of Director's Architectural Review Approval of the Collocation by AT&T Mobility LLC, regarding Noise Codes in neighboring

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communities and inquired whether Staff could provide additional information.

Ms. Stump indicated Noise Ordinances were local Ordinances so language and applications could differ for each one. She had not researched Noise Ordinances or applications from other communities. Furthermore, other communities were not relevant to Palo Alto's Noise Ordinance.

Council Member Burt understood AT&T had mitigated the noise to some degree and asked how the mitigated noise level compared when the residential Noise Code was utilized.

Mr. Williams indicated it was hard to quantify, because Staff had not measured the noise level at the property line. It appeared the mitigated decibel level was 2 decibels higher; however, the noise level dropped close to the ambient level at a distance of 25 feet.

Council Member Burt inquired about the noise level before mitigation.

Mr. Williams did not recall.

Vice Mayor Scharff inquired when Agenda Item Number 8; Approval of a Record of Land Use Action for a Conditional Use Permit Amendment, would return to the Council.

Mr. Williams reported Staff would need to notice the Item and setting a date certain was not an effective notice. Staff would determine the earliest date possible for Item Number 8 to return to the Council prior to the end of the year.

Vice Mayor Scharff asked if Agenda Item Number 8 would return as soon as possible.

Mr. Williams answered yes. Staff would work with the parties to resolve the issue if at all possible.

Vice Mayor Scharff did not believe the problem was simply a misunderstanding because the property line was not in dispute.

Mayor Yeh stated discussion on Item Number 8 would be held when the Item returned to the Council Agenda. Current discussion was limited to a date for return of the Item.

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Council Member Holman inquired whether the Council could review the Noise Ordinance in response to Agenda Item Number 11; Appeal of Director's Architectural Review Approval of the Collocation by AT&T Mobility LLC, or whether the Council would need to take separate action.

Ms. Stump explained Agenda Item Number 11 was an appeal from a Director's decision on a particular application. The potential amendment or adoption of a new Noise Ordinance was a legislative action and should be noticed and discussed separately from Agenda Item Number 11.

**MOTION:** Vice Mayor Scharff moved, seconded by Council Member Shepherd to approve Agenda Item Number 2-7 and 9-17.

2. Adoption of Form 806, as Required by the California Fair Political Practices Commission, to Provide for Reporting of Election of City Council Members to Stipended Positions, such as Mayor and Vice-Mayor.
3. Appointments of Jennifer Hetterly and Ed Lauing to the Parks and Recreation Commission for Two Full Terms Ending on December 31, 2015.
4. Approval of Amendment No. 2 to the Amended and Restated Stewardship Agreement Between The City of Palo Alto and Acterra in the Amount of \$10,000 for the Initial year of Services for the Enid W. Pearson Arastradero Preserve.
5. Finance Committee Recommendation to Adopt a Resolution 9294 Approving a Power Purchase Agreement with Brannon Solar LLC for the Purchase of Electricity over 25 Years at a Cost not to Exceed \$91 Million.
6. Utilities Advisory Commission and Finance Committee Recommendation that the City Council Approve the Proposed Definition of Carbon Neutrality to Use in the Development of a Plan to Achieve a Carbon Neutral Electric Supply Portfolio by 2015.
7. Ordinance 5168 entitled "Ordinance of the Council of the City of Palo Alto to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Palo Alto to Implement California Government Code Section 20475: Different level of benefits provided for new employees, Section 21363.1: 3.0% @ 55 Full Formula, and Section 20037: Three Year

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Final Compensation for Safety Police Employees" (1st Reading-October 15, 2012 7-0 Burt, Schmid absent).

- ~~8. Approval of a Record of Land Use Action for a Conditional Use Permit Amendment Allowing the Operation of a New Pre-Kindergarten Program Within an Expanded Building and an After School Day Care Program Associated with an Existing Private School (K-8 Program) at 1095 Channing Avenue.~~
9. Budget Amendment Ordinance 5169 in the Amount of \$549,000 to Capital Improvement Program Project PE-86070 and Approval of Contract with JJR Construction, Inc. in the Amount Not to Exceed \$785,716 for the 2012 Surface Transportation Program (STP) Resurfacing Project: Lytton Avenue / Channing Avenue.
10. Award of Contract to Ideal Computer Services, Inc. for Hardware Support.
11. Appeal of Director's Architectural Review Approval of the Collocation by AT&T Mobility LLC of Wireless Communications Equipment on 15 Pole-Mounted Wireless Communication Antennas and Associated Equipment Boxes on Existing Utility Poles Within City Rights-of-Ways Near the Following Locations: 528 Homer; 896 Melville; 1491 Greenwood; 1061 Fife; 1496 Dana; 697 Wildwood; 973 Embarcadero Rd; 671 Seale; 731 Lincoln; 1594 Walnut/Embarcadero side; 1280 Newell; 643 Coleridge; 401 Marlowe; 1196 Hamilton; 933 N. California.
12. Approval of Agreement Between the City of Palo Alto on Behalf of the Cable Joint Powers Agency and the Midpeninsula Community Media Center, Inc. for Cablecasting Equipment Funding Support.
13. Final Annual Public Review of Stanford University's Compliance with Development Agreement for the Sand Hill Road Corridor projects.
14. Approval of Contract Amendment No. Six with Group 4 Architecture, Inc., for Additional Design Services for the Mitchell Park Library and Community Center Project, to Add \$692,810 for a Total Amount Not to Exceed \$8,595,231, which includes funding for all three Libraries Utilizing Bond Funds.
15. Approval of Contract Amendment No. 4 for Additional Construction Management Services with Turner Construction, Inc., to add

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\$2,052,016 for a Total Amount Not to Exceed \$5,835,761 for all three Libraries Utilizing Bond Funds.

16. Resolution 9295 entitled "Resolution of the Council of the City of Palo Alto of Intent to Fix the Employer's Contribution Under the Public Employee's Medical and Hospital Care Act with Respect to Members of the Palo Alto Fire Chiefs' Association and Rescinding Resolution No. 8666".
17. Approval of Agreement Between the City of Palo Alto on Behalf of the Cable Joint Powers Agency and Comcast Corporation of California IX, Inc. For The Use of Fiber; Approval of Agreement Between the City of Palo Alto on Behalf of the Joint Powers and the Cities of Palo Alto, East Palo Alto and Menlo Park, and the Town of Atherton for Storage and Operation of I-Net Equipment; and Approval of Agreement Between the City of Palo Alto on Behalf of the Joint Powers and the Palo Alto Unified School District, the Ravenswood City School District, the Menlo Park City School District, the Las Lomas Elementary School District, and the Sequoia Union High School District Covering Shared I-Net Responsibilities; and Approval of Agreement Between the City of Palo Alto on Behalf of the Joint Powers and Internet Systems Consortium, Inc. Covering the Provision of Internet Services to I-Net Connected Institutions

**MOTION PASSED for Agenda Item Numbers 2-7, 9-12, and 14-17:**

9-0

**MOTION PASSED for Agenda Item Number 13:** 8-0 Klein not participating

AGENDA CHANGES, ADDITIONS AND DELETIONS

**MOTION:** Vice Mayor Scharff moved, seconded by Mayor Yeh to continue Agenda Item Number 19 to November 13, 2012.

19. Adoption of Budget Amendment Ordinance and Approval of a Loan Request from Palo Alto Housing Corporation in the Amount of \$5,820,220 for the Acquisition of 567-595 Maybell Avenue

**MOTION PASSED:** 8-0 Klein absent

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## ACTION ITEMS

18. Colleagues Memo from Vice Mayor Scharff and Council Members Holman and Schmid Regarding Re-evaluation of Ground Floor Retail Protections in the Downtown Commercial District.

Vice Mayor Scharff recalled in 2009 the Council determined the matter of Ground Floor Retail Protections in the Downtown Commercial District should return for further discussion at a later time. The office market was incredibly strong and there was strong economic pressure to convert retail space to office space. The Council needed to consider where retail space could be lost in Downtown. The primary corridor of concern was Emerson Street and it needed to be protected quickly. The Council also needed to review the flow of retail in Downtown. Retail business worked best when the flow was not broken by a non-retail use. He wanted to review non-conforming uses on University Avenue that interrupted the flow. There were other broader issues that needed to be examined but they were not as pressing. The near-term issue was protecting areas where retail space could be lost.

Council Member Holman reported in 2009 she did not support the conversion of zoning to remove ground floor retail protections. The interruption of retail and service businesses was detrimental to the retail environment and the tax base. The block bordered by Hamilton Avenue and Forest Avenue did not have ground floor protections and connected the Downtown District with the South of Forest Avenue Phase II (SOFA II) District. The Council needed to focus changes to provide ground floor protections there. Adjacency was critical to retail and service businesses. In attempting to connect University Avenue and the Downtown District to the Stanford community, the Council needed retail and service businesses that attracted people. Some non-conforming uses should be reviewed.

Council Member Schmid indicated the prior discussion of the issue occurred during a recession. Retail space was currently performing well throughout the Downtown area. Because commercial office space was performing better than retail space, there was an economic incentive to create or transform retail space into commercial space. The number of housing units expected from the Downtown area was a small portion of the total number of units for Palo Alto. With services and mass transit located nearby Downtown should be a center point of mixed uses. In exchange for the tremendous economic benefit given to the community there should be some public benefit. It made sense to enhance the vitality of the district by protecting ground floor retail.

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Council Member Burt was receptive to having Staff return with recommendations on methods for retaining retail uses on Emerson Street. Other elements of the Colleagues Memo should be considered as part of the Downtown Development Cap Study. He inquired whether Staff had the capacity to compile recommendations for all elements of the Memo versus dividing the elements as he described.

Curtis Williams, Director of Planning and Community Environment, reported recommendations for all elements would be a large task. To focus initially on the Emerson Street corridor would be more manageable and would be a logical means to dividing the work. Part of the Downtown Development Cap Study would address some elements in any event.

James Keene, City Manager, stated Staff could return to the Council prior to the end of the year with a schedule identifying a priority or hierarchy of elements. Including it with the Downtown Development Cap Study was logical. Remapping and rezoning uses was an added dimension to the Development Cap Study.

Council Member Price felt the original intent of the Memo was too broad. She was somewhat interested in reviewing the Emerson Street corridor as part of the Downtown Development Cap Study. She expressed concern that it was a piecemeal approach and about the capacity of Staff to perform the work. Trying to define baseline economic conditions as well as the number of variables was problematic.

Council Member Klein agreed with Council Member Price's comments. He did not see a problem and felt Downtown was remarkably vibrant. This was not a priority when compared to other assignments given to Staff. He could not support the recommendations set forth in the Memo.

Council Member Espinosa wanted to understand the proposal. He inquired whether Staff interpreted the proposal to require a study or to state a requirement for retention.

Mr. Williams stated a certain level of data analysis and some discussion of economic impact was needed before Staff could formulate recommendations. Staff had to follow the public process in terms of engaging the Downtown community and the Planning and Transportation Commission (P&TC).

Council Member Espinosa asked Staff to discuss the involvement of the public and Downtown businesses and property owners in the process.

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Mr. Williams felt Staff would need to engage with businesses and property owners to determine impacts to them. The residents around the area would be interested in the issue and offer input. Staff's recommendations would be submitted to the public hearing process because there would be changes to the Zoning Code.

Council Member Espinosa inquired when Staff might return to the Council with preliminary information.

Mr. Williams indicated Staff could return to the Council in the spring if the work program allowed it. Staff could return sooner if they could focus on the Emerson Street corridor only.

Council Member Espinosa felt the project was a massive undertaking for Staff. He wanted the Council to understand the project and the amount of work involved.

Council Member Shepherd understood in 2009 Staff reviewed each building to determine whether or not retail was the best use for the building. She asked if that was the process Staff used and how much retail space was eliminated.

Mr. Williams characterized the process as a block-by-block analysis with particular attention to blocks in the ground floor retail zone. The analysis had three components: 1) removing and adding blocks to the ground floor protection zone, 2) imposing restrictions on some blocks that they could not convert from retail space to office space, and 3) temporary allowances for conversion of retail space to office space once a certain vacancy rate was exceeded. With these changes, Staff hoped the core retail space would be strengthened with flexibility to change between retail space and office space on the perimeter of the District.

Council Member Shepherd noted the efforts made in the analysis, and asked if the changes were intended to last only a few years.

Mr. Williams indicated the changes were not intended to be for a few years only. Because zoning and circumstances change there could be good reasons for reviewing the zoning. In 2009, Staff noted the corridors to the train stations were not good retail spaces and it could be appropriate in the future to change that view.

Mr. Keene reported in 2009 the City was at risk of losing important ground floor retail space to office space under existing policies. That process contained a series of trade-offs in restrictions and temporary allowances.

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The current proposal was not the same; it would extend retail space and require it in places that currently had flexibility. It was difficult to predict the scope of the work. If the Council accepted some incremental changes, Staff could manage that more easily.

Council Member Shepherd inquired whether there had been any unintended consequences from the 2009 changes.

Mr. Williams reported there were no unintended consequences from Staff's perspective. The most serious concern about use changes was the Emerson Street corridor. He believed the P&TC originally recommended including Emerson Street in the ground floor overlay. Because it was not included the corridor had been a point of contention.

Russ Cohen, Executive Director of Downtown Association, stated peripheral retail businesses were struggling in 2009 and that resulted in zoning changes. An unintended consequence of changing zoning back could be vacated storefronts. The business community met with Staff to discuss zoning changes and concluded unanimously that no further changes were necessary. It was too soon to reevaluate the 2009 changes.

Larry Jones enjoyed the hometown feel of Palo Alto and that was one reason people liked living in Palo Alto. Employee morale was better at Downtown businesses than at industrial parks. The Council had a responsibility to protect the retail businesses in Palo Alto.

Faith Bell reported the corridor on Emerson Street had small businesses because the rents were less expensive. Chain stores could afford the rents charged on University Avenue. The City had to protect the small corridors with small buildings in order to have independent businesses.

Robert Moss stated ground floor offices had problems such as high population density. Office space did not pay sales tax and did not attract foot traffic in the evenings or on weekends. He suggested the Council extend ground floor retail from Alma Street to Waverly Street and from Lytton Avenue to Hamilton Avenue for a two or three-year period to allow Staff time to make recommendations. Retail businesses in Downtown increased viability for fringe neighborhoods.

Council Member Holman felt there was a misunderstanding in that the primary purpose of the Memo was to provide ground floor protections for the Emerson Street corridor between Hamilton Avenue and Forest Avenue. Studying one block should not take a great deal of time. The purpose of zoning was to enforce and support community values and uses. The

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marketplace would work within zoning. The Council's responsibility was to provide safeguards for the community. Local, independent businesses provided more revenue to the City in a variety of ways. The intention was to consider small areas initially and review the larger context. The Council should focus on the Emerson Street corridor and the connection of University Avenue to the train station. In the short term, the Council needed to address these two critical areas.

**MOTION:** Council Member Burt moved, seconded by Vice Mayor Scharff to request Staff: 1) return to Council with a proposal to retain retail on Emerson Street between Hamilton Avenue and Forest Avenue and 2) as part of the review of the Downtown Development cap direct Staff to review the boundaries of the ground floor overlay and evaluate bringing into compliance non-conforming uses within the ground floor overlay area of the downtown Commercial District (CD).

Council Member Burt inquired about including a reasonable timeframe in the first part of the Motion.

Mr. Keene indicated the Motion was a directive for Staff to proceed. He did not believe there was a need to include a timeframe. If the Motion passed, Staff would work to effect the change and notify the Council when it could be done. The timeframe to return to the Council was effected by the second part of the Motion.

Council Member Burt stated the Motion addressed the more pressing issue and provided guidance for a deliberate analysis of the remaining two issues.

Vice Mayor Scharff felt the Motion prioritized the Emerson Street corridor. Once retail connections were broken, they could not be re-established. It was important for the Council to be proactive.

Council Member Espinosa inquired about the process Staff would follow to develop the proposal.

Mr. Williams reported Staff would hold conversations with property owners regarding concerns and then provide a draft Ordinance to the P&TC before returning to the Council.

Council Member Klein felt there were three parts to the Motion.

Council Member Burt indicated the two parts of Number 2 under the Motion would be performed as part of the Downtown Development Cap review.

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Council Member Klein asked if one part failed would both parts fail.

Council Member Burt asked for clarification.

Council Member Klein supported the first part of the Motion but not the second and third parts. The latter two parts created a vast work program. A problem had not been presented that justified that amount of work. He requested the Motion be separated for voting.

Council Member Burt inquired why Council Member Klein requested the Motion be separated.

Council Member Klein stated other Council Members might support portions rather than all of the Motion. Part 2 of the Motion created work when a problem had not been defined or identified. He recalled the Council considering Emerson Street in detail in 2009.

**AMENDMENT:** Council Member Klein moved, seconded by Council Member Price, to delete from the main Motion number 2: "2) as part of the review of the Downtown Development Cap direct staff to review the boundaries of the ground floor overlay and evaluate bringing into compliance non-conforming uses within the ground floor overlay area of the downtown CD District."

Council Member Price agreed with Council Member Klein's comments. Part 2 of the Motion should be considered in the examination and creation of the Scope of Services for the Downtown Development Cap. It was premature to consider part 2 of the Motion.

Vice Mayor Scharff felt the Motion included part 2 of the Downtown Development Cap Study.

Council Member Price viewed the Motion as narrowly defining the Scope of Services when compared to the original Colleagues Memo. The Council had not given enough thought to part 2 and that could be done when the Council considered the scope of the Downtown Development Cap.

Vice Mayor Scharff indicated the Motion stated the review would be part of the Downtown Development Cap. The perfect time to consider part 2 was when the Council reviewed the Downtown Development Cap. Bringing matters into compliance was a fairly narrow task. He did not support the Amendment because it was important to have a comprehensive review of retail space as part of the Downtown Development Cap Study.

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Council Member Schmid inquired whether the Downtown Development Cap reviewed the total commercial and retail space in Downtown.

Mr. Williams reported it considered commercial and retail space in the CD zoning district in Downtown.

Council Member Schmid asked if a review of the Downtown Development Cap included a review of the distribution between retail office and office space.

Mr. Williams reported that was correct in a narrow construction. Staff anticipated reviewing the balance of the types of uses because one of the drivers was parking and each use had different implications for parking.

Council Member Schmid indicated the Council was adding a new element to the review of the Downtown Development Cap. The most critical element was the City's Economic Development Program. The City generated considerably more revenue from retail uses than from office complexes; therefore, the City had a vested interest in a growing retail sector. In studying the Emerson Street corridor, the Council had to determine how to retain a vibrant retail sector. The wider issue was whether the City had a vested interest in building a vibrant and vital retail sector in Downtown.

Council Member Holman did not support the Amendment. The Emerson Street corridor should be part of the work plan for Staff, who should review the retail component when evaluating an office cap in Downtown.

Council Member Espinosa supported the Amendment. He supported the first part of the Motion because the process would engage stakeholders and assist the Council in evaluating the proposal. With regard to the second portion of the Motion, he did not disagree with the broader study; however, he did not believe it was the correct approach.

Council Member Shepherd inquired about the composition of parking for retail space versus office space.

Mr. Williams stated that issue would be included in the study. The Zoning Code requirements for parking within the Parking District were the same for retail space and office space. Outside the Parking District, more parking was required for retail space than for office space. However, the changing characteristics of office space was driving higher employee density. Retail space mixed with office space in the Downtown environment tended to promote walkability such that parking was not as much of an issue on the

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retail end. For those reasons, the Downtown Development Cap Study was necessary to study the reality of the parking situations.

Council Member Shepherd supported the Amendment.

Council Member Burt reported the primary Motion was not prescriptive with regard to outcome. In the process used to evaluate the Downtown Development Cap, Staff would also evaluate the relationship of retail space. The Motion asked Staff to evaluate new, appropriate boundaries and non-conforming uses. If the Motion stated boundaries for the entire Downtown area, then he would not support it. This was exactly where planning should occur.

Mayor Yeh noted Agenda Item Number 21 concerned the Downtown Cap/Transportation Demand Management (TDM) Study. He inquired if Staff intended for the Scope of Services of that study to return to the Council or a Standing Committee. The Motion's intentions had to be vetted in the broader discussion of the Scope of Services of the Downtown Development Cap.

Mr. Williams reported the specifics of the study were not outlined in the Staff Report. After evaluating the Parking Study and its importance, Staff needed to return to Council or the Policy and Services Committee with the scope of work for that study. It was a significant study regarding parking and land use.

Mr. Keene felt the recommendation as written could be misconstrued. Staff could not issue a Request for Proposal (RFP), perform the Downtown Development Study, and provide results and recommendations in six months. A year would be a more appropriate timeframe.

Mayor Yeh did not want to make a decision on the second half of the Motion without understanding the potential fiscal impacts and how they would influence the study.

**INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF MAKER AND THE SECONDER** at the time of the Scope of Services review of the Downtown Development Cap / Traffic Demand Management (TDM) Study, Staff shall bring back costs associated with: "as part of the review of the Downtown Development Cap direct Staff to review the boundaries of the ground floor overlay and evaluate bringing into compliance non-conforming uses within the ground floor overlay area of the downtown CD District."

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Council Member Klein felt the Council had approached the whole matter backwards. It could be misinterpreted by the downtown business community. He suggested Mayor Yeh support the Amendment and then add language to the original Motion.

Mayor Yeh indicated his intention was to delete part 2 of the Motion and add his proposed language. He could not support the Motion, because it directed Staff to perform the action without first presenting the costs to the Council.

Vice Mayor Scharff supported an Amendment to the Motion that Staff return to the Council with costs before performing the second part of the Motion.

Council Member Holman stated the Amendment was to delete part 2 of the Motion. She asked how the Council could amend language that was proposed to be deleted.

Mayor Yeh explained that his proposed Amendment was not to move forward on part 2, but to direct Staff to return with costs associated with part 2 at the time the Council discussed the Scope of Services.

Council Member Holman suggested it was an Amendment to the Motion rather than an Amendment to the Amendment.

Council Member Klein stated the Scope of Services Mayor Yeh was referencing was the Scope of Services for the Downtown Development Cap Study. He accepted the proposed Amendment.

Council Member Price expressed concern that Staff would detail a Scope of Services, but she accepted the Amendment.

Council Member Holman was unclear as to the intention. She asked the Mayor to vote on the Amendment and then amend the Motion.

Mayor Yeh clarified that the Amendment would pass with his vote and then the Motion would be unnecessary.

Council Member Klein felt the Council voted on language that was quite different from the Colleagues Memo recommendation.

Mr. Keene suggested the Motion clearly state the Council's intentions.

Council Member Klein stated the costs would be presented with the complete work plan for the Downtown Development Cap Study.

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Mr. Keene suggested the Motion clarify that presenting the costs would not automatically allow Staff to proceed. The real issue was how to review the scope of actions necessary for the Downtown Development Cap Study. He suggested the Council move on the first part of the Motion and then direct Staff to return with a comprehensive discussion of the Downtown Development Cap Study.

Council Member Holman was confused regarding the language of the Amendment.

**INCORPORATED INTO THE MAIN MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to delete from the main Motion number 2 and at the time of the Scope of Services review of the Downtown Development Cap / Traffic Demand Management (TDM) Study, Staff shall bring back costs associated with: "2) as part of the review of the Downtown Development Cap direct staff to review the boundaries of the ground floor overlay and evaluate bringing into compliance non-conforming uses within the ground floor overlay area of the downtown CD District."

Council Member Burt clarified that Number 2 of the Motion was deleted as he had accepted the Amendment.

**MOTION AS AMENDED PASSED:** 8-1 Shepherd no

20. Budget Amendment Ordinance 5170 to Provide Appropriation of \$1 Million for a Loan Commitment for the Rehabilitation of Stevenson House.

Tim Wong, Senior Planner, reported Palo Alto Senior Housing Project, Inc. (PASHP) requested a \$1 million loan commitment for rehabilitation of Stevenson House. Stevenson House was owned and managed by PASHP. It was constructed in 1968 and provided 120 units of studio and one-bedroom housing for extremely low, very low, and low income seniors. In addition to providing housing, they provided a variety of services including meals and social activities. PASHP proposed a complete rehabilitation of Stevenson House including; seismic upgrades, new roof, re-piping water and sewer systems, reconfiguring common areas, and upgrading interior units. The total proposed cost of the rehabilitation was \$40.5 million. If approved, the loan documents would return to Council for consideration in April or May 2013. Other sources of funding included tax credits, tax exempt bonds, a seller carry-back loan, and funds from Santa Clara County. PASHP anticipated construction commencing in July 2013. Staff recommended the City Council approve the loan request and adopt the Budget Amendment Ordinance (BAO) to allocate \$1 million from the Stanford University Medical

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Center Project's Infrastructure, Sustainable Neighborhoods and Communities, and Affordable Housing Community benefit payment for the rehabilitation of Stevenson House.

Phyllis Cassel, President of the Stevenson House Board of Directors, requested \$1 million as part of the rehabilitation project. Stevenson House's mission was to provide quality, affordable housing where older, independent adults could enjoy a safe and caring community. Stevenson House, located near the corner of Middlefield Road and Charleston Road, had access to transportation lines, the library, and shopping. It was a good time to renovate Stevenson House because the mortgage was close to being paid in full and there was a new program available for Section 8 certificates. The Department of Housing and Urban Development supported and encouraged the project. Interest rates were low and construction costs relatively low. Stevenson House requested \$1 million to pay for urgently needed repairs and renovations.

Mimi Goodrich, resident of Stevenson House and President of the Residents' Association, enjoyed living at Stevenson House because it was affordable, accessible, and attractive. There were opportunities for social and educational activities.

**MOTION:** Mayor Yeh moved, seconded by Council Member Shepherd to approve the Palo Alto Senior Housing Project, Inc. request to commit \$1,000,000 for the rehabilitation of Stevenson House by adopting a Budget Amendment Ordinance to allocate \$1,000,000 from the Stanford University Medical Center Project's Infrastructure, Sustainable Neighborhoods and Communities, and Affordable Housing Community benefit payment for the rehabilitation.

Mayor Yeh stated rehabilitation of Section 8 units was essential. The ability to leverage \$1 million toward \$40.5 million total costs was incredible. The financial ratio was most appealing.

Council Member Shepherd noted PASHP collaborated with many different agencies to perform this project. She was surprised by the total cost of rehabilitation compared to the original construction cost.

Council Member Schmid recalled recent affordable housing projects which cost between \$40 and \$50 million including land cost and inquired whether PASHP had considered a new building rather than rehabilitation.

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Ms. Cassel reported \$40 million represented all costs including financing. The actual construction cost was approximately \$20 million. In addition, Stevenson House had 120 units rather than 50 units contained in the other projects.

Council Member Espinosa supported the Motion. It was imperative to support these types of housing situations and services. It was an appropriate use of funds.

Council Member Holman concurred with Mayor Yeh's comments.

**INCORPORATED INTO THE MOTION BY THE CONSENT OF THE MAKER AND SECONDER** to request to commit a \$1 million loan to the Stevenson House rehabilitation.

Council Member Holman inquired whether the City would actually be loaning the funds as no repayment schedule was identified.

Mr. Wong reported the loan would be 3 percent residual receipts with a deferred 55-year term, consistent with past loans.

**MOTION PASSED:** 9-0

Mayor Yeh inquired whether Council Members wished to continue with both Agenda Item 21; Update of Parking Program and Review and Direction on Parking Policy Strategies and Agenda Item 22; Status Report on Current High Speed Rail and Caltrain Electrification Issues Submitted for Council Review and Comment.

Council Member Holman suggested deferring Agenda Item Number 21 and continuing with Agenda Item Number 22.

Council Member Burt concurred with Council Member Holman's comments and suggested the Council hear public testimony on Agenda Item 21 at the current time.

Vice Mayor Scharff asked for Staff's opinion on continuing Agenda Item Number 21.

James Keene, City Manager felt Agenda Item Number 21 could be continued if it was returned to the Council before January 2013. As the only probable action item on the following week's Agenda was the public hearing on the San Francisquito Creek/JPA Flood Protection project, Agenda Item Number 21 could be continued to that Agenda.

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Donna Grider, City Clerk, reported three action items would be on the following week's Agenda if Item Number 21 were continued to the following week.

Vice Mayor Scharff indicated Agenda Item Number 21 could be bifurcated with part being heard at the current time and part the following week.

Council Member Holman wanted to hear public comments at the current time on Agenda Item Number 21 and suggested it be continued to a date certain.

Mayor Yeh reported the City Council would take public comment on Agenda Item Number 21 at the current time.

21. Update of Parking Program and Review and Direction on Parking Policy Strategies.

Russ Cohen stated he would return the following week to speak on Agenda Item Number 21.

Barbara Gross, representing the Downtown Association Parking Committee, felt collection of data would be comprehensive and based on current patterns. She supported increased permit parking by immediately implementing an attendant parking program as property and business owners paid for the garages. The key motivation for the parking district was to provide free parking for customers in order to compete with shopping centers. She supported the investigation technological enhancements with regard to online permit sales, directional signage and loop monitoring. She had concerns about installing gate controls and the unintended message of gate controls to customers.

Jeanne Moulton urged the Council to approve Recommendations 8, 9, and 10 in Staff's update. The Professorville problem was part of a larger problem of parking economics throughout the Downtown area. Staff reported it would take approximately five years to address the broader problem. She requested the Council and Staff provide temporary measures to ease the parking problems in Professorville while larger issues were resolved.

Adina Levin indicated the Staff Report showed progress on a variety of measures for parking in the Downtown area. The current pricing structures and economic incentives had an unintended consequence of motivating people to drive each day. The Traffic Demand Management Program (TDM) investigation could include several economic incentives. She suggested more tiers of pricing for parking.

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Eric Nordman stated the incremental cost of parking spaces was greater than the fees generated by parking permits; therefore, the business community subsidized parking. Rather than building parking structures, he suggested the City concentrate on reducing the demand. Cash-out benefits to employees who did not drive could decrease parking demand by 11 percent on average.

Stephanie Munoz suggested the Council provide pictures of the areas being considered for parking permits. Some retail businesses contributed more to Downtown and suggested the Council listen to the merchants who supported the City through sales taxes.

Faith Bell stated the assessments for in-lieu parking fees were meant to compensate for the lack of parking provided by new projects; however, the floor area ratio was skewed and should be addressed. Developers of new projects needed to install more underground parking. Businesses could not pay further assessments to build additional parking structures.

Andrew Boone reported Staff was correct in identifying logical measures to implement quickly. Long-term suggestions were charging for parking that was currently free or changing the price structure, and having a more effective TDM policies. He wanted to avoid building additional parking garages.

Council Member Holman asked Staff to comment.

Cutis Williams, Director of Planning and Community Environment reported Staff had no comments.

**MOTION:** Council Member Holman moved, seconded by Council Member Price to continue Agenda Item Number 21 to November 13, 2012.

**MOTION PASSED:** 9-0

22. Status Report on Current High Speed Rail and Caltrain Electrification Issues Submitted for Council Review and Comment.

Richard Hackmann, Management Specialist, indicated the Staff Report was comprehensive for the Council's and public's information. The first section, 300 miles from Merced to the San Fernando Valley, should be operational in 2022 and cost more than \$37 billion. The next section, 410 miles from San Francisco to the San Fernando Valley, should be complete in 2026 and cost up to \$61 billion. The full Phase I segment from San Francisco to Anaheim

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should be complete in 2029 and cost more than \$80 billion. High Speed Rail (HSR) was still 14 years away if financing and construction occurred on schedule. The blended system would increase the number of trains to 10 peak-hour trains per direction per day, six commuter trains and four HSR trains. Currently Caltrain had five peak-hour trains per direction. Doubling traffic along the Corridor would significantly increase gate downtimes or create the need for grade separations. These scenarios would significantly impact travel through the community or actions needed to construct grade separations. The City Council Rail Committee (Committee) attempted to determine how to provide input to Caltrain and the California High Speed Rail Authority (CHSRA) regarding the proposed increase in service and weighing the benefits with the impacts. CHSRA had reached an agreement with Union Pacific Railroad regarding freight operations. They entered into a Memorandum of Understanding (MOU) stating they would study the situation. With Caltrain's addition of four trains, the Committee submitted correspondence on behalf of the City requesting Caltrain consider more service to the Downtown and California Avenue stations. In other correspondence, the Committee commented significantly on the bond appropriation bill; supported not streamlining the California Environmental Quality Act (CEQA) to reduce or diminish existing environmental protections; and was working on clean-up legislation with regard to SB 1029.

Council Member Schmid suggested Staff return for Council discussion when the grade crossing report was released, when the report on possible locations of passing tracks was released, and when the MOU between Caltrain and CHSRA was released.

Council Member Klein reported significant developments would occur in 2013. Of greatest risk to the City was substantial weakening of CEQA protections. Governor Brown was determined to move the HSR project forward and Senator Rubio, Chair of the Natural Resources Committee, was committed to changes in environmental laws. Also of concern was possible defeat of Proposition 30, funding for HSR, and pending litigation. The Committee would continue monitoring the situation and take action when appropriate.

Council Member Price inquired whether the policy making group recently established to represent the cities and counties along the corridor changed the governance structure of the existing Joint Powers Authority (JPA) for Caltrain.

Mr. Hackmann answered no. The group would provide input to the JPA Board. It did not change the composition.

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Council Member Burt stated it had not been determined whether that group would be advisory to the JPA Board or advisory to the JPA staff. He and others advocated for it to be advisory to the JPA Board.

## **NO ACTION REQUIRED**

### COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Klein spoke to the loss of Sally Probst stating that she was revered in the community. She served as a housing advocate and also on the League of Women Voters. She lived in Palo Alto for 24 years. He asked to adjourn the meeting in her honor.

Mayor Yeh spoke of Sally Probst stating that she was genial and strong at the same time.

ADJOURNMENT: The meeting was adjourned in honor of Sally Probst at 10:33 P.M.