



CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting
May 26, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:07 P.M.

Present: Berman, Burt, DuBois, Filseth, Holman, Kniss, Scharff, Schmid, Wolbach

Absent:

Oral Communications

Cybele LoVuolo-Bhushan: Good evening. I'm just going to—yeah, I'm turning this off. Briefly, I ask you to waive the \$4,000 conditional permit that is on the women's shelter that's run by the Stanford students, the Heart and Home. Last winter they did not open. It's onerous; you should waive it. Thank you.

Lois Salo: My name is Lois Salo, S-A-L-O. I too have the same message. Heart and Home is a group that's doing wonderful work sheltering women. For them to have the cost of \$4,000 is very cruel, because we simply don't have the money. These are people who are volunteers. The City should waive that amount. Please, it's a wonderful, worthwhile endeavor.

Action Items

1. Adoption of Findings and Final Decision in the Matter of the Appeal by the Buena Vista Mobilehome Park Residents Association of the Hearing Officer's Decision Approving the Application for Closure of the Buena Vista Mobilehome Park and Establishing Mitigation Measures and Additional Conditions of Approval.

Mayor Holman: I have a statement to read. Council's role this evening is a narrow one. We are here this evening to adopt findings and a final decision resolving the appeal by the Buena Vista Residents Association of the Hearing Officer's determination in the Buena Vista Mobilehome Park closure matter. The Council's role is to determine whether the Hearing Officer's decision, as it might be amended by the Council, provides for a package of mitigation

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measures that are adequate to mitigate the adverse impact on any displaced residents, provided that the package does not exceed the "reasonable costs of relocation." Those stipulations are laid out in Ordinance for the Council to follow. Once we have identified mitigations that meet this criteria, we are obligated to approve the owner's application to close the park. While the Council has a legal obligation to decide this matter, there's obviously a humanistic dimension that is just as important. The members of the Buena Vista Mobilehome Park are members of our community, and we know the park closure will have a tremendous impact on many of their lives. We do not take lightly any decision that we must make to uphold our legal obligation as elected representatives of this City. Tonight we will begin with comments from the public, and this includes residents of Buena Vista Mobilehome Park as well as anyone else who would care to speak to this item. After the public has completed their comments, then we'll invite representatives of the Residents Association to speak for up to 10 minutes, and then the park owner will have up to 10 minutes. If both the Residents Association representation and the park owner's representation, if you could indicate if you have other members who are going to be speaking or if you're going to have one speaking representative, that would also be helpful to know. If either of you have more than one speaker, could you identify that, please?

James Zahradka, Law Foundation of Silicon Valley: Good evening, Madam Mayor and Council. James Zahradka for the Residents Association. It's possible that more than one member of our legal team will be speaking tonight.

Mayor Holman: You're counting on figuring that within your 10-minute limit?

Mr. Zahradka: Correct.

Gail Osmer: Hi, my name is Gail Osmer. I came up here from San Jose. I also live in a mobile home in San Jose. I came here because I've been an activist for people's rights and people rights living in a mobile home for many years. I came here to support all these wonderful people from Buena Vista. When I read the article, I laughed to myself when I read about this gentleman, David Beccaria. I don't know who he is, but he refused to conduct the appraisal and he threatened, "I'm going to quit." To me that would seem like an idle threat, so let him quit if he's not going to do what the Council or the City asked him to do. If you do this tonight and approve this, you will be setting a bad precedent for all the other mobile home parks. Not just here in Palo Alto, but the 10,000 or more people that live in Santa Clara Valley. It's time that somebody stand up and say no to these greedy

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mobile home park owners, and say no to them, they're not going to do this. They only care about the bottom line. They don't care about people. They should not be closing this mobile home park. Also I just want to say these people elected you. It's time to listen to the people that put you up there. Thank you.

Litsie Indergand: My name is Litsie Indergand. I am a resident of Palo Alto. I am not a member of the mobile home people; however, I care a great deal. Where a child grows up, what kind of schooling a child gets, is an enormous influence on what happens to that child many, many, many years after that. If you were to go talk to a few people who have had huge success in their adult lives and ask them where they went to school and what influence their early schooling had on their successes in adult, you would be surprised at what a large amount of credit these people would give to the schools they went to. We know that Palo Alto schools are unequalled by almost any place. Any place that the residents of Buena Vista would be able to move to with the amount of money that is suggested they get will not be equal to Palo Alto. They will have to go somewhere else where they may be able to find a nice apartment for the amount of money they have, but it will not only not be in Palo Alto, it probably will not be anywhere on the San Francisco peninsula because we are very, very expensive here. Unfortunately, we earned the expensive things. We have the best schools anyone has. We have wonderful living spaces. We have a lot of entertainment. It's a wonderful, wonderful place to live. Of course, we all know that we have the best weather in the world, and we try not to brag about that because we didn't have anything to do with that. I went to school when I was a child, and I was fortunate I was able to get to some very, very wonderful schools. I managed to get a scholarship to go to Cal, because the schools I went to before I was ready for college were very good schools. I don't want to see these children who live in Buena Vista having to live in a one-bedroom apartment 50 miles or more from here, having to share the one bedroom with their parents and all their siblings, because a one-bedroom apartment is not what they're living in now. Most of the homes there have two and some have three bedrooms. There's a world of difference between one bedroom or two or three bedrooms. I hope that you will consider that the amount of money we're talking about giving these people is not enough to be equal for what they now have. Please, please don't make them go down as far as they're going to have to go with this kind of money. Thank you.

Don Anderson: Hello, I'm Don Anderson. I live in Palo Alto. I bring you good news tonight. Your hands are not tied. As far as I can understand this, and it's becoming more muddled as we go, you are the judge in a process wherein you've received an appeal from the lower court, the Hearing

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Officer. Your job is to make a fair and just decision. If it requires changes from what has been appealed, to make those changes. You took steps in that direction the last time you gathered on this subject. As I look at each of you and imagine you in your judge's robes, I ask you to consider what should you do when one of the lawyers in the case in open court threatens to sue you if you deviate at all from the decision of the lower court. I ask you what you should do, as the judge in the case, if the appraiser in the case refuses to take your direction to make a fair appraisal. For that matter, I ask you what you should do if your law clerk, the City Council, advises you to walk back from the position that you've taken in the interest of fairness. As far as I know, your clerk works for you and not the other way around. When I lived in Boston, there was an old Boston Paul who in a situation something like this said, "The problem is that everybody wants to go to heaven, but nobody wants to die." This is your chance tonight to go to heaven and make the decision that is the fair and legal and just decision, and do your jobs. Thank you.

Mary Kear speaking for 5 people: Hello, everybody, Mayor Holman. My name is Mary Kear. I am the VP of Buena Vista Residents Association and speaking on behalf of the Association today. You heard in April from the residents of Buena Vista. You've heard from the students who go to the Palo Alto schools and from their parents who moved to Buena Vista so their children could have opportunities they never had. You heard from individuals who worked in Palo Alto's economy. You also heard from seniors and people with disabilities who rely on their neighbors at Buena Vista. The hope of the Residents Association is that we all can stay at Buena Vista, that it stay a mobile home park, and that we can continue to be part of this community. If the City Council decides to close the park, it should only if all other resident mobile home owners and studio tenants receive enough relocation assistance. This should be enough assistance so that we are not forced to move away to the Central Valley, but enough so that we can stay in a comparable community to Palo Alto, and keep our jobs and so our children can attend quality schools. The assistance should take into consideration of being in Palo Alto, including our schools. Thank you for your time tonight. These are the people you're going to be affecting. Thank you.

Lois Salo: I'm Lois Salo, and I am with the Women's International League for Peace and Freedom, a 100-year-old peace group. This extends to local conditions for peace also. As Aram James said, removal of these people would amount to ethnic cleansing. I suggest that the City of Palo Alto does not need a new police station, but it needs to have the people in Buena Vista stay there. I would like our money to do that. Also, that the City Council and the County have the power by eminent domain to take over this park

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and allow the residents to stay there and to allow it to be managed by a mobile home park owner. I suggest this is a good way to go. Thank you.

Cybele LoVuolo-Bhushan: There have been so many eloquent speakers. I'm not as eloquent, but I do want you to know that the citizens of Palo Alto are obviously in favor of the mobile home park remaining and the residents staying with us. The children are our children as well. We have a moral obligation to make sure that they have a good education. Your decision tonight is extremely important. When I heard that they just want their children, they just want their children to go to Stanford, I was shocked. How could that be used as a negative? They want their children to go to Stanford. That's all they want. Must think beyond this type of illogic, I guess I'll call it. The last thing I want to say is if they're driven to Central Valley, what makes you think that the lawyers who want to close mobile home parks won't follow them there? Or San Jose or wherever. This is reprehensible. I don't think the citizens of Palo Alto are going to tolerate it. Your decision is very important. I've been speaking with a lot of fervor; excuse it. You may have a solution in your back pocket. I know that Supervisor Simitian has been working on that. Unfortunately, you perhaps can't share what you are thinking and the way you're thinking and the way this is going to be handled, but your decision is extremely important. We are going to support these children and these families to stay here. Thank you.

Robert Smith: Good evening. Some different thoughts you may not have heard before. The Jisser family is, in my opinion, being badly treated by this process and by much of the community. I'd like to ask you to address this. Mr. Jisser, whom I don't know, has provided a substantial amount of low-income housing over the decades, perhaps being the largest single provider of such housing in the community. He's the owner and operator of a trailer park that many residents have stood on this platform and said they loved and wanted to keep open. Yet, he himself gets no kindness. His only offense appears to be that, after decades of operating the park, he no longer wants to do that. The tenant/landlord relationship is always difficult, particularly when City-imposed rent control keeps the landlord from increasing rates to pay for increased costs in maintenance and operation. Interestingly, the record shows that the landlord did not raise rents when he could have and did not report violations. Both of these kindnesses now increase the compensation he must pay. I was very disheartened on April 14 when the Council spent a great deal of time praising the residents and endorsing their cause, which I generally support, generally, but didn't make any note of Mr. Jisser's substantial contributions. In this City, we honor our high tech millionaires, billionaires even, like folk heroes, but someone who spends his career providing low-income housing is held in

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such low esteem. How much would it cost the City to make some generous praise for the Jissers at some point? It's time to conclude this process by approving the report, allowing the owner to proceed as he chooses, and also allowing individuals such as Mr. Simitian to make offers that Mr. Jisser may wish to consider. I hope he does. Very sincerely, I hope this works out, but I don't think the way to do it is by using the Ordinance to force something that it doesn't have in it. Thank you.

Stephanie Munoz: Perfect, perfect timing. I want you to be aware about property rights, all of you, all of us. Mr. Jisser does not have any property rights that the government has not given him. Nor you, Gary. Nor you, Marc. Nor you, Greg, Eric, Karen. None of you. Nobody has any property rights except what the government says they have. We owned a house on Palo Alto Avenue; it was 436 Palo Alto Avenue. My mom bought it for a rather small sum. By the time she came to die, it was worth \$1 million. The government said, "Who are you to live in a million dollar house? We want 39 percent of it." All the property had to be sold. My daughter had to move out of that property just the way these people's daughters have to move out of their property, because of the government's desire to do things the way it wanted and because the general principle is it's domain is eminent. I have a house in Mountain View. The tenants wrecked it, and I went to the building in Mountain View. We had a little discussion about \$1,000 to put back the bathtub. I said, "Never mind. I won't rent it out. I'll live in it myself." Shelly said, "Oh, no. You can't live in that house. All you can do is mount up fines and mount up fines until finally it's boarded up." If you think that this is a country where property rights are respected, you've got another thing coming. I think you're a little bit more sophisticated than that. These people are investors. That property would be worth the bean field, if they weren't on it. The County said, "You, sir, you may have an apartment consisting of 100 residences on your property. You over there, you get to stay on this property." No fair after they have invested their houses. They have done the building on this property. Not like my mother, they didn't have to fight the OPA and fight the rent control. No. The tenants, my God. No. The houses came to them; they just pulled in the money. No, no, no, no. I think it is appropriate, since the courts have ruled long since, that people do not have to stay in the rental business. That the City use its power of eminent domain; take over that for whatever the judge says the appropriate amount is; and let these people go on in their lives. Thank you.

Winter Dellenbach: I just want to say a couple of quick things. Schools. There's nobody here, there's literally not a person in this Chamber that doesn't actually know that Palo Alto schools are nearly paramount, if not paramount, in Palo Alto. There's huge value to them for the people that go to school there. There's huge value to them to the people who don't go to

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school there, who own property. Our schools are one of the essential things that's made us rich, if not the most essential thing. We all know that. I was very disappointed to see that the Staff recommendation was to take out the school and safe community component of whatever appraiser will do the new appraisals. I think that is so ridiculous and irrational that it brings into question the City's integrity, the Council's integrity. It's embarrassing. It's just embarrassing. I know you all know this. Surely you will not go with Staff's recommendation on that. I don't want to see the headline in the *Daily Post* or any of the other papers or on TV tonight when we go home that Palo Alto says we're going to not value education and safe community. That is a true embarrassment. A couple of other quick things. I think it has been said that the Buena Vista kids can just get waivers and still come to Palo Alto schools. I have worked on this for a couple of years now. I know about the waiver situation. One of the things about waivers, you've got to be close enough to get to school. We've already talked about how people are going to have to leave the area, almost everybody. Unfortunately, they probably won't be close enough to take advantage of a waiver, if they qualify for a waiver to continue going to school in this district if they live in another district. Keep that in mind. Measure A just passed 70-some percent. That's a clear indication of what we think of schools. I think we're between a rock and a hard place tonight. If you vote to approve the application, then the 6-month notices could be issued tomorrow. If you vote to not close it, perhaps talks can continue to buy Buena Vista. Good luck with that. I know that risk aversion does not trump saving Buena Vista, and it doesn't trump the integrity of this community and our reputation in the wider world. We're relying on you to make a good and wise choice.

Sandy Perry: Good evening, I'm Sandy Perry. I'm also from San Jose. I'm an organizer with the Affordable Housing Network of Santa Clara County. We feel like one of the earlier speakers said that this decision tonight is going to impact not only mobile home parks, but also affordable housing all over our county. I'm sure everyone here is aware that we're in an affordable housing emergency. Rents are averaging around \$2,500 a month in this county. Unlike 1999, there's no end in sight now. The jobs and housing imbalance is projected to continue to get worse for the foreseeable future. Mobile home park conversions are a major threat to the existing affordable housing that we have. Right now government at every level is not committing serious resources toward remedying that. In fact, Congress is looking at cutting federal programs for housing. This appears to us to be a classical case of property rights against human rights. It's an argument we've had in the United States since 1776. We even fought a civil war around it. This question of rights in conflict is a very similar issue to what we had in San Jose. A couple of weeks ago, we had a big debate about tightening up our rent control ordinance. It was a question of the right of a

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family to have a roof over their head, to be able to take care of their family and bring up their family in a peaceful location versus the right to a maximum return on an investment. The Affordable Housing Network is based on moral and spiritual principles. We urge you to put people first and stand up for the human rights of the residents who live in your City and who helped build this City, and also for the residents of people all over Santa Clara County, in the Bay Area who must have affordable housing if we're going to even survive as a community. Thank you.

Rene Escalante: Good afternoon, everyone, City Council. I want to show you that they've always shown the smaller units, but there's also large ones. Right? Here's some of them that you can see. This is the interior of Unit 21. Not everything is like it's been said to be when they show the smaller ones, and there are several of them. It's not just what has been shown. I think we need to be honest. I'm asking Council, now that you're making the decision, please look into what decision you're going to make, because we're all going to be affected. We're human beings, and we have feelings. If any of you was in this situation, you would think differently. To me, for this unit, the owner is offering me \$29,000. In the neighboring town of Mountain View, the value of it is \$200,000. How am I going to feel and many of the ones that live there? How are we going to feel about who's giving us the money that is necessary to go buy another one? I'm not asking the owner for money. What I want is to have my place replaced in a neighboring area. If he can find a place for that lower value, that's fine. I won't complain. Thank you very much for hearing me out. Have a good afternoon.

Amanda Serrano: Good evening, Members of the Council. I'm here one more time to ask you for mercy, just mercy. I'm a transsexual. Like I did say the last time, I'm not afraid to say it anymore. I'm going to say that I'm representing gay people from Buena Vista Mobilehome Park and also to people with disability. I'm fighting with a disease. I have a brain tumor, and I have an artificial heart. It's hard for me to be around looking for a new place to live. Right now, since I find out that they're going to close Buena Vista Mobilehome Park, I've been suffering a lot of stress. I also been diagnosed about PTSD. For me, all this stuff is killing me right now. Don't know what's going to happen. In the past, I've been applying for apartments. Because of my sexual preference, I've been denied. When I was at the mobile home park, I thought I find the right place to live. The dreams that I always have, I have peace over there. I have other dreams too. By closing that park, I feel like I been killing since they decide to close Buena Vista Mobilehome Park. I been in the hospital many times. I spent almost one year in the hospital with a heart disease and a heart infected. Right now this situation is killing me. Like me, there's a lot of people in Buena Vista Mobilehome Park with a lot of disabilities and gay people too.

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I'm here to represent all them. To ask you please have mercy and let us stay there. Please help us to save our homes. Please. That's what I want to say. Thank you so much. Have a good evening. I love you.

Samina Faheem Sundas: Good evening, everyone. We have been here many times, again and again and again, with the same request. Please save these kids' homes. All of us are parents. What would we go tell our children? That we took away somebody's home? My most desire has been for Palo Alto, so Palo Alto can be more compassionate and kind and loving City. We have all the riches. We are the best City. People have desire to live here, one of the best cities. The best thing we could do for our next generation is to keep these people here, so they can learn there are other people who are not born with silver spoon. There are people who are working hard day in, day out. With the community's support, with the City's support, they can make it out in one of the best cities. Everybody has already talked about schooling is so important. These parents, if you know them, they work two and three jobs. The best safety net they have is their children's school and a good community, good libraries, good parks. Please save this. Rich people can get richer anywhere. Help these people who need our help. Thank you.

Robert Aguirre: Thank you very much for allowing me the time to come and speak to you today. I would like to remind everybody of how this nation got started. Twenty four thousand worth of beads and an island was purchased, the island of Manhattan. The inhabitants were moved off and told to move further west. Then the Alleghenies became the border, then the Ohio River, the Brazos River, the Colorado River. Now we find ourselves at the Pacific Ocean. We've pushed people out of their homes time and time again. When will this end? I ask you now to consider the possibility of instead of moving people away, welcome them. Bring them in. Invite the diversity. Understand that we are a group of people that is composed of many different types of people with many different cultures. We can all benefit from those cultures including the people that don't have what we have, the people that struggle everyday to fight for what little they have. I represent a large majority of people that are homeless. I think one of my biggest problems that I have to face today is keeping people from becoming homeless, because it's a heartless situation that they're forced into. When you take people out of their communities, where they live right now and their homes are only worth that \$24 and you push them out and you turn it into what Manhattan is today, you have robbed a large number of people. For what? For profit, for the profit of few. I suggest that you search your souls, check your priorities, your privilege, where you came from and what you have and look at the people that are there that you're trying to displace and understand that they're an important part of our culture, a part of our

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community. I ask you all again to please consider keeping Buena Vista open. Thank you.

Dianne Jenett: First of all, I'd like to thank the City Council for all that you've done so far and having the deep consideration for all the issues. I've had the privilege of going to all of the hearings, hearing all of the testimony. It's really changed me in profound ways. I'm guessing it probably has you too. I've lived here for 35 years in Palo Alto. My daughter went to school here. I've paid taxes, parcel taxes, all kinds of things. I've always been proud of this City. I've known it when it was probably more liberal and more diverse in many ways. Certainly more kinds of people could afford to live here. At the core are the things that people have been saying here all night, that we really need to do everything we can to keep Buena Vista intact and the beautiful community that it is, not only for them, but also for us. I just want to say as a taxpayer what I would prefer is to come to some amicable decision about all this. I know there are a lot of things that are gray here, and there are some decisions that you all might have to make in spite of what your legal counsel is saying. I for one, and I know I speak for a lot of other people in Palo Alto, nothing would make me prouder than for my tax dollars to go to defending the right of people to live here in the City. Thank you.

Lydia Kou: Good evening, Mayor and Council Members. I'm here today to address the fact that schools are very important, not only to children, but also the value of homes here in Palo Alto. I was privileged to be asked to be a co-chair of the recent tax initiative for the Palo Alto Unified School District Measure A. Needless to say, I'm sure everybody knows on May 5th Measure A won by outstanding 77.9 percent. It goes to show that Palo Alto understands education is very important, and it does affect a child's life as well as our values. I hope that the appraisers will take that into consideration. Thank you.

Mayor Holman: Next we will go to the representatives of the two groups. First we will have 10 minutes from the appellants, representing the Residents Association.

Mr. Zahradka: Thank you very much, Madam Mayor and Members of the Council. My name is James Zahradka. I'm with the Law Foundation of Silicon Valley. We proudly represent the Buena Vista Mobilehome Park Residents Association. Council cannot approve the closure application tonight. I'll tell you why and what steps should be next. First of all, we stated repeatedly our position that City Staff is incorrectly interpreting this Ordinance. The proposed decision treats the appraised value plus a rent differential plus actual moving costs as a cap on the relocation amount. The

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Ordinance explicitly speaks of relocation benefits including the costs of "purchasing or renting comparable housing" in addition to the loss of equity, rent differential and moving costs. The City is simply ignoring a major part of the Ordinance, and we think this is contrary to the law. For purposes of this hearing, we'll leave this fundamental issue to the side. Here's where things stand regarding the findings before you tonight. The Council in April unanimously indicated that it is not in support of Mr. Beccaria's appraisal methodology or scope. You directed him to modify his scope to include the value of Palo Alto schools and public safety, using language that he himself proposed at the close of the hearing. This was the right thing to do. As our appraisal expert, Jim Brabant, has testified, the superior Palo Alto location seems to be lost in Mr. Beccaria's process. That was acknowledged by this Council. It was acknowledged by the public speakers. It's the truth. Mr. Brabant called the language in your motion, again suggested by Mr. Beccaria, as a "reasonable request" under the professional standards that he abides by. Mr. Beccaria now says the language that he suggested Council include in its motion is a call for him to act unethically, accuses of illegally pressuring him and threatens to quit. You should take Mr. Beccaria up on his offer. You've already found his approach fatally flawed. For him to continue and perform 117 appraisals would be a waste of time and money. He didn't give you any reason to change your mind in his resignation letter. He simply said, "Back off or I quit." Instead of following through on Council's April 4th direction and its reasonable request to Mr. Beccaria, Staff has completely removed the instruction for Mr. Beccaria to revise the scope of his appraisal. You can't approve this. You were right to require corrections to the appraisal scope and need to follow through to ensure accurate appraisals and relocation amounts. What's next? You have our letter. I'm going to go over our view at a high level and address a couple of additional issues that have come up. This has been a moving target, so we're doing our best. Here's the roadmap for how Council should proceed and why. The need for new appraisals is obvious. The City Council should accept the resignation of Mr. Beccaria and instruct Staff to appoint a new appraiser via the procedure set out in the Ordinance. This City should compile a new list of appraisers for the park owner to choose from, produce a scope of work that explicitly requires the new appraisal to account for the Palo Alto location including, of course, the value of schools and safety per your April 14th Motion. After Council hears from this new appraiser, you can approve or deny the application based on this new information. Then and only then should the remainder of the process be allowed to go forward. It cannot go forward tonight. As an alternative, the Staff has proposed a peer review of Mr. Beccaria's appraisals. The City brought up a peer review back in 2012, as we pointed out in our letter, but never acted on it. It was right then and it's right now. As I just said, we think a completely fresh start is

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warranted and more efficient. If Council decides on the peer review, it should, as Mr. Brabant suggests, instruct the second appraiser to perform that review based on the current record, which would be consistent with professional standards. It makes no sense for Mr. Beccaria to perform 117 new appraisals based on a methodology that you have already found faulty. After the peer review report is produced, Council can schedule a hearing to hear from that second appraiser and decide whether to hire a new appraiser to perform the individual evaluations. Again, that can't happen tonight. It can't go forward. Several other issues to address. First of all, we agree with the Council's creation of an avenue for individual park residents to contest their appraisal amounts. However, they should be allowed to appeal all of their individual relocation benefits including their actual moving expenses and the supplemental payments for seniors and people with disabilities, not only the appraisal amounts. The park owner now stridently protests any supplemental review, but is in fact on record suggesting it in their closing brief in June 2014, Pages 30-32. The City Attorney is suggesting shortening the window to challenge appraisals from 30 days to 10 days in the most recent submittal, a very recent submittal. This is unacceptable. Residents will not be able to have their own appraisals performed in 10 days. They can't afford to pay the hundreds of dollars that would be required to have their own appraisals done before they get the updated appraisal. We also agree with the decision to use the two-bedroom rental as a standard for some households. However, this does not go far enough to ensure that the relocation payment will allow larger families to afford adequate replacement housing. For larger families, this should be tied to their family size, not the size of the mobile home they currently live in. The rent differential for households with over three members should be based on HUD's two people plus one per bedroom standard. The park owner makes a variety of takings arguments, ignoring the Ordinance provision for the park owner to obtain an exemption if the relocation benefits would affect the taking. This provision for a partial or total exemption from the relocation benefits if the park owner believes it would affect a taking. The owner needs to prove this up with evidence. That's also straight from the Ordinance. The owner has not produced any evidence in this regard. They haven't specified what they expect the return on the sale of the property to be. All we have are Ms. Nanda's arguments which are not evidence. They are required to go through this administrative process before filing any lawsuit. The owner has taken no steps, none, to ask for this exemption. In fact, in the closing brief, the same one I referenced earlier, on Page 64 they expressly disavow that they have asked for this exemption. The park owner's argument that the residents' mobile homes have no value once they're removed from Buena Vista and, therefore, the park owner should not be required to pay any relocation assistance is not legally supported. The law clearly recognizes the

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in-place value of mobile homes with the community amenities. The case from Southern California which explicitly rejected the idea that "any placement value arises from the value of the land and consequently belongs entirely to the park owner." That's been rejected. You should also reject that idea. The park owner also attacks the Ordinance in general as illegal. The Ordinance was adopted in 2001 and has not been amended since. The statute of limitations to challenge that has run sometime ago. If there were any alleged spot zoning, the statute of limitations on that was 6 months. A challenge to the Ordinance as a whole, which is called a facial challenge to the Ordinance, the statute of limitations on that was 2 years. Those have both run sometime ago. In any event, a facial challenge to this Ordinance is unlikely to succeed. The park owner cites some general takings cases in their brief, but no cases standing for the idea that this Ordinance would be unconstitutional. In fact, there are multiple courts in Southern California which have found such laws constitutional and said they do advance a legitimate public purpose, which is the standard for a land-use ordinance like this. There's one from Carson and one from Malibu. Another point, this Council should not and cannot defer to Mr. Labadie's conclusions. The standard of review here is de novo, which is one of these legalisms we lawyers like so much. It simply means, looking at a legal dictionary, that the decision maker "is deciding the issues without reference to the legal conclusions or assumptions made by the previous court to hear the case." This Council cannot abdicate its role in deciding these important issues by deferring to Mr. Labadie as the park owner suggests. In conclusion, a new appraisal is obviously needed, whether by starting afresh, as we believe should be done, or through the peer review process suggested by Staff. We've expressed our view that the methodology was faulty and Council agreed. To have this critical job done with the confidence of the Council and the community, we need a new appraiser. Even in the much lower stakes of a single-family home deal, it's common for a seller or buyer to ask for a second opinion when evaluation seems off. Surely in this context, this is warranted. It's critical that Council not green light the closure until it actually knows what it is approving. Since the processes discussed above may take several months, the park owner should not be allowed to issue a 6-month closure notice until after they are concluded. Thus, Council should not approve the closure even conditionally tonight. Thank you very much.

Mayor Holman: We move now to the park owner's representative. To clarify, there is no rebuttal this evening. Just the 10-minute presentations by each party.

Margaret Nanda, Attorney for Jisser Family: Good evening, Mayor Holman and Council. I'm Margaret Nanda on behalf of the park owner who is the Jisser family. The City Attorney's Office has already received the park

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owner's comments regarding the first draft of the Council's Adoption of Findings and Final Decision. Since that time, Ms. Stump has sent a letter on Thursday to legal counsel suggesting a peer review system for David Beccaria updates to the appraisal. Today she sent another draft of the Adoption of Findings and Final Decision. What I would like to address briefly and to repeat is, I remain of the view that what the Council is contemplating is to unilaterally amend the terms of the Ordinance. There is no process in the Ordinance whatsoever for a resident to appeal the amount of his or her appraisal. By the way, for clarification there would be 98 appraisals done. I don't know where Mr. Zahradka gets 117, but there are 98 homes at issue. Other local Ordinances do have such a process. For example, your neighbor, the City of Sunnyvale has such a process in its original ordinance which was adopted in the mid-1980s and remains in the ordinance which was readopted in December 2012. That kind of provision is incorporated into a number of mobile home park conversion Ordinances in jurisdictions throughout the state of California. It is not in Palo Alto's Ordinance. Now as of tonight, the Council proposes to amend the Ordinance to not only include a peer review process, whereby a second appraiser reviews the updates by David Beccaria, but one in which if a homeowner disagrees with the second appraiser, he or she can appeal the updated appraisal to the Hearing Officer. Such a process, which Mr. Zahradka suggests now be enlarged to include every element of mitigation assistance, creates a situation in which there is no downside risk for a homeowner to appeal Beccaria's decision of updated value. This is a pretext for discrimination against the park owner. Therefore, every single appraisal done by Beccaria will no doubt be subject to peer review at the City's expense and then written arguments will be submitted by both sides, and finally a decision of the Hearing Officer will be made. As we have stated in our counsel comments, the park owner, who has already paid Mr. Labadie the sum of \$50,000 for his services in this matter, has no intention of paying the Hearing Officer for this process, of which it objects, to rule on 98 separate appraisals. This is not an additional consideration called for by the language of Section 9.76.040 of the Ordinance. This is an entirely new process which adds layers of expense and bureaucracy. We would not be here were it not for the park owner's voluntary amendment to the RIR one year ago on May 14, 2014 in which the park owner, in response to resident testimony, offered to update the appraisals. I'm sure the Council is very happy about this; this is my last opportunity, I hope, to address this Council. The park owner wishes to be heard on the matter of the City's interference with the appeal process and the lack of procedural due process and unbiased hearing of this appeal. In order to do that, one must begin with the initial adoption of this Ordinance which included rent control for the park owner and the adoption of a Conversion Ordinance with respect to a single park owner in the park. As

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Mr. Zahradka points out, yes, we are well beyond the period of a facial challenge to the Ordinance. We are not beyond the period of an applied challenge to the Ordinance. Council Member Kniss was on the Council in December 2000 when they adopted a process for and instructed the park owner, the City and the residents to get together and to discuss ways for the preservation of Buena Vista as affordable housing. This was again repeated when the Council adopted the Ordinance in 2001. I can categorically inform the City that after 2001 [audio malfunction].

Mayor Holman: We have stopped your clock, so don't worry about that. Looks like you can continue now, and apologies.

Ms. Nanda: After 2001 and the adoption of the Ordinance, my client did not hear from a single elected or Staff member from the City of Palo Alto until it walked into the City Hall in mid-2012 with Prometheus to announce its intention to close the park. This is despite the fact that the City adopted twice a Housing Element plan which included the preservation of Buena Vista as affordable housing. One would have assumed, with that in your Housing Element plan, you might have reached out to the park owner to discuss the preservation of this property. In December 2012, this is part of the administrative record before you, the City Manager wrote a memo in which he says that Prometheus was the point person on the closure. Yet, in the spring of 2013, before the first RIR was submitted in this matter, the City Manager told Prometheus that it would talk no further to Prometheus about its proposed development for this project until the park had been closed and all the residents had been relocated. The effect of this decision cannot be understated. This is the single most important reason why the possibility of affordable housing to be built on this site never occurred. As even the most rudimentary knowledge of negotiation would dictate, it is only when you get all the stakeholders in the room together, meaning the residents, the park owner, the Buena Vista Residents Association and Prometheus, all of which had something to gain and something to lose, that affordable housing would have been built on this site by Prometheus and/or they would have relocated those residents to other apartments they own in Palo Alto. Most other cities with Closure Ordinances don't even refer to park owners. They talk about developers. The result of the City Manager's decision that day in this regard meant that there was no hope for the construction of affordable housing with a developer and, in addition, my client lost a multimillion dollar deal with Prometheus, who exited the deal in 2014. Then the hearings occurred in May, and the appeal was heard. It was filed in October 2014. No reason has ever been provided by the City why no hearing was held on the appeal until January 2015. The only conclusion there can be is that it was because of the election. In January 2015, before a single hearing had been held on this appeal, the City Manager and spokesperson announced the allocation of

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anywhere between \$8 million to \$13 million for the saving of Buena Vista in conjunction with the County. Then the appointment of Caritas, an Orange County nonprofit housing organization, to purchase the park to save it for the residents. This without asking my client is the park for sale. Not only that, creating undue pressure on my client at the same time that it was supposed to be hearing from all of you in an unbiased and unprejudiced manner. Yet, the City has taken a public stance in every media outlet possible that it wants to see this park saved and for the park owner to sell it to it. I want to make clear to the Council that the park owner intends to exercise the constitutional right, and it is a constitutional right that every property owner has in the City of Palo Alto, the County of Santa Clara, Mr. Simitian, and the State of California, that is it will sell its property when it deems appropriate to who it chooses and for an amount it deems acceptable. It will not yield to pressure by the City to do anything but that. The City has an obligation in this matter to act in an unbiased and unprejudiced manner toward my client in the hearing and decision of this appeal. Thank you.

Molly Stump, City Attorney: Madam Mayor, Council Members, Molly Stump, City Attorney. Where are we? Obviously the parties in this matter have a dramatically different view of the facts and the way forward, so let me orient the Council. Your packet this evening includes a set of draft Findings that would provide a basis, and we have recommended that it is ripe for the Council to take action to approve the closure application this evening with a set of mitigations and subsequent conditions that are described in the draft Findings. There are three possible changes to the Findings. Two of which are technical and noncontroversial. One is that there was a misstatement in the draft that was published 11 days ago with respect to the way that Council asked the multi-bedroom units to be treated. That is that the two-bedroom comparable should apply to families of more than three, where there are more than three people living in the unit at Buena Vista. That's what the Council did move on the 14th of April and it was misstated in the Findings. We have recommended some language to make that correction. We appreciate Council for pointing out the error. The second thing is a very minor technical matter, which is that we would like to add a sentence. This is just a legal and administrative element. In the section of the Findings called Approval of Closure Application, the last short paragraph states "This is a final decision. No further action by the City is required or available." We would like to add the following sentence: "The time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6. The lawyers in the room and for the parties will recognize that as standard language that applies to an administrative decision of this type. The third possible change concerns the way that the updated appraisals would be handled. We have recommended that Council has two

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viable options this evening. Council can accept the current appraiser's, Mr. Beccaria, statement that the existing methodology fully captures all of the locational elements that apply to the onsite valuation of the units at Buena Vista. If you'd like to do that, if that's your decision, you would adopt the language on the appraisal updates that was in the draft Findings that were published with the packet 11 days ago. We believe it would also be appropriate for Council to provide for a very limited peer review process at the City's expense. We've provided you some language that would describe how that would work and provide for that process. That language was distributed to you and to the parties today. The idea about the peer review process was circulated late last week. That's what I have to orient you, Council. I'm available to assist you as needed.

Mayor Holman: With that, we come to Council Members for questions and comments.

Council Member Kniss: I'm going to start with a question. Going through this one more time would be helpful. You just gave us three options, City Attorney. One was to say yes to Mr. Beccaria in general. The second is an appraisal update and also a peer review. Would you differentiate between appraisal update and peer review or might they both be done?

Ms. Stump: Thank you, Council Member Kniss. Again, the two options on the appraisal that we have framed for you is to go forward with the process that the Council talked about on April 14th, which the park owner had previously agreed to, which was Mr. Beccaria would update his existing appraisals to reflect the passage of time. They are now quite stale. As we know, real estate is very dynamic, and in this time and place particularly so. It's anticipated that to be accurate, they would need to be updated to reflect the passage of time. Mr. Beccaria should do that work in our view. You could stop there. He has said that the methodology that he's used he believes accurately captures all of the various elements of the in-place value of those units.

Council Member Kniss: Before you go to the next one, what would be the time that could elapse between either of these?

Ms. Stump: What is proposed is that Council would adopt that process this evening. Council's role in this would come to a conclusion, and the process would then go forward. There would be a limited ability to bring any additional questions or disputes quickly to the Hearing Officer, and Council would delegate final decision-making authority within defined parameters to the Hearing Officer. I do not know how long Mr. Beccaria would take to do those updates. [audio malfunction]

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Mayor Holman: Do you have some comments of explanation?

James Keene, City Manager: No follow-up questions please, but we think we have corrected the problem. We have some RF frequency gear in the backroom, and we have our own system that we typically use here. There is a lot of media here with their own systems that are more powerful than what we've got it. There was some conflict there. We shut down the system we typically have in the room. We're not using it anyway. That seems to have cleared up the problem. I don't think the media is affected by it all. You should be able to get back to conducting your business. Thank you.

Council Member Kniss: The City Attorney had the floor.

Ms. Stump: Responding to Council Member Kniss' question. I do not know how long Mr. Beccaria would require to perform his update. Ms. Nanda may be able to speak to that.

Council Member Kniss: Regarding the second part of that which was peer review, that's separate from an update, I presume.

Ms. Stump: That's correct. The idea is that Mr. Beccaria would do an update and complete updated appraisals to reflect the passage of time and bring the appraisals current. Council, we believe, can provide for, at the City's expense, a peer review of Mr. Beccaria's updated appraisals to get a second opinion, if you will, to ensure that the appraisals are complete and accurate and that they're well documented, appropriately documented, reasonable and reflect the locational value. The peer reviewer could find that that's the case and write a report so saying and stop there. If the peer reviewer found some methodological flaws or problems with the data, he could then be asked to provide an alternative opinion of value. That would form the limited discretion of the Hearing Officer to resolve the appraisal question between two numbers, if there were two at that point.

Council Member Kniss: Who would choose who does the peer review? Is that something we would hand to you after we make a decision, if we do make one tonight?

Ms. Stump: My recommendation is that you delegate that to Staff. My office and the Planning Director and City Manager would identify an appropriate professional who would conduct that review.

Council Member Kniss: You may circle back, but I wanted to start with that and have that clearly on the table, which is what City Attorney Stump has sent to us and which is in front of us.

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Vice Mayor Schmid: A question from our hearing.

Ms. Stump: Could I interrupt for just one moment? A Council Member has just pointed out to me that the at-places memo may be missing a page. We'll quickly check that. If people do not have Page 5 to that, we will get a copy to the public. Thanks.

Vice Mayor Schmid: I'm looking at Page 5

Ms. Stump: It looks like some of the copies that we've checked are complete. Maybe we just missed one. We'll get Page 5 to Council Member Berman as well.

Vice Mayor Schmid: You use the term that the updated appraisals would use standards and methods appropriate to the profession to ensure appraisals are adequately supported and reasonable, and they appropriately reflect the Palo Alto location. I recall during the last meeting, Mr. Beccaria made the case that the only way I could think of was to use median housing prices in Palo Alto and surrounding communities to make the percentage adjustment for location. He thought about that for a while, came back and said housing, single-family homes are not the appropriate adjustment, neither were townhouses or condos. He said rental apartments in Palo Alto and elsewhere might be a good location adjustment. Are we saying that the peer review could come in on that point and say, "Yes, that's a reasonable approach for an appraiser to take." I understand that Mr. Beccaria went and talked it over with his colleagues and said, "No. That doesn't make sense here." It seems something that a reasonable peer reviewer might say, "That's a good idea." Is that the role of the peer reviewer as you see it, as you outlined it?

Ms. Stump: My recommendation to Council is that you ask an appraiser to use the standards and methods that they find appropriate to complete this assignment, to get a well-documented reasonable opinion of value, of the onsite value of these units. I'm not an appraiser, and Council is not an appraiser. I will not be in a position to provide you an opinion of appropriate methodology. My recommendation is the Council ask a professional appraiser to do that determination and, in a sense, to get a second look at that. Mr. Beccaria has looked at it. I believe it is lawful for you to ask another appraiser to also look at that issue.

Council Member Schmid: He seemed to have given us two things. One, the night of the discussion and then a thoughtful response later. Two different perspectives. We're asking a peer reviewer to take a look at that.

Ms. Stump: Yes, that's my recommendation.

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Council Member Scharff: First of all, I'd like to thank everyone for coming out tonight. I appreciate and thanks to both the attorneys for their statements. In looking at this, I'm going to support the peer review concept. What we're looking to do tonight is to be independent and unbiased. What we're really asking ourselves is, is Mr. Beccaria's appraisal correct. Has it taken into account all of the factors? What we really need is a peer reviewed process in which an independent appraiser, who conducts an appraisal according to professionally acceptable methods, looks at this and ensures that it has been done correctly. That is our job. It's important that we move in that direction. I've got to say I think the implication that the City Council has not been unbiased was unfair and incorrect. All of us have been very unbiased in this process and very circumspect in the way we thought about this. You could tell from the questions and the record that everyone's kept an open mind, and everyone has moved forward in thinking about what is a fair and just process. It's hard to argue that having something peer reviewed is not a fair and just process. and allows that there are no mistakes made in the appraisal. This is something that's really important to a lot of people. It's got to be done right and in a fair and unbiased way. If we move forward in the peer review process, that we gain that and we make it clear to everyone that that's what we're doing. That's the direction we should move.

Council Member DuBois: Two questions. I do have Page 5 in one of my documents, the one with the redlines. The other one didn't. I assume those were the same.

Ms. Stump: Yes, that's the same document.

Council Member DuBois: Why was the time for limited supplemental review shortened from 30 days to 10 days?

Ms. Stump: On further reflection, it appeared to me that 30 days was longer than needed given the length of time that this process has already gone on. The park owner has commented that the process has been lengthy and very thorough. That is factually true. Out of sensitivity to keeping the process moving, I looked at the schedule and thought that that could be reduced. I do have to respond to the Residents Association's assertion that there isn't sufficient time. In fact, the residents have had the individual appraisals of their units for many, many months. There was opportunity throughout this entire process, even before the Hearing Officer, to introduce specific evidence in response to that, should they have wished to have done so. What's now proposed is that Council, on behalf of the City, make sure that that is done through a peer review process. That's already two full looks at

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this. It seems appropriate and adequate to provide a limited period of time to make any further comments.

Council Member DuBois: The process has taken a long time. My concern is people aren't going to see their updated appraisal and then have a very short period of time to respond. You're saying they could prepare materials based on the past appraisal. I have a concern that 10 days is too short, because people are working two jobs and have to pull things together. I want to make sure I understand this other part correctly. There was a lot of discussion in the record about including schools as part of the definition of a comparable mobile home park. My understanding is that the Hearing Officer decided that schools was not in there, and the appraisals were done. Then the City Council disagreed with the Hearing Officer and said that we wanted schools to be included. Then the appraiser came back and said that the appraisals already included schools. There seems to be a little bit of a disconnect there in that there was a huge argument about whether they should be included or not. That argument went one way, and then we were told the appraisals actually included schools anyways. To me, there seems to be a disconnect there. I don't know if you can talk to that.

Ms. Stump: Thank you, Council Member DuBois. The confusion arises from the different elements that our Ordinance describes as potential mitigations. One of them involves first-year start-up costs for housing in comparable communities. The park owner has proposed that all of the residents will not need to income qualify as low-income, but they'll be provided with that differential rent between the rent they pay for their Buena Vista site and the rent for an apartment, one bedroom or this Council has said in some cases two bedrooms, in comparable communities. There was quite a bit of discussion about how schools should be considered in terms of the selection of the comparable communities. That was not an item that the Council provided any direction on, in the April hearings, that was any different from what the Hearing Officer did. Rather, the Council focused on the appraisals. It's just like when you have your home appraised or a potential home that you might want to purchase appraised. You're asking what is the market rate that is fair and appropriate for that property without actually selling it and finding through a transaction what the market will bear. The appraisal process in attempting to answer that question uses various methods that incorporate all of the elements of value, elements that increase value as well as elements that decrease value. That is the context in which, as I understood the Council's concern, you were asking did the Beccaria appraisals accurately, fully capture some of the quite special and extraordinary things about this community. The Council focused on safety and schools. Mr. Beccaria made some comments that there might be a way to double check that. He then went and vetted that with his professional

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colleagues and came to the conclusion that it's already contained, that those are elements of value that are contained within the appraisals that he did; that it wouldn't be appropriate to do another methodology because it would suggest some change; and that he didn't believe a change would occur. I hope that's a little bit of clarification, Council Member DuBois. Really it could come up in two different places under our Ordinance.

Council Member DuBois: We were also concerned about the limited number of comparables in Palo Alto. That's why we were asking if there could be an adjustment. We also had questions about the park as an ongoing concern versus not and was that considered in the valuation.

Ms. Stump: As I understand it, Mr. Beccaria did look at evidence about whether the announcement of a potential closure impacted the transaction such that it would invalidate some of the comparables. The evidence that he had, he said that he used comparables that were not impacted in that way. That's based on, again, his independent review of the facts that were before him.

Council Member DuBois: Is that an issue you think we could in a peer review specifically call out to be examined?

Ms. Stump: Any competent appraiser is going to want to understand that. As Mr. Beccaria acknowledged, he wanted to understand it and believed he had. It seems to me that a professional appraiser who conducts a peer review would also want to look at that issue and reach their own conclusion. In terms of limited comparables in Palo Alto, any appraiser has to potentially deal with a limited data set and draw some conclusions based on the data that's there. I would think that would be another issue where a second professional appraiser would need to look at that and draw appropriate conclusions.

Council Member Berman: Like Council Member Scharff mentioned, thank you everybody for your participation throughout the last couple of years. I know it's been trying for everybody involved. It continues to get more complicated. I agree that a peer review is a great idea. We're all going through this for the first time. In hindsight, I wish I'd have thought of that 2 1/2 months ago. As the City Attorney appropriately mentioned, us on Council aren't professional appraisers. The attorneys for the Residents Association had their own appraiser do a review that, obviously and rightfully so, was biased in favor of their client. To hire an independent appraiser and ask them to review the appraisal that was done only makes sense and is something I'll support. I agree with Council Member DuBois that I don't think it's necessary to reduce the number of days for an appeal

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from 30 to 10. I'm perfectly comfortable with 30 to give everyone an opportunity to be heard, if they have concerns about the appraisal that's done. Those are the big issues that we're dealing with today.

Council Member Wolbach: Thank you everybody for your patience and attention during a very long process. I know it's been said before, but it bears repeating again. This has indeed, as Council Member Berman said, been a trying process for all. I certainly do appreciate your patience with us. The reason for it being a long process is that it is complex. The stakes for the stakeholders are significant, for all the stakeholders, for the residents and for the owner. I appreciate there are moments of frustration; I wanted to acknowledge that and acknowledge what seems to be clear sincerity and commitment to abiding by the process by all parties and the attempt by the City to do that as well, to have a fair process that respects the interests of all parties. Moving forward, a peer review process seems reasonable. Something that I heard mentioned earlier was that we found the methodology faulty by the appraiser. My understanding was that that was not something that we found. My understanding was that we did not find fault with the methodology, because we are not appraisers and did not attempt to wade into the territory of doing appraisals or being a peer review over an appraisal. I want to make sure that that's on the record. My understanding was that we did not find the methodology of Beccaria to be faulty. What we did was explore and emphasize the importance of in-place value being part of the appraisal and looking for ways to ensure that the appraisal that was done was adequate indeed, as Mr. Beccaria said it was. The idea of using a peer review process, where we have another professional appraiser provide that second set of eyes on the process to ensure that Beccaria's appraisal was indeed adequate, is reasonable and fair. Here's a question for City Attorney. We heard a concern raised that individual review is something that was not called for earlier and that we were adding it, and that's a novel addition. I don't know if you could speak to that at all.

Ms. Stump: The Ordinance provides that any person, I believe is the language, any aggrieved person may appeal the Hearing Officer's decision. It certainly could have been the case, were there not a Residents Association or should they have chosen not to do the appeal, that individuals could have asked the Council to look at their individual amounts at that time. I see no flaw in the Council providing for a limited, time limited and subject matter limited, delegation to the Hearing Officer to resolve any final questions. You're proposed to adopt conditions that will require some further work to be done. It does seem appropriate, again bounded by time and by jurisdiction, to allow for the Hearing Officer then to resolve any final questions, should those be questions that the Residents Association wants to bring or individuals want to bring.

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Council Member Wolbach: I agree with that. That was my understanding. Thank you for clarifying that. That brings me to my next point. I would encourage colleagues, when we do get to motions, to make it clear that after this evening this should not come back to us. This should go onward; it should be resolved. This chapter in the story of Buena Vista should be closed in a reasonable time, so that all parties may move forward with whatever next steps they choose to pursue. It's important that we don't impose onerous additional conditions at this point, this is not the time to do that, that we do not unduly delay the process, and again that we do not act as an appraiser or shop around for an appraiser. I will be supporting Staff's recommendation, that in looking for somebody to conduct a peer review, that we defer that decision to Staff, so that we are not involved on Council in selecting who would do the peer review. I would appreciate the distance and separation in that decision making, if it is handed off to Staff as Staff has recommended. On the question of 10 days or 30 days, I don't have any strong feelings one way or another, but would be happy to hear thoughts from colleagues who have not yet spoken about that issue. It is also important, just as a reminder, that we do make those minor adjustments that Staff has recommended about adding the standard legal language and correcting the language about two-bedroom comparables applying to families of three or more.

Council Member Filseth: On the 10 days issue, I find myself persuaded by the City Attorney's argument that 10 days is sufficient. Given that the process we're going to go through with the second appraisal makes it impossible that the second appraisal will be lower than the first one, so the first one is at a minimum, I find the City Attorney's argument that there has been ample time to appeal an individual appraisal makes sense. Ten days is reasonable.

Mayor Holman: I have just a quick comment. Definitely the peer review would be my preference and will be supporting that. It's a process that the City conducts regularly in any manner of other procedures, projects, proposals. It is a way to see that not only you have a balance of perspective, but also that we have an impartial and balanced perspective. The Hearing Officer will have those comparisons, if there is a comparison to be made, to make a determination from. I'll be supporting that. I lean toward the 30 days, for the reason that, it was a result of Council Member Kniss' questions, it isn't terribly likely from my lay perspective that all of the appraisals would have to be done a second time, that there will be a pattern that will be developed after a few peer reviews are done. The pattern will either be they're adequate or they're inadequate. I would lean toward the 30 days. That's the only thing I have to add at this point in time.

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Council Member DuBois: Just a comment for my colleagues. Whether it's 10 or 30 days, putting myself in that position, I would not spend time or money on an appeal until I had a final decision. Most people wait until they have final number and then consider an appeal or not. That's why I feel 10 days is too short.

Council Member Scharff: I want to ask one question.

Mayor Holman: Council Member Scharff.

Council Member Scharff: On the 10 days versus the 30 days, doesn't it still fall within the six months of being able to close the park? The delay of the extra 20 days, doesn't it have no impact on the park owner?

Ms. Stump: That would depend on how long it takes Mr. Beccaria to do his updates. That's what kicks off all of these other timelines. It seems to me reasonable that, again I'm not an appraiser and I don't know Mr. Beccaria's schedule, but that seems like work that could be done within a time period that would allow what you're describing, which is the whole process even with 30 days, to be concluded within the 6 months.

Council Member Scharff: I'll move the Staff recommendation that says move approval of the application to close the Buena Vista Mobilehome Park and adoption of the modified Findings and Final Decision including the modification of the section on Market Survey of Average Apartment Rents to clarify that the use of two-bedroom comparables applies to Buena Vista units with more than three residents, and the addition of a peer reviewer for the appraisal of Buena Vista units. I also want to delegate to Staff choosing the peer review appraiser, and I want to go to 30 days rather than 10 days. On Page 5 where it says within 10 days, it should say within 30 days of receiving, then the other party shall have 15 days to rebut, which was originally in there.

Council Member Kniss: I'll second your Motion.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to approve the application to close the Buena Vista Mobilehome Park and adopt the modified Findings and Final Decision, including the modification to the section on Market Survey of Average Apartment Rents to clarify that the use of 2-bedroom comparables applies to Buena Vista units with more than three residents, and the addition of a peer reviewer for the appraisal of Buena Vista units; and

A. Staff is to choose the peer review appraiser; and

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- B. In the Findings, under the heading: Limited Supplemental Review by Hearing Officer:
 - i. In the first sentence maintain, "Within 30 days of receiving"; and
 - ii. In the second sentence maintain, "shall have 15 days to rebut"; and
- C. In the Findings, under the heading: Approval of Closure Application:
 - i. After the last sentence, add "The time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6."

Mayor Holman: Council Member Scharff, could I ask you a question please?

Council Member Scharff: Sure.

Mayor Holman: I need to confirm that that Motion would include the addition that we got this afternoon, which would be to insert the sentence "The time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6." That would be inserted on Page 6 above effective date.

Council Member Scharff: Yes, it does. Most people have spoken to this. This is a fair process that takes into consideration the concerns that have been raised today. It's the right approach.

Council Member Kniss: Again, for all of you who are here tonight, I know and I believe you're looking for a different outcome. I'm going to put this in a way that is maybe, in the modern look at something, it would be a positive way to look at it. Unless we make a decision tonight, all of you who are here are going to have trouble going on with your lives, knowing where you're going to live. This is a fair process. You'll have a chance to have an update on your appraisal. You will have a chance for a peer review of what the appraiser gave you. I hope the way you're going to look at this is that saying of when one door closes, another door will open. The doors cannot open unless we vote on this tonight. That's got to be a very hard pill to swallow. I don't think any of the nine us sitting here as judge and jury want to deliver this. In order for this to go forward, as you have heard, the owner does have his right, his constitutional rights. At the same time, we all are very aware that this has been a long time and very important place for you to live. This has been a chance for kids to go to school, a chance for you to

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easily get to work. All of us who are here regret it. You have heard our process tonight and would agree it's a fair process for the owner. We hope that that door that you may feel has closed tonight will open another door very soon.

Mayor Holman: I do want to reiterate, perhaps more for the media than anyone else, that in taking action tonight we do have such a narrow, limited role in making a determination. In making a decision this evening, it's one that is not a happy one. It's one that we've done our best to be fair to all parties, whether it is palatable or not may be another matter. Whether it's fair to parties, I hope the process has proven to be that. With the addition of the peer review, we have added an element that assures there is a more just and impartial aspect to this motion and the action this evening. Council Members, we will be voting on the board in favor of the Motion with the additions as you see on the board. Vote on the board please. That passes unanimously.

MOTION PASSED: 9-0

Adjournment: The meeting was adjourned at 6:54 P.M.