



CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting
August 24, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:00 P.M.

Present: Berman, Burt, DuBois, Filseth arrived at 6:02 P.M., Holman, Kniss arrived at 6:02 P.M., Scharff arrived at 6:02 P.M., Schmid arrived at 6:02 P.M., Wolbach

Absent:

Closed Session

Mayor Holman: We'll now go into Closed Session regarding two City labor negotiations, and we have no public speakers.

Beth Minor, City Clerk: We're supposed to vote before we (crosstalk).

Mayor Holman: That's right. I always forget that.

Council Member DuBois: I'll make the motion to go into Closed Session to discuss labor ...

Council Member Berman: (inaudible)

Mayor Holman: Yeah. Yes.

Council Member Burt: I will second that.

MOTION: Council Member DuBois moved, seconded by Council Member Burt to go into Closed Session.

Mayor Holman: Any discussion? Seeing none, vote on the board please. That's passes on a 5-0 vote with four not participating.

MOTION PASSED: 5-0 Filseth, Kniss, Scharff, Schmid absent

Council went into Closed Session at 6:01 P.M.

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1. CONFERENCE WITH CITY LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Ed Shikada, Suzanne Mason, Kathy Shen, Frank Lee, Nancy Nagel, Dania Torres Wong, Sandra Blanch, Lalo Perez, David Ramberg, Joe Saccio, Molly Stump, Walter Rossmann, Eric Nickel, Catherine Capriles, Geo Blackshire, Albert Yang, Natalie Korthamar, Dennis Burns)

Employee Organizations: Palo Alto Police Officers Association (PAPOA); Palo Alto Fire Chiefs' Association (FCA) and Employee Organization: International Association of Fire Fighters (IAFF), Local 1319; Palo Alto Police Manager's Association (PAPMA)

Authority: Government Code Section 54957.6(a).

Council returned from Closed Session at 7:31 P.M.

Mayor Holman: We've just returned from Closed Session on two items. One is labor negotiations with PAPOA, and the other is with Fire Chiefs' Association. There's no reportable action.

Agenda Changes, Additions and Deletions

Mayor Holman: I'm not aware of any.

City Manager Comments

James Keene, City Manager: Thank you, Madam Mayor. Council Members. Let's see. I have a number of items to report on tonight. First of all, as you know the Council has received a lot of emails about Edgewood Plaza, about 150 at the last count, mostly in relation to the closing of the Fresh Market and subsequent replacement with a grocery store tenant. I thought it would be helpful to update the Council and our community about where things stand as best as we know it. I know our Staff has sent out dozens and dozens of individual emails to respond, but maybe not to everybody. It's helpful if we share this information publicly. As you recall, the property owner received a Planned Community approval for the development, which required the continued use of a grocery store at this location as a public benefit. Fresh Market opened in 2013 but closed this past March; not as part of just a local closure, but a kind of regional closure of Fresh Market in California. Our Staff has met with representatives of the Sand Hill Properties, the property owner, and have communicated the requirement that a grocery store must be maintained at this location. We gave the property owner six months to remedy the vacancy, which was the similar

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schedule and process that had been laid out in relation to College Terrace when it lost the JJ&F Market. There remain approximately eight years on the existing lease with Fresh Market. The property owner has reported contacting a variety of potential grocers with no apparent success or identified at this time. Starting on September 30th, daily fines up to \$500 a day will be assessed against the property owner for its failure to find a suitable replacement market. That figure is the fee that is currently set by Code and is the current maximum that is allowed by the Code at this time. There are potentially different remedies or options the Council could pursue. I just wanted to inform you that the Staff is looking at the range of options that could be available to the Council and will be reporting back to you in that regard. My understanding with the City Attorney is the Council could have more discretion as it relates to that fine level, but it would take a subsequent action of the Council. That's where we are on that right now. There have been rumors about a Target Express or other non-grocery retailer going in at this location, but we want to make it clear that would not be consistent with the requirement for a grocery store and would not be permitted. While the City seeks voluntary compliance, if our efforts don't yield the anticipated results, as I mentioned additional remedies will be considered. We have established a webpage, and I've asked the Staff to update it with some of this information. Some of it was done at 3:30 P.M. today, but we will keep it routinely updated with information as we get it, so that interested community members can check the website. Cityofpaloalto.org/edgewood is how to find it. People can sign up to get email updates. To date about 125 people have signed up. I've asked the Staff to be sure we're reaching out to neighborhoods through NextDoor and have responded, as I mentioned, to the emails we have received. We'll continue to monitor the issue, keep the Council and our residents updated. Another easy subject, RPP, Residential Parking Permit Program. We're glad to say that we've made it through the first week of permit sales, and that as of this morning 1,465 accounts have been created with 1,130 approved. Our contractor's been working hard on this along with our Staff's work in the initial stages of the project. We continue to monitor minor issues in the usability of the website as we go. I know the Council got a couple of complaints about the difficulty with signing up. You will recall when we were getting the update last week, I personally went on since I live in one of the districts to see if I could sign up. I was able to do it. I did mention to our Staff that there were some sort of intuitive steps that we ought to look at improving just for first-time users. The website is at cityofpaloalto.org/parking. Questions can be directed to our Staff by email at downtownrpp@cityofpaloalto.org. A community meeting will be held this Wednesday, August 26th, for the community gardens irrigation systems project. The meeting will review the schedule and scope of work to replace the failing water lines that feed the garden plots for the Rinconada, Eleanor

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Pardee Park and Johnson Park Community Gardens. The meeting will take place at the Embarcadero Community Room at the Rinconada Library from 6:30 to 7:30 P.M. Work on the project is expected to begin this fall. Certainly be able to talk about our drought regulations and restrictions in conjunction with that. The Newell Road Bridge Environmental Impact Report Scoping meeting, this is an important meeting. Our Staff is initiating the formal study of the proposed Newell Road/San Francisquito Bridge replacement project. The next step in re-engaging our community on the project will be this EIR Scoping meeting to be held on Thursday, September 3rd, at 6:30 P.M. here in the Council Chambers. At this meeting, interested members of the public are encouraged to provide input on the scope of the environmental analysis to be performed and the focus and content of the EIR document being prepared for the project. Comments made during this scoping meeting and written comments submitted prior to Monday, September 14th, will be incorporated into the project EIR. Our Staff has sent meeting invitations to individual residents in Palo Alto and East Palo Alto and neighborhood associations in the vicinity of the bridge. Information about the project is posted online at cityofpaloalto.org/newell. The scoping meeting will be broadcast live by the Media Center and will also be available for on-demand viewing at the Media Center website. I would just encourage Palo Alto residents who are concerned about the potential designs for the bridge, there are a number of those that are being studied as part of the formal EIR process that a lot of folks have raised concerns about. It is important for people to be sure that their voice is heard during this scoping project about the different bridge options that are out there. As you know, the State of California and actually across the West is experiencing an unprecedented wildfire fire season due to the drought and climate change. On Sunday, August 16th, our Engine 66 returned from a 14-day strike team deployment to the Mad River Complex fire in far northern California. A strike team is five fire engines with a leader for a total of 22 firefighters representing agencies throughout Santa Clara County. The crew of our Engine 66 from Palo Alto were Captain Christy Baird, Apparatus Operator Matt Goglio, Firefighter/Paramedic Jesse Wooton, and Firefighter/EMT Tim Gaffney. Our thanks go out to them and their volunteer efforts to support fighting those wildland fires. Just so we're clear, all of the costs associated with these deployments, equipment, administrative costs, etc., are reimbursed under the California Fire Assistance Agreement which the Council updated and approved earlier this year. On the emergency front, as we start to hear more and more about the potential for a strong El Nino this winter, emergency preparedness is more important than ever. If you as a citizen in Palo Alto are interested in helping our community prepare for any potential disaster or flooding in this instance or in any other potential events as well as prevent or reduce crime in the aftermath of any kind of real difficulty, the Palo Alto Emergency Services Volunteer Program is recruiting

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for new members to serve in a wide range of roles from helping during floods to staffing our Medical Reserve Corps. For more information, cityofpaloalto.org/emergencyvolunteers. Finally, Board and Commission recruitment update from the City Clerk. There are two more days to apply for several vacancies on the Architectural Review Board, the Parks and Recreation Commission as well as the Planning and Transportation Commission. The deadline to apply is August 26th at 5:30 P.M., so email Deputy City Clerk David Carnahan at david.carnahan@cityofpaloalto.org or call 650-329-2571 for more information. That's all I have to report.

Mayor Holman: If I might add just quickly one thing which is that the community has been so responsive to the drought that our trees are experiencing some stress. While we're being conservative on water use, don't be too stingy with watering trees because they do need to have water. We are losing some trees. Be mindful of when you see trees under stress at your curb or on your own property that they do need a good drink. You'll be seeing more information about this soon.

Oral Communications

Mayor Holman: We have a lot of people who have come this evening to keep us company. I'm sure that's why you're here, keep us company and make sure that we do a good job this evening. We also have some visitors from Troop 87 sitting on the front row, who are here working on their communications badge who will be with us for a while this evening. Before you leave, if you'd see the City Clerk, you'll get a City pen as well for your efforts and participation this evening. With that, speaking to Oral Communications, we have 17 speakers. According to our rules, if Oral Communications speakers total more than 30 minutes, then we can cut the time to two minutes. Apologies in advance for that, but we have 17 speakers as I say. When you hear your name called—I'll call names two at a time—if you can come to the front, that will help expedite the speaker sequence.

Ken Horowitz: Thank you. Good evening. I just want to make a couple of comments about last Monday night's meeting. I was wanting to speak about the CAC, but I faded out at 11:45 that night. I wanted to make a suggestion that maybe if the meetings draw so long that maybe a second Oral Communications could be at like 11:30 for people that don't have to stay until 1:29. You have in your packet an excellent letter from Kate Downing. That was what I was going to raise. I'm glad that Council Member Wolbach brought this up. This is an advisory committee, and we don't need to do personal attacks on people. In one of the blogs, there was a comment regarding our City Manager, Jim Keene. I just want to say that we all need

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to work together. I compliment Jim Keene as our City Manager. I'm so delighted that he is our City Manager, as well as Dennis Burns and Chief Nickel. We're very fortunate in Palo Alto having these City leaders. Lastly, I want to tell you I did apply for my parking permit. I had no problem getting it. It was really easy, so thank you.

Roberta Alquist: I'm representing the Women's International League for Peace and Freedom. I have been a resident of Palo Alto for 50 years, and I have seen many changes, many of them good and many of them not so good. I'm speaking primarily about the situation for people who are at the bottom of the heap, so called. Individual racism occurs in great part because of a fear of difference. Kids need to learn about difference early on. They need to learn about skin color difference, socio-economic difference, linguistic, religious, all kinds of differences. In Palo Alto, that's not as easy to do as it is in East Palo Alto. Institutional racism is practice when policies by city and other governmental agencies reproduce racism by their policies around segregation, separation on the basis of income and whatever else. I'm advocating a more ethnically, racially and socio-economically diverse city, and linguistically. If we look at Finland, a very small country that is very homogeneous and trying very hard to integrate political refugees from other parts of the world, equity in Finland is the bottom line. Not equality but equity. That means bring the bottom up, not give everybody the same. Towards that end, I would like to argue that Palo Alto is a rather rich and white enclave and that poverty wages are not a way to treat people who work in the City but can't afford to live here. I'd like to advocate three things: that the City Council take action immediately to freeze rents; to halt commercial development until housing and the vacancy rate is changed from .004 to something more acceptable; and that we select all sites left in the City for affordable housing.

Ruth Tarnopolsky: My name is Ruth Tarnopolsky. I live on Jackson Drive since 1980. This is walking distance from the Edgewood Center. Madam Mayor, Council Members, City officers, this is my first time since 1980 addressing this important body, so I'm requesting your leave on my mistakes. I hope to abide by the guidelines. I am here to add my support for the establishment of a grocery store as originally planned for the Edgewood Center site. It is essential for our sense of community. After reading about the requirements of a \$500 fine a day, I want to also add my support for the CCR change to a \$5,000 a day fine. We need to actively encourage the developer to speedily locate a prospective grocer and make conditions that enable his or her survival there, even if it entails a lower rent than originally planned. Thank you very much.

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Carla Carvalho: Thank you for the privilege of the podium. I'm Carla from 1924 Edgewood Drive. I also echo Ruth's sentiments, that we need a grocery store at Edgewood Plaza. We advocate for Council Members to take swift action as an impetus for the developer to find a replacement for Fresh Market. We as neighbors are not interested in becoming embroiled in the complexities and mumbo-jumbo built into the agreement between Sand Hill, the Fresh Market, etc. We are simply interested in having Sand Hill Developers provide a grocery store and only a grocery store to the neighborhood as was promised with this Planned Community. We as neighbors are not privy or interested in the details regarding the leasing situation, but we know it is not as simple as no grocer is interested. We also know that Fresh Market was successful by admission of its management, so it is not appropriate to assume that another grocery store would not be similarly successful. Our neighborhood needs a grocery store. What we do not need is lip service, which is what we feel that \$500 a day penalty would provide. \$500 a day is \$182,500 per year or 5.7 percent of the sales price of just one of those single-family homes at Edgewood Plaza. Lip service. Fines need to be increased immediately to be in parity with other projects. We ask the Council to not only implement these fines, but to also collect them similarly to how fines are collected when my parking meter expires five minutes before I finish my errands or when my dog's license lapses. Please abandon your perceptions of the old, dilapidated market which serviced only a few. Today's Edgewood Plaza is busy and thriving with few echoes of the Plaza of yesteryear. The space occupied by Fresh Market offers an important resource to our community, sustenance and camaraderie. We as neighbors hope to see it filled again soon. Thank you.

Jeff Levinsky: Good evening, Mayor Holman and Council Members and Staff. I'm one of the many Edgewood Plaza neighbors here tonight to remind you that we're not getting a key public benefit we were promised, namely an operating grocery store. The \$30 million or more of new homes at the Center are selling or sold, so the developer has profited nicely. The grocery store, which is over half of the shopping center space, is vacant. This is yet one more chapter in the familiar Palo Alto story of developers win while residents lose. Staff has taken two positions, both favoring the developer. First, instead of charging a penalty immediately, Staff opted to use the College Terrace Center agreement as a precedent, letting the developer avoid any penalty for six months. Second, Staff opted not to seek a substantial penalty immediately like that of College Terrace Center. The difference is staggering. College Terrace Center has to pay \$2,000 a day when its grocery store isn't operating. The equivalent penalty then for Edgewood Plaza's store, which is 2 1/2 times larger, would be \$5,000 a day. Staff could have asked you to put that in the Municipal Penalty Schedule months ago. Instead, they plan to charge Edgewood Plaza a far lower

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penalty of only \$500 a day, saving the developer \$1.6 million each and every year it doesn't provide a grocery. In short, Staff is only using College Terrace Center as a precedent when it would help the developer, but not when it would harm the developer. The developer wins potentially millions of dollars while we the public lose. We therefore ask you the Council to establish the appropriate penalty to motivate the developer to bring back a grocery store so we can finally enjoy and use Edgewood Plaza as promised. Thank you.

Lenore Cymes: Before you turn the timer on, can I ask everybody who's here for Edgewood Plaza to please just stand up? Thank you. I moved to Palo Alto; I moved to 714 Wildwood Lane 30 years ago. I am not a CC&R holder. At that time, there was a daytime Lucky's and a nighttime drug trade. Lucky's closed and Albertson's moved in. Drug dealing went down. Not one of the owners—there were about three of them I think—did anything to maintain the combined properties. Albertson's closed. Formico's, the best pizza in the City at that time, closed and the Center continued downhill. Also, grocery stores at that time were being changed to megastores. I mean they were just getting huge. The previous City Manager wanted to declare the shopping center a blighted area. Immediately neighbors joined forces against that idea. Sand Hill bought one of the parcels. The main community division was between those who didn't care about the shopping center—it was run down; take it all the way down—and the Eichler mid-century modern aficionados. I was one of those. Sand Hill bought all the other parcels but the Glass Station and the original Office. The purists wanted the original architecture designed by A. Quincy Jones, because that is what made the shopping center unique. We lost on that, but that's okay. We've got a good shopping center. The CC&R owners brought a lawsuit, one, and gave Sand Hill the property to build ten homes and a grocery store for the life of the project. That was the PC. A fully functioning grocery store is not a store with some groceries or anything that resembles a grocery store. One can play with all the legalities and the minutiae of words, but a grocery store is a grocery store. Sand Hill got slapped on the hand for \$94,000, because they violated the permit and did not move one of the buildings but tore it down, and then had it rebuilt with new materials. Fresh Market opened a supermarket. Why is there the conception that this market will not be profitable? This is a new shopping center, a welcoming community, a lunch time/dinner time crowd. What is to not make this building successful and the shopping center successful? Thank you very much.

Lawrence Markosian: Mayor Holman, Vice Mayor Schmid and Council Members, thank you for the opportunity to address this meeting. I'm Lawrence Markosian; my family has lived on Wildwood Lane for about 20 years. For over a quarter of that time, there was no grocery store at

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Edgewood. We were happy to learn that one of the public benefits of the Edgewood development is a permanent grocery store or the dedication of the site permanently to a grocery store. We enjoyed the brief period that Fresh Market was there. We'd go and visit the market frequently. We'd talk with our friends that we met on the way back and forth, and so on. We're happy that the City Council has a contract with the developer that includes the requirement that this continue, that the site be used for a grocery store. We're looking forward to its effective enforcement of that requirement.

Debbie Baldwin: Thank you, Council, for listening to us. My name is Debbie Baldwin. I also live on Wildwood Lane. As a parent and a teacher, we teach our children to keep to their commitments. Shouldn't developers be held to at least the same standards? I urge Council to establish the appropriate penalty for not having an operating grocery store. I believe the developer needs to be held accountable to the contract that they had signed, even if they have to pay for a grocery store to be there. Thank you.

Jonny Thaw: It's Johnny Thaw. We live in Palo Alto, a family of four. Thank you very much for hearing us. We live very close to the Edgewood Plaza Shopping Center as well. We liked having the Fresh Market there. We would go maybe too often, several times a week, shopping there. I just wanted to echo the other people's comments that we would like for a grocery store to be in that location. Thank you.

Cheryl Lilienstein: Good evening, everybody. I'm here to make some comments about the PTC and its relationship to the PC Zoning Ordinance. It's hard to come up with a concise reason why the amended PC Zoning Ordinance is wrong for this City.

Mayor Holman: Ms. Lilienstein, do you want to make your comments now or during the PC consideration?

Ms. Lilienstein: No, I want to make them now, because it's not about PCs.

Mayor Holman: All right. Thank you for the clarification.

Ms. Lilienstein: I would appreciate everyone's attention. It's hard to come up with a concise reason why the amended PC Zoning Ordinance is wrong for the City. There are many reasons, and I sent you some information about that. My main reason for speaking tonight is to request that the PTC explain themselves to the City Council and public. The City Council gives direction to the PTC, and the PTC then says, "We don't like these instructions." It gives you back something that is not aligned with what you requested. I've heard members of the PTC say things like, "I believe we should get rid of height limits altogether," or "Why constrain the creativity of

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developers with a menu of options that define public benefits. Wouldn't it be better to unleash their creativity," or "In the interest of creativity, I think developers should be able to offer a cash payment in exchange for zoning exceptions, and then the City Council can decide how to spend the cash for the benefit of the public." This shows detachment from what the people in this City want. Why is it that the PTC continues to flout public opinion and waste Staff time by pressing every more forcefully with positions that we allow developers to bust through the height limit, have no definition of what a public benefit is? Why do they advocate for absolute freedom for developers? Do they think PC Zoning should not have to be in conformance with the Comprehensive Plan? That's what they were proposing. After the public has clearly said, "We need limits, constraints and definitions for what a public benefit is and what its lasting value will be to the community, why does the PTC continue to stick to its guns? Why do you put up with this? Thank you.

Roger Smith: Roger Smith, 270 Tennyson. First of all, thank you all for serving on the Council. I'm here to talk about a potential new private-public partnership. Years ago, we formed a group called Friends of the Palo Alto Parks. We worked hard on Heritage Park and redid Lytton Plaza. If you haven't all been to Magical Bridge, it's just a great place. Thank you all for working for that. I'm here tonight to say we ought to form a public-private partnership to solve the gas leaf blower problem. I think it's a very solvable one with a community like Palo Alto. One of the things we have to do is get the property owner to say, "You shouldn't have a gas blower." I think we could do that. I would be happy to be part of that kind of project. I don't think the police will ever have enough time to do it on their own. I would appreciate you all thinking about that. Thank you.

Bob Smith: Good evening, Mayor and Council. My name is Robert Smith, and I live in Greer Road. I'm in the Edgewood Plaza neighborhood, been there for over 30 years. We did the great majority of our shopping over the years at the store there, over 80 percent to Lucky's and Albertson's and over 50 percent at the Fresh Market. I loved the Fresh Market. I think it was a gorgeous, beautiful store. I would love to see another store into that center. Unhappily, I'm not convinced that such a thing will succeed. My doubts come from having watched the changes in patterns of shopping over the years, all the variety of alternatives that are available and, frankly, just looking at that store and how I saw it doing. I was often in the store when there were more employees than customers there and heard many people say, "No, they didn't shop there very much." I understand also that the developer has been looking for quite a time and has contacted quite a few potential grocers to come into the area. Now, we don't know how many he really contacted, what terms he offered. We also don't know how well the

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store was or wasn't doing. The information is anecdotal and scarce. It seems very possible that it may be a difficult thing to make that work. What do we do? I certainly would like you to push as hard as you can to make a grocery store there, and I would like you to double that up if you start hearing that he wants to put something else in. I think it may be necessary at some point to consider that. If it is, have in mind that you're going to exact a very, very large price for putting something other than a real grocery store there. It should not be considered as an easy thing, something that just kind of happens. That's really my message here tonight. We have to be realistic, but we also have to hold him as much as we can to his commitments. Thank you.

Andrew Boone: Good evening, Council Members. My name is Andrew Boone. I live on Woodland Avenue in East Palo Alto and serve on the Planning Commission of that city. Tomorrow evening the Menlo Park City Council will consider really quite a drastic change to El Camino Real through Menlo Park. They've gone through a two-year long public process, kind of like a bicycle-pedestrian plan where they've asked public input and really received an overwhelmingly positive response towards replacing parallel car parking on El Camino with bike lanes. This really was unexpected. Until the community's asked, "Do you want a safer El Camino Real? Do you want one that kids can walk across or bike across safely?" people don't speak up. When there is a plan, a project, a consultant comes, asks us questions, we think right now it looks good. It's not just a 5-foot bike lane there. Here you have something to go in. This would be 8 feet wide with a separated barrier between traffic and where you're biking. It's a big improvement for people walking too. I'm very hopeful that the Council moves it forward. Atherton had previously considered reducing its section of El Camino Real from six to four lanes. Redwood City is about to begin a precise plan for El Camino Real. Palo Alto, what are we doing? We have the same problems with El Camino Real that everyone else has, which is that the street isn't usable unless you're driving a car. By usable, what do I mean? You're afraid to go there. You're afraid to walk across it. You're afraid to ride your bike on it. I'm an expert urban cyclist, and I still fear for my life. I'm afraid that I will die on El Camino Real. I rode my bike there today. It was very stressful. It shouldn't be that way. We should have a main street through Palo Alto that people can use, that you can walk on, that you can bike on, that transit works. Thank you.

Sophia Abramson: Hi. Thank you for your consideration of us Edgewood Plaza folks. I strongly encourage you to expedite the Edgewood grocery project. Our neighborhood's strong support of the Fresh Market clearly demonstrates the viability of a bona fide grocery store on the same site. This established precedence should smooth the way for you to exert the

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needed leverage with the developers to be accountable for their contractual agreements.

Rita Vhrel: Hi, this is Rita Vhrel. I live in 25 Channing Avenue. I'd like to ask you to support the residents of Edgewood Plaza and put your leverage behind a grocery store going in there again. The other thing that I really wanted to talk to you about was—I'll follow up on Mayor Holman's comments on trees. I would like to ask you to revisit and to place an immediate moratorium on the practice of dewatering, which is pumping out millions of gallons of water at individual construction sites so as to build below the ground level. In times of severe drought, it is unconscionable that these millions of gallons of water are simply being pumped directly into the storm drain, 24 hours a day, 30 days a month, month after month after month. Four to six months of continual pumping is not uncommon. I have seen this in the community center area. There is a project going on directly across from the Main Library that you can go and see yourself. I am not against people building, but I am against this water being wasted. I do not know why this water cannot be put into individual water tanker trucks and distributed around the City. If you look at the Magic Forest and the redwood trees, these trees are dying. I personally know of four projects that are pumping and have pumped in the community center area over the last two years. Thank you very much.

Beverly Kobrin: I'm Beverly Kobrin. I'm 81 years old, and I'd like to give another slant to the importance of that grocery store. With increasing age comes the loss of independence, and I want to be able to walk to the store. Please apply as much pressure as you can. Thank you.

Stephanie Munoz: Good evening, Mayor Holman and Council Members. This discussion about the minimum wage kind of reminds me of the restaurant columnists in the local papers. They can tell you where's the best place for any kind of ethnic food and where's a place to impress a first date and then there's one where to go if somebody else is paying. That's kind of what you remind me of, or the proponents of an increase in minimum wage for people who do not make enough to live in. I don't think it's unfair to say that the main thrust of every Council in Palo Alto for the last 30, 40, 50 years, not just you, has been to increase the property values in Palo Alto. The result is that low-income people can't afford to live here. I think that if you do raise the minimum wage, that's nice. Go down to Anna Eshoo and insist that the Federal government not take so much away from people who can't live on what they make. Tell the State to give some thought to the people who have to pay for healthcare. My kid, when she was a resident, was working 120 hours a week. We tried to have a cap. The State of California said, "We couldn't afford to run the county hospitals if these residents made minimum

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wage for the whole 100 or 90 hour, however many hours that they're working." Couldn't do it. Think about how we the people can help the situation of others who need to make more so that they can live. Thank you.

Haluk Konuk: Thank you for the opportunity. I also live very close to the Edgewood Plaza on Saint Francis Drive for the last eight years. I'm also in the process of building a new house on my lot. I would like to tear down my existing old house and build a new house. Because of that, I became very knowledgeable about how much it costs to build the building. I watch very closely the real estate market, the land prices. As a result, I calculated how much additional profit the developer made by letting him build so densely those ten houses they built. As a private citizen, I cannot do that. On my lot I can build only one house, but this developer was allowed to build more than two houses on the same lot size like I have. As a result, my calculation is we gave this developer about \$7, \$8 million of additional profit, not just the regular profit, not total profit, additional profit, extra profit, just by allowing him to have special zoning. As a community, what do we get out of it? The developer made very nice extra \$7, \$8 million. What do we get? As far as I know, the only thing we get is a grocery store. It's not free, of course; it will be rented. I don't know. Maybe there are other benefits, but that's the only benefit I'm aware of for the \$7, \$8 million. It's a very sweet deal. As a result, I think even asking the developer not to get rent, but pay the tenant himself to get the grocery store will be reasonable. That's why I think this \$5,000 a day fine is, I think, a must. Thank you.

Mayor Holman: As many of you know, but perhaps not all, that comments made during Oral Communications, the Council can't respond to because your topic that you spoke to is not agendized. Appreciate all of you coming and, again, keeping us company this evening.

Consent Calendar

Mayor Holman: Item Number 2, I think the City Clerk has some comments. Item Number 4, we have three speakers. There are a number of people who appear to be leaving. If, when you leave, you could do it quietly and take any conversation to the lobby, it will help us conduct our meeting. Thank you very much for your cooperation and help.

Beth Minor, City Clerk: Mayor Holman, Beth Minor, City Clerk. I understand there's been some comments and concerns by the Council Members regarding the fall recruitment that we do and the appointment of those candidates. My Staff and I are going to look at both the fall and the spring recruitment after this evening and see if there's a way that we can make it

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better and change the dates of when we do the appointments. There's a lot of things that we have to take into consideration when we do the interviews and the appointments and schedule those at times that are working with the budget and with the Council's vacation. After this evening, my Staff and I will start a discussion on changing those and what works best with the rest of the Council's calendar.

Mayor Holman: We have three speakers to Item Number 4.

Donald Mayall spoke regarding Agenda Item Number 4: I don't need three minutes. I just want to urge you to support this item. We need data. I've lived in Palo Alto for 35 years. It was a beautiful, peaceful place until about February, when planes starting flying over. FAA is telling us there's no net impact to their new plans. I'm a retired statistician. This is bogus. We need the data. Please support it. Thank you.

Bonnie Bernstein spoke regarding Agenda Item Number 4: I'm Bonnie Bernstein at 2114 Bellview Drive, right under that line of airplanes that keeps constantly going over our heads. I'm really urging you to work wholeheartedly with this very challenging quality of life and health issue that's going on since the flight paths changed to be directly over our City. I've been living here 29 years. The quality of life, being able to stay in your backyard, sleep through a night, have any sense of relaxation outside the house. I'm hearing planes at 2:00 in the morning, and at 5:30 in the morning I'm actually really tired. I know I'm not alone in this, that we are just bombarded by like being under a landing path that really has tremendous impact on so many people here. One thing that I do want to point out particularly is that Flight Posse is doing a wonderful job tracking the San Francisco airport noise, the San Jose airport noise, the Surf Air airport noise. In a way, we've also caused our own problem by buying the Palo Alto Airport and giving permission by doing that to the FAA having a tremendous amount of power over the rules for that airport. I know that airport gives helicopter lessons on the weekends, because they're flying over my head. We create on top of the other three problems we have from the three other airports, Palo Alto is really contributing to that. I really encourage you to look at that. I know you have an input line about airport noise. Palo Alto Airport is not on that list. We have to take what we can do as a City with our own airport to at least remove that problem from our citizens along with everything else. Please work for us and give us our quiet back. Thank you.

Mark Shull spoke regarding Agenda Item Number 4: Thank you. I live in Midtown on Waverley. The airplane noise, of course, everybody knows is continuous. It's all through the day, about every minute. If you look at the

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FAA website, that's what they're after is trying to get more airplanes in a smaller corridor. I happened to fly in several times. United actually provides an app. You can watch altitude. Altitude going into Palo Alto airspace, way over there, 4,000 feet. Those low planes, speeding up, putting down flaps to slow down, maneuvering, are causing all of the noise. The FAA would claim under their—it's hard to believe this. Their program is called CLEEN, Continuous Low Energy, Emissions and Noise, as part of this next gen program. It's supposed to actually encourage gliding into the airport to have less noise. That's obviously not happening. The airlines have no interest in that, and pilots aren't doing it. That's the first thing. It's inside, outside. Everywhere it's bad. It was very discouraging to hear that you had the closed meeting. I see other cities being very vocal about their objections to it. We kind of had a closed meeting, no reporters, no public and nothing really apparently to be done. Contacted Eshoo's office and they said they don't really have anything to report. The other thing I'd like to say is that I filed noise complaints. You get a letter back, and basically it says, the San Francisco airports tells you FAA has control, they can't really do anything, contact your Congressional representatives who are actually telling us to file noise complaints. It's become very circular. I think all of the cities around the country—we kind of have to look at what they're doing. A number of them are suing the FAA, taking very vocal actions. I'd encourage you to do the same thing. It's a quality of life issue. Ultimately, if the noise continues, it's probably a housing value issue here as well. Thank you very much.

Council Member DuBois: I'm going to be voting no on two items on the Consent Calendar. Thank you to the City Clerk for Item 2, but I'm going to vote no. I'd like to see what Staff comes back with, hopefully adjusting both the winter and the summer election periods so that we avoid both the election season and the budget season. I'm also going to vote no on Item Number 6, the vegetation clearing. I don't feel that we've really vetted this. I support the means prevention, but I'm not convinced this is the best approach. I think the 30-foot clearing, we're really paying for the preparation for electrification. Secondly, we're really blowing through the Project Safety Net money pretty quickly.

Mayor Holman: I think the process for this is to take the votes. When you vote no, then you get to explain why you voted no.

Council Member DuBois: I'm going to vote yes on the others, but I would like to vote no on those two items.

Council Member DuBois registered no votes on Agenda Item Numbers 2 and 6.

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Mayor Holman: Unless you're going to pull it or have support for pulling it, then that's our process.

Council Member DuBois: I thought we voted on all of them at once.

Mayor Holman: We do, but if you vote no, you do get a chance to speak to why you voted no after the vote. With that, we'll entertain motions for the Consent Calendar.

Vice Mayor Schmid: Move the Consent Calendar.

Mayor Holman: Council Member Kniss seconded motion by Vice Mayor Schmid to approve the Consent Calendar.

MOTION: Vice Mayor Schmid moved, seconded by Council Member Kniss to approve Agenda Item Numbers 2-6.

2. Adoption of an Ordinance Changing the End of Term Date for Commissioners Serving on the Human Relations Commission, Library Advisory Commission, Public Art Commission and Utilities Advisory Commission from April 30 to May 31 of Various Years and Making Minor Non-substantive Language Changes.
3. Approval of an Amendment to the Office of Emergency Services Command, Control, Communications, Computers, and Information (C4I) Critical Emergency Response Contract Number C13149763 to Add an Additional \$25,000 in Funding to the Contract for a Total Not to Exceed Amount of \$275,000.
4. Policy & Services Committee and Staff Recommendation That the City Council Authorize a Request for Proposals for; a Technical Study of Increased Air Traffic Noise, to Designate a Council Member to Act as a Liaison to Engage in Regional Mitigation and Advocacy Efforts, Adopt a Resolution 9543 Entitled, "Resolution of the Council of the City of Palo Alto Urging the Federal Aviation Administration to Address Increased Aircraft Noise in Palo Alto, and Direct Staff to Engage in Additional Outreach, Coordination and Advocacy Activities Regarding Aircraft Noise."
5. Adoption (with Minor Staff-Initiated Changes Following First Reading) of an Ordinance 5340 Entitled, "Ordinance of the Council of the City of Palo Alto Deleting Section 18.42.110 of Chapter 18.42 of Title 18 of the Palo Alto Municipal Code and Adding a New Section 18.42.110 Pertaining to the Siting and Permitting of Wireless Communications Facilities; Exempt from California Environmental

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Quality Act under CEQA Guidelines Section 15061(b) and 15301, 15302 and 15305. (FIRST READING: June 29, 2015, Passed: 8-0, DuBois absent)."

6. Approval of Memorandum of Understanding Between the City of Palo Alto and Caltrain Regarding Vegetation Removal and Fencing Enhancements and an Intrusion Detection Camera System Beta Test in the Caltrain Corridor in Palo Alto and Budget Amendment Ordinance 5341.

Mayor Holman: All those in favor. I think what you want to do, Council Member DuBois, is you want to vote yes, but you want to lodge no votes on Number 2 and Number 6.

Council Member DuBois: Yes, that's correct.

Mayor Holman: If you would like to speak further to why you're voting no on "2" and "6," that's the procedure.

Council Member DuBois: That's what I meant to do. Again, I'm just concerned about the rate that we're spending the Project Safety Net money, that we're approving an additional 390,000 here. We just recently approved hiring a Director. We've had the guards 24/7 even during the summer months, and then we're doing a pilot on this automatic detection system. If we move forward with that, it's another 170,000 per installation. For those reasons, I'm voting no.

Mayor Holman: The motion on the Consent Calendar to approve it passed on a 9-0 vote with Council Member DuBois lodging no votes on Items Number 2 and 6.

MOTION FOR AGENDA ITEM NUMBERS 3-5 PASSED: 9-0

MOTION FOR AGENDA ITEM NUMBERS 2 AND 6 PASSED: 8-1 DuBois no

Mayor Holman: While Staff is getting in their places, it might be an appropriate time to just mention a couple of quick things, just a couple of administrative things. If Council Members can wait to be acknowledged when they want to speak, it really helps us have orderly meetings. This is the first time all of us have been together for a good while. There are a few notable exceptions to that. One of them is if you want to second a motion, just speak up. The other is that when Council Members turn your lights on, I make note of who's turned their lights on, and I do call on people in the order in which they've turned their lights on. I don't shuffle those light

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order. I call on people in the order that they turned their lights on. Just so people are absolutely clear.

Action Items

7. Recommendation to Adopt an Ordinance Implementing a Local Minimum Wage Requirement of \$11.00 by January 1, 2016 and Discussion of Collaborating With Other Cities to Implement a Regional Minimum Wage of \$15.00 Per Hour by 2018.

Cara Silver, Senior Assistant City Attorney: Thank you, Madam Mayor. Cara Silver, Senior Assistant City Attorney. Before turning this over to the Chair of the Policy and Services Committee that conducted a hearing on this matter, Staff wanted to just summarize a few things. First of all, this matter was originally heard on February 9th by the full City Council pursuant to a Colleagues Memo which recommended the adoption of a Minimum Wage Ordinance modeled after the Cities of San Jose, Mountain View and Sunnyvale. The Council heard that hearing and voted to send the matter to the Policy and Services Committee for further review. The Committee met on April 28th and reviewed the matter and recommended some changes to the model Ordinance that had been prepared. Those changes have been incorporated into the Ordinance and are reflected in Attachment A to your Council packet. You'll see the changes in track changes format. Finally, since the Policy and Services Committee met, the City received a joint letter from the Mayors of Sunnyvale and Mountain View urging a regional approach to the minimum wage to get to \$15 by 2018. That letter is attached as Exhibit G to the Staff packet. With that, I will turn it over to the Chair of Policy and Services.

Council Member Burt: Thank you. Just a few additional comments. First, even though the Policy and Services Committee voted unanimously for these recommendations, we also elected to bring this before the full Council for an action item discussion, because we felt it was a topic that both the Council and the community would want to have a greater opportunity to wade in on. Second, I encourage any Council Members who haven't had a chance to do so to look at the Minutes of the Committee. There was quite a bit of discussion that went into our thinking around how to proceed going forward, what we would attempt to decide in the nearer term and which items we would defer to going forward. Those items that we elected to defer additional consideration of and planned to do so prior to next year's considered second increase to the minimum wage have to do with exceptions and whether we want to have a process to allow different stakeholders to have input, also to be able to learn more from the implementation process that's gone on in other cities, the impacts, what

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was intended, what was unintended and gather additional data basically to inform us on that, and finally to give greater opportunity to look at where we want to align with other cities on both timing of steps and elements of the program. Also, just to clarify, what we ended up doing is recommending the long-term \$15 goal by 2018 as a goal, not at this time as a plan. We'll be going into those additional discussions to really flesh out what would be a well-thought out plan going forward. I would say that the other thing, if Council Members tonight want to provide any input to the Committee for our next meeting on this as we begin to look at these additional considerations, we would welcome that input. Thank you.

Council Member Kniss: Do you (inaudible) public (inaudible)?

Mayor Holman: I'm sorry. Yes, I have ten speakers from the public. Thank you. Looks like I have 11 speakers from the public.

Paul George: Good evening. My name is Paul George. I'm Director of Peninsula Peace and Justice Center which has been based here in Palo Alto for 34 years this month. Back in February when you committed yourselves to raising the minimum wage in Palo Alto, when you voted unanimously to proceed on this issue, we thank you for that. In the meantime, no doubt you've heard many alarming predictions about what might happen if you did that. Jobs will be lost; workers will get fewer hours; small businesses will have to close. Those dire predictions are wrong as has been testified before the Committee and this Council. We have actually an excellent real-life example from our neighbors to the south in San Jose, which raised its minimum wage by 25 percent over two years ago. In San Jose's leisure and hospitality industries, which is the sector where the greatest number of low wage workers toil, the labor force increased by 3 percent in 2013 and by 4.1 percent in 2014. Far from hurting businesses, the number of downtown restaurants expanded by 20 percent since the increase went into effect. Another interesting effect, the number of people seeking emergency help from private charities has plummeted since the increase went into effect. Now, I think you know all this, and I hope that you will indeed raise Palo Alto's wage to \$11 an hour this evening. I would really like to urge you to give your full attention and commitment to developing the Policy and Service Committee's proposal to continue increasing the wage until it is at least \$15 an hour by no later than 2018. As mentioned, other local city councils have expressed a willingness to work cooperatively to raise rates in many cities at the same time and at the same pace. We think this is a smart way to go. It is fair to employers. It is fair to low wage workers, and it gives local residents confidence that their city is not being used for some kind of mad social experiment. You know what they say about good intentions, this 15 by '18. It has been ten months since Mountain View

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raised its minimum wage while making a similar vow, and there's no regional strategy yet. We urge you to make devising a regional strategy a top priority and then making it happen. Thank you very much.

Karen Lemes: Hello, my name is Karen Lemes. I live in Los Altos Hills. The inequality in the economic field is a concern all over the country and especially in our area. I'm very impressed with Palo Alto working on this issue. I urge you to work in a regional way, and hopefully the town of Los Altos Hills will also adopt such an Ordinance. Thank you.

Nancy Coupal: Sorry, JP had to leave, so I'll speak for him and for me. Nancy Coupal, good evening. As a small business owner here in Palo Alto, I just wanted to bring up a few things. I'm not really sure why all of a sudden cities are determining minimum wage rather than the State, which used to be the case. I know Palo Alto's followed the State up until now. As small business, you look at components of the business which kind of add up to right now in the restaurant field labor is the biggest single factor in anybody's budget. Within that, there's a lot of different components. I don't think anybody in Palo Alto pays minimum wage right now. You can't get anybody. It's hard enough to get staff to come here, because there's nowhere to park and it's too expensive to live. You have to pay higher wages. Now, with the City wanting to determine what minimum wage is, we'll no longer probably consider trainees, interns that were earning minimum to learn a business as well as tipped employees make minimum wage plus tips. If they're in a full-service restaurant, they often earn more than managers. The minimum wage can't be looked at as a simple minimum wage, because there's a lot of different components there. I'd like you to perhaps consider meeting with people in the restaurant field to figure out how that could be taken into effect. If you look at a full-service server, they can earn up to \$45 an hour because of their tips. It'll be very difficult to pay chefs and managers after that. I'd like you to take that into consideration. Thank you.

Michael Ekwall: Good evening everyone. First of all, I'd like to thank you for the opportunity to speak here to the Council on what unfortunately seems to be a somewhat contentious issues. My name is Michael Ekwall. My wife and I own La Bodeguita on California Avenue. We've been here in Palo Alto for 18 years. One of the issues that we have with this minimum wage situation that you're putting forward is that there's no recognition of tip credits, what's called total compensation in this Ordinance. Now, California is actually one of the only states in the country that doesn't recognize a tip credit or a total compensation package. What that means is that in our situation we pay an employee minimum wage, where they might be making \$20, \$30, \$40 an hour in tips. These are the only members of

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our staff that actually earn minimum wage. My assumption here is that the goal for an Ordinance such as this is to actually help the lowest wage earners of all of our businesses, which we were always inspired to do. The reality is that California and a lot of the Council Members that I've talked with don't seem to—I don't want to say that you don't understand, but that's a huge issue for us. The more money that we have to pay our minimum wage earners, the less money we have to pay our other staff members that don't receive tips. I'm going to give you an example (inaudible); hopefully I won't run over the three minutes. Basically, what we're suggesting is don't vote on this issue tonight. Give it a couple more weeks thought and, as Nancy pointed out, get out into the community and talk to our businesses. We have ideas that would actually support increasing the minimum wage, but mitigating some of those costs by introducing this total compensation idea or a tip credit. This is basically a snapshot from our business, which is I'd say moderately successful after 18 years. The reality is that we have 40 staff members. Fifteen of our staff members make minimum wage. Now, of those 15, in what we call total compensation which is tips and wages, they're in \$22 an hour. On the higher end of the spectrum, they're earning almost 50. Now on January 1st we're prepared for the State minimum wage to go up to \$10. That's going to cost our business \$20,000 just in raw labor wages. It doesn't include taxes, doesn't include workers' compensation insurance that will go up. We've got to raise our revenues \$55,000 to accommodate that. Now, if the City ...

Mayor Holman: Mr. Ekwall, I do need to ask you to wrap up, if you could please.

Mr. Ekwall: I'll wrap up in 30 seconds. If the City adds another \$1 on, then that's going to cost us another 20 which equals 40 on January 1st, \$40,000. We've got to raise our revenue \$110,000. What we're asking is before you vote on this, consider a total compensation work credit. The reality is that \$40,000 is going to 15 employees that make tips, \$22 an hour. Our other 25 employees ...

Mayor Holman: I need to ask you to wrap ...

Mr. Ekwall: ... they're making a wage ...

Mayor Holman: I need to ask you to wrap up, Mr. Ekwall.

Mr. Ekwall: ... get no additional money. That's the huge problem with this issue. Thank you. I apologize for going over time.

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Andrew Boone: Good evening, Council Members. My name is Andrew Boone. I live in East Palo Alto and serve on that city's Planning Commission. I'm very much in support of this City raising the minimum wage. I think you can set a really strong example for other cities in the South Bay and in the whole Bay Area. Palo Alto is one of the wealthiest cities in the Bay Area, in the world. This should have been done a long time ago really. You shouldn't be allowing people to be paid \$9 an hour in Palo Alto. It's unethical; it's unhealthy. It's unhealthy for people to travel so long, to take long trips to come here and work and take long trips to go home, to not be able to spend time with their families, to be unhappy, to be struggling to get by, to you have to buy the cheapest food you can. Do I have enough money to go to the doctor? These are the things people who are paid \$9 an hour have to worry about. It's really not a concern if a specific business' costs goes \$50,000 or \$100,000 a year, because people are suffering. People's health is suffering. What else can I say about it? It's an ethical decision that you have. Please don't put any loopholes into your Ordinance that allow people to continue to pay an even greater poverty wage than \$15 an hour is. \$15 an hour, if you were paid \$15 an hour full-time, that would be \$2,400 a month before you have to pay any taxes, so less than that. It's all gone just by paying your rent. You're not allowed to live in Palo Alto, not allowed to live anywhere close to Palo Alto to work here. Get it done. Of course raise the minimum wage. Don't think "Why 15?" Just because that's what Mountain View talked about doing, that's not the appropriate level for such an expensive place. We should be going beyond this. We should be thinking about what can you do to reduce inequality that's getting worse. It's getting worse here in Silicon Valley. It's getting worse in the whole country. The rich get richer, and the poor get poorer. This is happening, and you can contribute something to help. All of the "sky is going to fall down," "everyone's going out of business," it's all a bunch of nonsense, and you should know it. All of the cities that have raised their minimum wages have not had any economic negative consequences. They've only benefitted from raising their minimum wages, so there's no reason not to do it that I can think of. Some people want, who are already rich, want to be richer. It's really disgusting. People who own businesses don't have to worry about where they get their food from, don't have to worry about "I'd like to take a vacation some day in my life." Thank you.

Carol Lamont: Hello, Members of the City Council. As a long-term Palo Alto resident, I'm very concerned about inequality here and in this region. I want to echo the words of the last speaker. When I came to Palo Alto years ago, I worked for terrible wages, terrible wages. I worked in daycare. I worked as a waitress. I worked as a gardener. I worked cleaning houses. I worked as a clerk. All this just to try to survive with my

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little baby. I had to choose between paying the rent, paying a phone bill, transportation costs, phone, utilities, food, healthcare. Often we didn't have electricity. Often I had to hitchhike or walk. We were homeless. I was hungry. It's not right. We need to do better for ourselves and the people who work for us. We need to pay \$15 an hour minimum now. Why not \$20 an hour? Let's be realistic. Take the right step. Feel your heart. Care about the people who work here. Make a difference. Raise the wage.

Wendy Ho, United Way Silicon Valley: Good evening, Mayor Holman and Council Members. My name is Wendy Ho, and I'm with United Way Silicon Valley. I want to commend the City of Palo Alto for their leadership in exploring a minimum wage increase. It is both timely and relevant as the cost of living continues to escalate here in Silicon Valley. At United Way, we focus on helping families with children become economically secure. In Santa Clara County, a single adult needs to make about \$35,000 annually just to meet their basic needs or \$16.51 an hour. For a family of four with at least one young child, this figure rises to \$82,000 a year or two full-time jobs at \$19.39 an hour. Nearly one in four households in Silicon Valley cannot make ends meet. Palo Alto has the unfortunate distinction of having the highest rents in the country with the average one-bedroom unit renting for almost \$3,700. Raising the minimum wage is not a panacea, but is a start. Studies show that the strategies that increase income are the most effective way to help people achieve economic self-sufficiency. United Way was proud to be an active member of the coalition in 2012 that raised the minimum wage in San Jose to \$10 an hour with an annual adjustment tied to the Consumer Price Index. Despite what the critics said, the sky did not fall when San Jose increased its minimum wage, as other speakers have alluded to. The unemployment rate dropped from 7.6 percent in February 2013, one month before the minimum wage increased in San Jose, to 5.8 percent at the end of the year. Businesses grew. 84,000 businesses were registered at the start of 2014 compared to 75,000 the previous year. The average employee hours remained constant. The U.S. Bureau of Labor Statistics reports the average number of hours worked in the San Jose metro area in 2013 was nearly the same as it was in 2012, about 36 1/2 hours. Employers report gains in employee productivity and morale. We want to build on the success we had in San Jose, and we remain committed to raising the minimum wage across the region to help struggling families get onto the path of financial stability. We supported the minimum wage increases in Mountain View, Sunnyvale and most recently Santa Clara. We also support the regional initiative to get to \$15 by 2018 that the Cities of Mountain View and Sunnyvale are now developing. The City of Palo Alto cannot afford to wait for the State or Congress to raise the minimum wage to meet the high cost of living here in the Bay Area. Hardworking families need more and more help just to get by. I urge the City Council to support

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the proposed Ordinance which would raise the City's minimum wage to \$11 an hour effective January 1st with annual increases tied to the CPI. Thank you.

Dennis Raj: Good evening. My name is Dennis Raj, and I rise before you today on behalf of the Affiliated Unions of the South Bay AFL-CIO Labor Council. Mayor Holman and distinguished Council Members, I urge you to raise the minimum wage and lift up those workers who struggle to make ends meet. Specifically, I ask that you adopt an Ordinance that raises the minimum to \$11 an hour, includes automatic increases tied to inflation and formally joins with Sunnyvale, Santa Clara and Mountain View to raise the wage regionally to \$15 by 2018. Too many of our community members live below the self-sufficiency line and are unable to adequately clothe, feed or shelter themselves, let alone their families. These workers face a daunting economic reality, one where there are fewer and fewer opportunities to earn a better wage. While the economy is recovering, the effects of this recession can still be felt for the average worker. During the recession, job loss was concentrated in the middle wage occupations. Post-recession, the lower wage occupations have grown 2.7 times as fast as mid-wage and higher wage occupations. Unfortunately, low wage work is the new normal for many in our community. This is evidenced in the profile of minimum wage workers. No longer are these jobs predominantly for teenagers and first-time employees who work part-time for spending money. Instead, the vast majority of minimum wage workers are adults averaging 37 years of age. In fact, 89 percent are over 20 years old, and 56 percent of them are women. Moreover, these workers are providers for their family. More than a quarter have children, and on average they earn more than half of their family's total income. These workers don't earn nearly enough to afford the high cost of housing in our area. Data shows that the average rent in May of this year for a two-bedroom apartment regionally was just shy of \$3,000. A worker would need to bring home close to \$117,000 a year to reasonably afford that. Even with increases in the State minimum wage, the income needed to afford average rent is over \$95,000 more than what the minimum wage earner will bring home. These workers need your help. I respectfully ask for your support.

Meghan Fraley: Hi. Thank you, Council, for your time. My name's Meghan Fraley. I'm a clinical psychologist, and I work with adults and children throughout the Peninsula including Palo Alto residents. I'm here tonight as part of the Raise the Wage Coalition and as a Mountain View resident as well. I stand with you all as an ally and a regional partner. At this moment, Palo Alto, Mountain View and Sunnyvale have the opportunity to address head on the devastating economic realities for hardworking people. I would like to particularly emphasize three points. One, that working

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together as Palo Alto, Mountain and Sunnyvale in a tri-city strategy will be the most effective and logical approach we can take. Second, the raise to 15 is based in research, and it's a conservative wage for our cities. Three, I believe that this is fundamentally a moral imperative that hardworking families can earn even close to a living wage. Mountain View will vote this fall on a schedule to 15 by 2018, and we're very hopeful that it will pass. We also want to move forward together with Palo Alto and Sunnyvale. Yes, working the Cities Association will be important, but our three cities are leaders. I think we need to lead the way in solidarity with each other. Our economy is more similar to San Francisco than it is Gilroy, which is why I think our three cities can collaborate. In regards to research, I don't think we need this to die in committee with years and years of research as people continue to suffer and move and are displaced. Rigorous research has been done. It does not show negative effects on teens. It does not show that it leads to net job loss. It does not show that it will hurt small business as a whole, the aggregate data. As of now, we're one of the most affluent places in the world, and we're falling way behind what the gold standard is that countries around the world use for minimum wage. What is that gold standard? I talked to Ken Jacobs at the Berkeley Labor Research Center. In general you take the median wage and split it in half, and that tends to be the minimum wage. Our median wage in our area is about \$40 to \$45 an hour. We're falling way behind other cities and countries around the world. I'd also like to say on a small note tip credit and total compensation packages can't be passed on a city level. Finally, just I want to thank you all, City Council, for your leadership. I believe our cities can work together and take the ethical steps necessary for hardworking families to earn a wage which they can even begin to survive on and maintain respect, dignity and diversity here in Silicon Valley. Thank you.

Larry Moody: Good evening, Mayor Holman and Council Members. Larry Moody from the City of East Palo Alto. I certainly speak here as a resident of East Palo Alto. I want to celebrate your leadership on this topic. We all know the challenges of living and thriving here on the Peninsula and certainly in the Bay Area in this day and age. I'm also here to speak on behalf of hundreds and thousands of East Palo Alto residents who work in your Palo Alto communities each and every day. Many of them are at work right now, servicing your customers and helping in areas that help build the economy here in Palo Alto. In East Palo Alto, we welcome and thank you for the opportunity to work so closely by, where many of our residents have the ability to ride their bikes, use local transit and shuttles to get to and from work each and every day. This is a great opportunity to really build on the inevitable. People need an opportunity to earn higher wages, so they can care for their families and that they can have the quality of life

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that we all desire and thrive for here on the Peninsula. One of the things that hasn't been talked about tonight and I would like to echo to the Council is hope. Many of the residents who work in this community from East Palo Alto, all they want is an opportunity to have hope. Hope that they could work hard, earn a wage that will allow them to raise their sons and daughters in our communities. Hope that the employers that they're working with believe in them enough to help develop them and give them opportunity so that they can maintain a quality of life that's honorable. Hope that their sons and daughters, by living on the Peninsula, will have access to all the various resources that the Peninsula has to offer, education, quality of life, the environment. Hope. People just need hope. \$11, \$15, \$20 an hour is not where we need to hang our discussion on. How do we create hope in individuals that they will have a place to reside here in the Bay Area, here in the Peninsula, here in the Palo Alto region? Will they have an opportunity to continue to be your neighbors two or three years from now? We know right now there's just a strong inequality between the work and housing. Many of the people just want the hope to know that they can reside in the house that they have right now, and that from that place that they can build. I support the work of the Committee and the recommendations that are going forward. Thank you for your leadership.

Jessica LaMaack: Mayor and Members of the Council. My name is Jessica LaMaack, and I'm here this evening on behalf of the Palo Alto members of the California Restaurant Association. This evening we're here to express our concerns over the 22 percent minimum wage increase proposed which is \$11 by just a few short months or the 64 percent increase should you decide to go to \$15 by 2018. Most restaurants within this community are facing razor thin profit margins of around 3.5 percent. For example, should a restaurant be able to make at least \$1 million in profits, the restaurant owner only keeps \$35,000 for themselves. That's not splitting between co-owners and/or bank loans they had to take out for the original investment of the restaurant. We strongly encourage the Council to consider the minimum wage increase on a more targeted and more meaningful approach; thus, to avoid unintended consequences. Within the four walls of a restaurant, the only employees taking home the \$9 an hour State minimum wage are actually the highest earned employees—you've heard this from other speakers—because they are tipped. Research was done within this community. Tips average about \$20 in a full-service restaurant on top of their wage. Now, the heart of the house employees, the cooks, the prep chefs and the dishwashers, they're the only ones taking home a solely hourly wage, which is much higher because the restaurant owners want to keep that talented work that they've invested time, sharing recipes and showing how to prepare their meals. Thus, we ask the Council to

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consider a total compensation model which would allow restaurateurs to evenly (inaudible) wages within the restaurant. Thus, other restaurateurs have spoken to it, and we have several legal opinions that I could forward to the City Attorney and you, Mayor, that say that this approach is completely legal under the California State Labor Code. In addition, the restaurant industry has long been an entry point for young people into the job market. Restaurateurs take a chance on relatively unskilled and unexperienced youth and train them to be productive citizens within this community. Teens with eight to nine months of hands-on experience tend to be able to be more successful within their later years of life. We ask the Council to consider a training wage or a teen wage aspect within the Ordinance to allow first-time employees to gain work experience. Lastly, I just want to list some statistics of restaurants within the City of San Jose after their minimum wage increase. 66 percent of restaurant owners increased their prices; 44 percent of restaurant owners reduced employee hours, 42 percent of restaurant owners reduced staffing levels or staffing hours, and 30 percent did not choose to expand within the City and/or surrounding areas. Thus, the food service industry is the second hardest hit due to a minimum wage increase. We ask you, the Council, to work with us as this issue continues to roll through the Council. Thank you.

Stephanie Munoz: The general principles I think we all agree with. I would like to ask you to take a little bit more nuanced and sophisticated look at compensation. Am I mistaken? Is this the City that just got rid of the street sweepers or is that some other city that I was reading about in the newspapers? Is this the county where the Downtown Streets Team does not make the present minimum wage? I think it is. I believe you should, in doing this Ordinance, take into account the expenses that the person has to have. When that woman spoke, I was so angry, the one with the children. We should have national health insurance for children, and it should have a nutrition component. You should all fight for it too. You shouldn't just say, "We've done our part. We've got Baskin and Robbins to raise the ice cream scoopers a couple of dollars." The raging grannies pick on Walmart a lot not only for the wages, but the health insurance. Health insurance is coming up as a big compensation issue, because the United States has gotten away with not furnishing health insurance in the Social Security, which every other country does. They just take the money. If you do this, I'm very sensitive about this, because for a period which has just finished I lost my health insurance. My husband was a Federal employee, and the health insurance for retirees was set up so that the surviving spouse would get a certain amount of the worker's money, not health insurance per se mind you. My husband set it up so that I would get enough to pay for the health insurance. The health insurance, of course, went up a great deal more than the cost of living. That's the case with all these people. They

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can't get healthcare. They can't get a place to live. Is it mean-spirited of me to say that it's a bit hypocritical to think of charging \$4,000 for some organization that wants to house homeless women? This town should have a place for homeless women to stay for some very small amount of money. They do work. This town also should set up co-ops so that a large number of people could live in the same place for the same cost as other people except that it's not permitted. I think the responsibility for people's compensation rests partly with you.

Mayor Holman: Returning to Council and to Council Member Burt who was Chair of Policy and Services has a couple more comments.

Council Member Burt: Actually questions. Two were legal questions for Staff that we briefly discussed at the Policy and Services Committee. I want to see if the City Attorney's Office could provide any additional guidance. One is under State law there is a prohibition, as we understand it, from making a distinction for tipped employees. Does that apply to local cities who would adopt minimum wages exceeding the State amount?

Ms. Silver: Thank you, Council Member Burt. I think you're referring to Labor Code 351 which prohibits employers from crediting tips against wages earned by the employee. That does very clearly apply to the State minimum wage. However, it's less clear as to whether it applies to local minimum wage requirements. The City of Los Angeles recently considered this issue in connection with the minimum wage that they were adopting. They were considering an option that did include a total compensation package that distinguished between tipped employees and non-tipped employees. There were several labor groups that opposed that and did argue that that was not permitted under this State law provision. Also the Restaurant Association did submit some legal opinions that that type of two-tier system was permitted under this Labor Code section. The Los Angeles City Council ultimately did not go with that two-tiered system. We don't yet have a legal opinion on that, a published legal decision, and so we do believe it is still a questionable issue. Thank you.

Council Member Burt: The second question is can you comment or provide us a little more guidance on the ability of local jurisdictions like us to impose the limitations on minimum wage increases on other government agencies and schools. Where do those boundaries apply?

Ms. Silver: Yes, that's a issue that we refer to as a preemption or sovereign immunity issue. The model Ordinance that is in front of you does include a exemption on imposing wages on Federal employees, State employees and other governmental employees. We do believe that that is

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a current articulation of the state of the law. That was an insertion that, I believe, Mountain View had suggested as an improvement to the San Jose Ordinance. We do think that that is legally required. The City cannot require, for instance, the Federal government to pay a minimum wage under sovereign immunity principles.

Council Member Burt: The final question is really about the Staff Report and the recommendations. Council Member DuBois pointed out to me that when we look at the Minutes from the Policy and Services Committee, on page 17 is the motion that the Committee adopted. There are not just a few wording differences, but some difference in substance between the motion that the Committee adopted and what's before us in the recommendations. I don't know if you've compared those and if you want to look them over, and in a few minutes while colleagues are making questions or comments if that would be a better way to return and provide your insights on those differences.

Ms. Silver: Sure, we'd be happy to do that.

Mayor Holman: Council Members, questions and comments. Why don't we try five minutes a Council Member and see if we need more?

Vice Mayor Schmid: I think it does make a lot of sense for cities in Silicon Valley to break away from the California minimum wage. We do live in a very prosperous area with higher incomes and higher costs than other parts of California. It's not surprising to see Silicon Valley cities breaking away from the minimum wage. I thank the Policy and Services Committee for doing the hard work of gathering data, exploring questions, legal and otherwise, to get this set. I guess my own perception of just reading as an economist is that most economists agree that in high income districts raising minimum wage does not have a great negative impact on the economies. We are in the right place to be going through this experiment. The question I might have is monitoring and enforcement. Usually minimum wage is monitored by the State, the nation. They have all kinds of employment data that comes to them on a regular basis, which is easy to monitor and enforce. We're in a situation where we are trying desperately to just find out how many people work in the City. I hate to put the burden on our Staff of saying, "Now you have to monitor and enforce." I guess one of the goals is to be cooperative with San Jose who already has an enforcement mechanism and do it by complaint. Complaint enforcement is not necessarily the best way of doing it, but it is a way. I would think that that would mean that it would pay for us to cooperate with the regional cities, and rather than set a different number and then see if we can cooperate and get a standard number across the communities so

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that both the enforcement and the monitoring can be done on a regional basis rather than each city looking independently. The last point I'd make, I guess, about monitoring, if you think about who might be vulnerable. I think of the Avenidas program that has set a goal and a target of trying to keep people, elderly, in their own homes. They target especially the vulnerable elderly who might be house rich but cash poor. They provide a series of services to them including people who can help out on a daily basis with basic needs. I just wondered if there's some way of working with Avenidas to monitor over time as the minimum wage goes up, does the support network remain as strong for them. That might be a sensitive indicator of a vulnerable population. Other than that, I enthusiastically support the motion.

Council Member Berman: One question that I have for Staff is—it was discussed earlier, LA and the Ordinance that they considered and how there were two different legal opinions as to whether or not it included tip workers or not. I should have sent this question in advance. Is Staff aware of any other cities in California at all that have a two-tiered system that treats tipped employees differently than other employees?

Ms. Silver: No, we're not aware of any city or county that does that in California. I believe that Seattle has a total compensation model.

Council Member Berman: I agree with the comments of Vice Mayor Schmid that it very much makes sense for Palo Alto and the cities around Palo Alto to have a separate minimum wage than the State minimum wage. The State minimum wage as we all know is rising to \$10 an hour on January 1, 2016. The recommendation that Policy and Services Committee made is \$1 more than that. If you think about the difference of cost of living between Fresno and Bakersfield and Palo Alto, it's kind of hard to argue. It's important for us to kind of be honest with ourselves that this isn't a wage increase that will allow minimum wage workers to live in Palo Alto. Maybe it'll allow them to live in the few affordable housing areas within 15 miles of Palo Alto, but it probably won't even allow them to do that. It's something that might allow them to move a little bit closer to work and commute not as far. It's something that will make their quality of life a little bit better. This isn't anything that's really going to drastically change the way that people are allowed to live. Income disparity in Silicon Valley has grown so dramatically over the past. I mean it's been growing for a long time. I moved here in 1984, and we've slowly seen the community change a lot. This is something that helps start to bridge that gap that's been created and been really accentuated over the past couple of years. I think a regional approach is the right one. I fully support moving to \$11 an hour by January 1, 2016. A lot of other great comments have been made, and

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I'm sure will be. I don't know if now's the time for motions, or I can let other Council Members make comments.

Mayor Holman: Let's see if we have any questions to be answered, and then we'll come back. If you'd like to be in line for making a motion, I'm happy to come back to you.

Council Member DuBois : First of all, I want to give a shout out to the last scout here. I think if you make it to the end of the meeting, you should get two merit badges, if you make it all the way through. I just want to say there were two articles today. There was one in the *Wall Street Journal*, one in *The New York Times* that touched on this subject. The *Wall Street Journal* was talking about fast food restaurant salaries. They said the national average is already \$9.60, and many chains like Chipotle are well above that. *The New York Times* article discussed exactly the issue that Mr. Ekwall discussed: tipped workers. It was about restaurants around the country that are really moving to a no tipping policy. They're charging a service fee and they're distributing that money among all the workers in the restaurant, not just the wait staff. That's being done in Seattle, New York, Berkeley, and other places. I think we should remember there are options that businesses can do on their own. My position on this was pretty simple. We do live in an expensive place to live. Minimum wage hasn't kept up with the cost of living since it was instituted. We need to be aware of surrounding communities. I think there's a lot of value to be at a comparable level to the cities around us, but we don't want to hurt businesses by pushing too hard or too fast. I really felt the \$11 an hour was a reasonable compromise. To go beyond that \$11 an hour, the next step of this is really to do some extensive community outreach and look into coordinating on a regional basis, I think, with San Jose and other cities in our area. That's my perspective.

Council Member Kniss: I would only add to that I certainly support this. I want to make sure when we get to the motion, Mayor Holman, that the wording is the same as what's currently up on the board. It is actually different than what occurred in the Minutes at least as I read it as to intent. I think what I just heard Council Member DuBois say is that this would start a discussion with other cities and a reaching out program. Am I correct? That's what I would be in favor of. I'm very much enthused about the \$11 tonight and a discussion of collaboration to see where we will go by 2018. Thanks.

Council Member Wolbach: First, I'd just like to address a couple of issues that are often raised in opposition to raising the minimum wage. We can have maybe a separate conversation about tipped employees. I'm not sure

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if I want to take on the risk of being the first city to try and do that and face the lawsuits about that. I appreciate the City Attorney's Staff for helping us understand the very precarious legal position that separating out tipped employees would put us in. In general, the arguments that I've heard as I've done outreach—I'd like to emphasize that there has been quite a bit of outreach. City Council Members have visited with the Palo Alto Chamber of Commerce—what is it? I can never remember what the acronym is. We've met with them. We've received a lot of public comment. We've had restaurateurs and other business members of the community contact us. I think we've been doing a pretty good job of outreach in the community. As Council Member DuBois pointed out, especially if we're going to go beyond \$11 an hour, I do support as I think everybody on the Policy and Services Committee supported taking a phased approach, doing it slowly over a number of years which provides an additional opportunity to do greater public outreach and to do some additional study. Going back to what I was mentioning earlier. The arguments against raising the minimum wage focus around a few things. One, that it will hurt teenagers because they won't be able to find jobs. Secondly, that businesses will be forced to lay off workers because they won't be able to absorb the cost of increasing the minimum wage or they will cut back on hours or that businesses might just have to close. These aren't very well supported by the economic research that's out there. There are dueling studies. Thank you, City Clerk, for distributing to colleagues something that I had which just identifies some of the key issues and just some of the studies demonstrating the falsehood or demonstrating that there's at least some academic research dismissing these claims. There's one additional one I'd point out. There's a 2011 study by Sylvia Allegretto, et al., showing that the common claim that raising the minimum wage decreases teenage employment is not borne out by the research. I'd also like to reiterate some points we heard earlier about who earns the minimum wage. It is not just teenagers. A huge portion of people who earn the minimum wage are the primary breadwinners for their families and have kids and are well into adulthood. I won't go into citing all the studies, but I just wanted to make sure that we have an understanding of what the issues are. We've considered them. I've done some research, and I know that over the next couple of years we'll all be doing more research in order to make sure that we are doing the right thing. I think that waiting until 2018 and having a phased approach, again, gives us the opportunity to make sure we're doing the right thing. If it turns out we need to course correct in anyway, that gives us a couple of years to do that. I think that's prudent. It's reasonable. Also gives our business community a chance to adapt gradually. I would also like to emphasize that in the Policy and Services Committee we did have a discussion about the 15 by '18 goal and how we wanted to work with other cities. We were very clear—we had a

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good discussion about this—that we wanted to recommend to the Council setting that goal, and also that we would not depend on other cities or, as Council Member Burt pointed out at the Committee meeting, we didn't want to be forced to mimic other cities, but if possible to coordinate with them. I think that that is still the right approach going forward.

Council Member Filseth: I actually had a question on this. I think raising the minimum wage in Palo Alto makes sense. I think we should proceed and do the \$11 an hour and coordinate with other cities on raising it further than that. I don't think \$15 is unreasonable over the next few years at all. That said, I do think some exceptions to that make sense. An across the board minimum wage for everybody may be too blunt an instrument. I am sensitive to the tips issue. Tipping is a different wage structure, but it's still a wage. If you're making \$30 an hour, that's not minimum wage. Our goal here is minimum wage. Teenagers, I had some close personal association recently with teenagers making minimum wage for the summer. That's not the person that we need to help here. My question is if we wanted to introduce some exemptions to a minimum wage Ordinance, particularly in the next few years if it's going to go up beyond the \$11, what's the procedure that we would do that by? I mean how would we do that?

Ms. Silver: Since this Ordinance is adopted by the Council as opposed to a voter-approved initiative such as the San Jose Ordinance, you're free to amend this Ordinance. If you adopt this Ordinance as stated this time around, and you want to have additional outreach on or discussion about exceptions, you as a Council can do that just through a simple amendment of the Ordinance.

Council Member Filseth: Would we have to come up with the language of that amendment tonight?

Ms. Silver: If you wanted it to go into effect at the time that the original Ordinance goes into effect, that would be one process of doing it. If you want to just give us some general guidance, we could certainly take that back and incorporate that and you could have another first reading on it.

Council Member Scharff: I also wholeheartedly support the increase to \$11. I guess I really appreciated the way Policy and Services approached this. What I heard Council Member Burt say was that we should raise the minimum wage to 11 now, look and see what's happening and then come back and evaluate in the next Policy and Services. I think that's a really thoughtful and measured approach, and I think it's the right one. I also have some concerns about the tips issue. It seems to me that we may in fact be making people who barely make a living at \$30 an hour down to

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\$15 an hour or \$12 an hour if we follow what Oakland and other restaurants are doing there, where they're basically going to have a service charge and you're not going to make those tips. I think we want to think about that and say to ourselves there's that issue and then there's also the restaurant issue. I want to see what happens with other restaurants. I think the legal issue challenges, I would guess, could easily be resolved by just simply exempting wait staff. I mean you don't have to say we're going to do a total compensation model. I think the notion that there are legal impediments to doing this is silly frankly. I think we could easily design the policy to get where we want to go. The question is where do we want to go and what's actually happening out there in the marketplace as other people look at this. I'm hoping Policy and Services, as this comes back to them, will actually take a careful look at that, will get a lot of outreach to restaurants, and will take a careful look at this. I probably have some less concerns about youth, but I think it's clearly an issue. Obviously I think Policy and Services should look at that as well. I really just wanted to say I think it was a job well done by Policy and Services, and it's a measured and thoughtful approach as we move forward on this.

Mayor Holman: I have just a couple or three comments. I share concerns about the tip earners, however we word that, that we can make feasible and legal. I also have some concerns about small business owners. I don't know what that threshold is. There was a good discussion at Policy and Services. I don't know what that threshold is, if it's 10 employees, 15 employees, whatever. I do have some concerns about that. The other thing is I'm not confident in how much outreach this really did have. I note that just the small handful of people I talked with, nobody indicated they'd had any outreach from the City. The other thing is I note—I think it's pretty noteworthy—that we don't have any communication from the BID, we don't have any communication from the Chamber of Commerce. It seems like those two organizations would have written. I know there was some interaction with the Chamber, but it's just interesting that we haven't heard from those in any kind of official capacity. I do have some concern about that. I think the Policy and Services Committee did a good job. I hope that when this comes to Policy and Services again that there's some kind of emphasis put on how to do outreach. It is such a critical matter and important to a lot of people's businesses and lives. With that, Council Member Berman, I said I would return to you for a motion.

Council Member Berman: Just to follow up on a couple of your comments. I absolutely agree that we could and need to do better outreach over the next couple of months especially as hopefully we end up approving a minimum wage increase. We talked about this at Policy and Services, following on with some of the outreach we've done in regards to the

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Business Registry and some other things. We really need robust outreach. As the liaison to the Chamber of Commerce, I was on their email distribution list that they sent to Council Member Wolbach, the BAF committee. I can't remember what that stands for either. They mentioned in that email that they sent out to their members that at least the Chamber was not taking a position at this stage on any of this. That may change as we move forward with additional increase or the consideration of such. I'll go ahead and move that the City of Palo Alto adopt an Ordinance adding Chapter 4.62 to Title 4 of the Palo Alto Municipal Code to require the payment of a Citywide minimum wage to take effect on January 1, 2016; and establish a base wage of \$11 an hour to commence on January 1, 2016. I'm going to add to this motion that Policy and Services Committee—I'm doing things on the fly which I should never be allowed to do—continue to study and discuss additional increases in coordination with surrounding cities. I'll stop there, and I'll let other people ...

Council Member Scharff: Second.

Council Member Berman: ... change it.

Mayor Holman: Was that Council Member Scharff who seconded that? Okay.

MOTION: Council Member Berman moved, seconded by Council Member Scharff to:

- A. Adopt an Ordinance Adding Chapter 4.62 to Title 4 of the Palo Alto Municipal Code to Require the Payment of a City-Wide Minimum Wage to take effect on January 1, 2016; and
- B. Establish a base wage of \$11.00 to commence of January 1, 2016; and
- C. That Policy & Service Committee continue to study and discuss additional increases in coordination with surrounding cities.

Council Member Berman: Quickly, a little more. We also had some outreach from surrounding cities that very much encouraged us to get on the same plan that they're doing kind of immediately. I think we all want to end up at the same place. I think that's very important, for there to be a regional minimum wage, including communities in San Mateo County as well as Santa Clara County. We really are a region that has a lot of similar issues, but we shouldn't rush to all get on the same page. We didn't start off at the same place at the same time. We in Palo Alto need to make sure that we're responsible to our community and to our business community in terms of how we implement increases to hopefully end up at the same

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place. If we end up at the same path at 2017 instead of 2015, I think that's okay as long as hopefully we all end up with a regional approach.

Council Member Scharff: Just briefly. As I said, I wholeheartedly support this. I think it is important to be aware of what's going on regionally and to eventually get on the same page. I'd echo what Council Member Berman said, but that we don't need to rush there in terms of we need to figure it out and think thoughtfully about what we want to do. I did also want to briefly mention that—I forget exactly the name of the shopping center because I don't ever go there—when I was on the Cities Association, we actually talked a little bit about the shopping center that straddles both San Jose and Santa Clara. After San Jose passed the minimum wage and Santa Clara didn't have it, the employees would quit their jobs in one part of the mall and immediately go to work in the other part of the mall whenever those became available. I thought that was a real-world coordination issue that was sort of interesting.

Council Member Kniss: I support this as well, but I'd really like to ask Council Member Filseth if he wants to push a little more on the two-tiered. We actually did a little homework today to ask how a local restaurant deals with their tips. In that restaurant they pool them among those who are, what they call, out front and they are divided up. I'm going to guess that makes a big difference in their income. Maybe that extra dollar doesn't make a great difference to those who work in the front. I think the two-tiered approach is one that we should take a look at, if not tonight in the future. Even though you said LA turned it down, Cara Silver. Yeah. I think that has some merit, because we heard from people in the community that there is such a differentiation. If you were to keep your workers who don't give tips or give them the raise versus those who do get tips, that somehow strikes a note of fairness with me. Again, I don't want to steal your thunder on this. You brought it up first, but it's something we happened to discuss today with a real live restaurant close by. I imagine that's what many restaurants do. I have heard, though, that in some restaurants where the tip is added on, that is handled by management. I think there are a lot of things we don't know yet. The service charge that Tom talked about tonight, I think, is actually done in Berkeley now. It was easier, apparently, than going through this tiered kind of system. As it goes back to Policy and Services, it would seem as though that should be one of the issues we really concentrate on.

Council Member Wolbach: I'd like to propose a friendly amendment. There was a component of what was unanimously approved by Policy and Services which was left out of the Staff recommendation for some reason and was also left out of the original motion. I'd like to reintroduce that.

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That is to adopt a goal of raising the minimum wage to \$15 per hour by 2018.

Council Member Berman: The minute I stopped and turned it over to Council Member Scharff, I realized that I'd omitted that. I'm glad you reintroduced it. I wholeheartedly accept it.

Mayor Holman: Council Member Scharff, do you accept that?

Council Member Scharff: I do. I was actually just wondering if we should just adopt what they'd actually said, which was "adopt a goal of raising the minimum wage to \$15 by 2018 to coordinate and seek to create an aligned minimum wage with surrounding cities." Do you want that whole phrase or just the ...

Council Member Wolbach: I would be fine with replacing "c" and "d" with Item 2 which was in our Minutes.

Council Member Scharff: That's what I was thinking.

Council Member Berman: I'd be fine with that.

Council Member Scharff: Replace "c" and "d" and just make it one like that.

Council Member Berman: With maybe a modification.

Mayor Holman: Can we make sure that the City Clerk's getting the language correct? Council Member Scharff, it looks like you have the language in front of you.

Council Member Scharff: I do. It says "adopt a goal of raising the minimum wage to \$15 by 2018 to coordinate and seek to create an aligned minimum wage with surrounding cities."

Mayor Holman: With that, "c" is deleted. Correct?

Council Member Scharff: Correct.

Mayor Holman: We have a new "c." Council Member Berman, you're good with that?

Council Member Berman: Yep.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion at the beginning of Part C,

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"Adopt a goal of raising the minimum wage to \$15.00 by 2018 and to coordinate and seek to create an aligned minimum wage with surrounding cities."

Council Member Burt: With the elimination of the former "c," there's no guidance to the Policy and Services Committee to do additional evaluation not only of the 15 goal by 2018, but all these other considerations that we may be want to take up.

Council Member Scharff: Why don't you just suggest some language? Or you can put it back.

Council Member Burt: I would put as a "d" that "refer to Policy and Services Committee additional discussion of considerations of exceptions and impacts."

Council Member Scharff: I think that's good.

Council Member Burt: And to include "evaluation of a process for these additional discussions." The process referring to how do we have greater public outreach. This part doesn't need to be in the motion. We had brief discussion about whether we might want to have an advisory committee. We didn't settle on any of that, but it's just consideration of a process going forward.

Mayor Holman: Council Member Berman, are you good with that?

Council Member Berman: yep.

Mayor Holman: Council Member Scharff?

Council Member Scharff: I am as long as that advisory committee, if we have it, is not 25 people.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Refer to Policy and Services Committee additional discussion of considerations of exceptions, and enforcement, to include evaluation of a process for these additional discussions."

Council Member Filseth: I was going to articulate two specific exceptions on that list that I think we should look at. One is an exception for tipped wait staff in restaurants, and the other is seasonal employment for teenagers.

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Council Member Burt: I think those are appropriate considerations. I don't want to limit our discussion to those. Those can either be guidance or ...

Council Member Filseth: I don't mean to limit it to those.

Council Member Burt: ... language that says "including but not limited to."

Council Member Filseth: Perfect.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion in Part D, "including but not limited to tipped wait staff in restaurants and seasonal teenage employees" after "of exceptions."

Mayor Holman: I don't need to add it in there, but I'm also like small business owners, like ten employees or fewer.

Council Member Burt: I'm sorry. It said seasonal.

Council Member Filseth: Yeah, I think I had seasonal employment for teenagers in there.

Council Member Burt: If I might just comment on that. As we think through unintended potential consequences, do we want to incentivize businesses to hire sub-minimum wage teenagers instead of adults who are trying to feed their families, because it becomes an economic incentive to do so. Those are complicated issues. I'm not offering solutions tonight.

Vice Mayor Schmid: I wonder if I could get the word "enforcement" in there among the impacts. With only complaints, the only means of enforcement through a San Jose thing, there might be some issues. It would be good to have Policy and Services monitoring that.

Mayor Holman: Are you saying "impacts and enforcement?" Where are you suggesting putting that?

Vice Mayor Schmid: Yeah. So that you have "consideration of exceptions, impacts and enforcement."

Council Member Burt: Have you read the enforcement that's in the Code that we have tonight? Are you saying that we should do something different?

Vice Mayor Schmid: Yeah. It comes only on complaint. Just to understand that that is working well.

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Council Member Berman: I'll go ahead and accept those changes and note that a lot of topics and issues have been brought up. As Council Member Burt pointed out, they're very complicated. It's important for us to have a thorough conversation about these at Policy and Services to really identify all the consequences and also listen to all the different stakeholders to get a better understanding of it.

Mayor Holman: Vice Mayor Scharff, are you good with the additions?

Council Member Scharff: Yes, I'm good with them.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion in Part D, "impacts" after "teenage employees."

Mayor Holman: A question for Staff. When might this go to Policy and Services? Do you have any notion of that?

James Keene, City Manager: I don't think we can give you—we'll get on it as quickly as possible, working with the Chair of Policy and Services. Our next meeting is what? Mid to late September after tomorrow.

Council Member Kniss: One question for Council Member Berman. As I said, we had one consideration tonight on page 109 of our packet and another on the Minutes. You have absolutely changed it by "adopt a goal." By "adopt a goal," are we actually saying we will raise the minimum wage to \$15?

Male: A goal.

Council Member Kniss: Okay. I'm comfortable with that then. As long as we're not saying this is something we are going to do. The goal is to raise the wage after you've done your outreach and after it's gone back to Policy and Services and after you discuss Council Member Filseth's ideas at the same time.

Council Member Berman: Correct.

Council Member Kniss: Thank you for that clarification.

Council Member Berman: Always a pleasure.

Mayor Holman: I didn't say this previously. I think it is an appropriate step to take for all the reasons that so many speakers and Council Members have said this evening. I think because it's being modified by some concerns and just things that need to be evaluated, I think it's a very

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supportable motion and a really good motion. Vote on the board please. That motion passes unanimously on a 9-0 vote. It is to adopt an Ordinance, Chapter 4.62 to Title 4 of the Palo Alto Minimum Code, to require the payment of a Citywide minimum wage to take effect on January 1, 2016 and establish a base wage of \$11 to commence on January 1, 2016 and adopt a goal of raising the minimum wage to \$15 by 2018 to coordinate and seek to create an aligned minimum wage with surrounding cities and to refer to Policy and Services Committee additional discussion of considerations of exceptions including but not limited to tipped wait staff in restaurants and seasonal teenage employees, impacts and enforcement to include evaluation of a process for these additional discussions.

MOTION AS AMENDED PASSED: 9-0

8. Approval of Response to Grand Jury Report "A Slow Rising Emergency– Sea Level Rise."

Molly Stump, City Attorney: Thank you, Mayor Holman. Molly Stump, City Attorney. Just very briefly an overview. The Civil Grand Jury is a County-based group, a very ancient type of governmental procedure. They work for the Santa Clara County Superior Court and convene annually to look at the operations of city and county governments and look for operational issues as well as other types of items to look at, audit and write reports. The Grand Jury is divided into various committees. There were two committees this year that issued reports that touched briefly on the City of Palo Alto. We are required to have a public response that identifies our position on each recommendation and finding. These are both relatively minor, quite minor mentions of the City. No significant improvements identified by the Grand Jury as being things for the Council to consider, but rather just almost more informational in nature. There are two; they're very quick. The Staff is before you with the draft responses. Thank you.

Phil Bobel, Public Works Assistant Director: This is Phil Bobel, Public Works. In the interest of time, we're actually not going to go through with the brief presentation we had in mind. If there's something that you see in front of you that raises a question, we're here to answer it. Kirsten Struve was going to give that presentation. You're going to see more of Kirsten as time moves forward in this area. She's one of our bright new stars and is very interested in this sea level rise issue. You're going to see more of Kirsten on this. Tonight, we're going to ask her to hold still. I'll just say two quick things about this. The only two real points we had on this Grand Jury report were first and most important that they had recognized a need to do more on sea level rise than in general government is now doing.

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Specifically, that the effort should be better coordinated and that that coordination point for our county should be the Santa Clara Valley Water District. We're agreeing with that point. We're only suggesting a tweaking of their language. Rather than have the Santa Clara Valley Water District directing the show, we're just saying, "How about coordinating the show," so that things that are clearly within the purview of the cities remain within the purview of the cities. That's our one point. Our second point comes from our Emergency Response group and notes that the one finding that the Grand Jury made with respect to our Threat and Hazard Identification and Risk Assessment, THIRA, our Palo Alto THIRA, they found that we did not address sea level rise in there. We've had to respectfully disagree with them and say that we did address sea level rise in that document. Not perfect, more work needs to be done, but they overlooked the areas where we did address it. Those are really our two comments. In our presentation we're going to update you, but I think you already know that we are working hard on the levee system improvements in our area. We're working with the Joint Powers Authority, the JPA. In early calendar year '16, we'll see their feasibility study on raising the levees to protect Palo Alto. It won't be long until we'll get into the next layer of detail on that effort. With that, I'd turn it back to Jim or the Council.

Vice Mayor Schmid: Any Council comments on the report?

Council Member Burt: Phil, thanks for the report. I was glad that in the presentation that you provided you reference some of the specific actions that we're actually taking in coordination with the San Francisquito Creek JPA and with the Water District. I wondered whether we shouldn't make specific references to those in our response to findings. I couldn't find them there.

Mr. Bobel: We didn't. There's kind of a unique format that Molly explains to us and we follow on those things. I suppose we could sneak in a brief statement of our actions where we are working on this issue.

Ms. Stump: We're required by statute to follow a very specific format where we address each finding, respond to it and then a recommendation whether we intend to implement or have already implemented and if not why not. If there is additional background information, we probably would recommend putting that in a cover letter or an introductory part of the response.

Council Member Burt: Remind me of the role of the Water District in the shoreline study. I thought they were lead participants in that. Is that correct?

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Mr. Bobel: Right.

Council Member Burt: In the findings and the recommendations, there are references to the Water District. For instance, Recommendation 4, that the Water District should coordinate the County's efforts to address sea level rise. It seems like that would be an appropriate place to include ...

Ms. Stump: This is a little bit odd. Palo Alto's not called on to respond to Recommendation 4, because it does not speak to us. We're only directed to respond where we are specifically identified as being asked to make a change or some kind of adjustment.

Council Member Burt: Which were the recommendations we were specifically asked to respond to? Recommendation 1, I see we responded to.

Ms. Stump: And "3."

Council Member Burt: And "3." "1" says that the Water District should take a more proactive role in coordinating with cities and that's part of what this is. The shoreline study is them taking a proactive role coordinating with cities.

Mr. Bobel: Why don't you let me work with Molly? I think we can do what you want and still be within the confines of responding to Finding Number 1.

Council Member Burt: I believe that the Safer Bay study also has a role that the Water District is playing there.

Mr. Bobel: Yes. I think they were aware of both of those, but just chose to say that more coordination could be accomplished. The Water District agrees by the way. They shared their draft response with Kirsten today. It says in there that they're going to do two things. One is they're going to identify a staff person to play the lead role from the Water District on this issue, kind of recognizing the fact that they haven't been a true point for sea level rise. Secondly, that they do intend to more fully coordinate. I think they're not disagreeing with that.

Council Member Burt: I fully agree that we want to see them take an even stronger role as we want us to take an even stronger role. That's not really the issue. The response to this report left unanswered the claim of the Jury becomes the record unless we respond to it with additional information. That's my point.

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Ms. Stump: Council Member Burt, just to clarify. Staff will be authorized to work together to add some detail on those items, but we do not need to return to Council for approval of the specific language.

Council Member Burt: Yeah, I think we can fold that into the approval motion.

Council Member Scharff: A lot of my comments were actually similar to Council Member Burt's. I would just briefly say that I do think we've fallen a little short compared to Mountain View in terms of the actions they've taken in putting together a comprehensive plan, public works looking at sea level adaptation. I think Mountain View's done a great job on that. I think we haven't really stepped up. The other point I did want to make was that I had some concerns—I think Council Member Burt addressed them pretty much—on the Santa Clara Valley Water District in that a lot of the stuff that happens in San Mateo County, especially with the JPA and all of that, their focus is much further south, the Santa Clara Valley Water District. Our focus is really mid-Peninsula, part of San Mateo County. I wouldn't really want the Water District to be focusing on—because they're not going to focus on us. We really need to have somebody else work with us on that area. I'm a little concerned if we lock ourselves into anything like that.

Mr. Bobel: We did make the added clarification that regional—we didn't say exactly why. We just alluded to the fact that a broader regional scale is in play here and important. We just used that code word "regional" to mean beyond the County.

Vice Mayor Schmid: Let me follow up on the same issue of where we are compared to our neighbors. I guess when I go to regional meetings about sea level rising either with the Water District or other organizations, they all talk about the Don Edwards salt pond restoration and the levee building that's taking place. They give out wonderful maps of the South Bay. On these maps they clearly identify the Ravenswood up to the border of Palo Alto with the piece of land we control. Then they start again in the South Bay at Coyote Creek, the border with Mountain View. They have these wonderful maps of building levees to the north of us and to the south of us. Palo Alto is an empty space; now that's partially because we were not part of the Cargill salt ponds. This is where the focus point of attention is going in the Water District and their appeals for outside for funding. I guess I'm a little concerned that we might be falling behind. Us and Mountain View have taken the stance of "Maybe we should do some of this ourselves." Mountain View has a program where they are raising their levees up to 15 feet, about twice the height, and have identified—what is it? \$50 million as

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the cost of it over time, which they say they'll take care of themselves. I haven't seen any document in Palo Alto saying, "We're going to do that too." Maybe we ought to think in our sustainability report that this becomes a piece of that or we make the tie between the JPA and the Mountain View border of what our long-term plans are. I think it's very helpful that they have raised this issue for us. It has alerted us to the fact that communities to the north and south seem to have a more dedicated program and seem to be laying out money, either their own or someone else's, to start the process of getting that done.

Mr. Bobel: Could I just add that you did authorize the expenditure of \$500,000 last year? That is built into the JPA work. I think very soon now, within the next six months, you're going to see that come to fruition. The feasibility study will be drafted and available. That is going to be sort of our Mountain View study. The same consultants that did the Mountain View studies have been involved in ours. I think you'll see a pretty well coordinated feasibility study with a couple of different proposals.

Vice Mayor Schmid: Can you give a date when that might ...

Mr. Bobel: We just can't put a finer point on it than to say early calendar year '16. We can get back to you in the next month or so with an update and try to give you the best date we can.

Mayor Holman: It looks like we are ready for a motion. Is anyone daring a motion?

Council Member Burt: I will move that we authorize Staff to proceed with the attached responses to the Grand Jury report incorporating guidance received tonight by the Council as deemed appropriate.

Council Member Wolbach: Second.

Mayor Holman: Second by Council Member Wolbach.

MOTION: Council Member Burt moved, seconded by Council Member Wolbach to approve the response to the Santa Clara County Civil Grand Jury Report "A Slow Rising Emergency – Sea Level Rise" incorporating guidance received from Council; and request the Mayor send a letter to the Grand Jury with the City's response by the specified deadline, September 15, 2015.

Mayor Holman: Looks like everybody is ready to vote. I just want to really emphasize that the Santa Clara Valley Water District is not the only entity that should be involved in coordinating this and leading this effort. I want to

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strengthen that point. Other than that, vote on the board please. That passes on a 9-0 vote.

MOTION PASSED: 9-0

9. Approval of Response to Grand Jury Report on Protecting Our Most Vulnerable Residents.

James Keene, City Manager: We are in the same situation as the prior item, Madam Mayor. I'm hoping that the City Attorney's descriptor of the Civil Grand Jury process was complete enough on the last one. We're here if need be.

Mayor Holman: Council Members, questions, comments, motion?

Council Member Scharff: I'll move the Staff recommendation.

Council Member Kniss: Second.

Mayor Holman: Motion by Council Member Scharff, second by Council Member Kniss to approve the Staff recommendation.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to approve the response to the 2014-2015 Santa Clara County Civil Grand Jury Report entitled, "Protecting Our Most Vulnerable Residents."

Mayor Holman: To be clear here for everyone who may just be listening on the radio. The Staff recommends that the Council approve the following responses to the 2015 Santa Clara County Civil Grand Jury report entitled "Protecting Our Most Vulnerable Residents." Then there are a number of items laid out here. Council Member Scharff, Council Member Kniss. I see no other comments. We are ready for a vote then. All those in favor. That passes on a 9-0 vote.

MOTION PASSED: 9-0

10. PUBLIC HEARING: Ordinance to Amend Chapters 18.38, PC Planned Community District Regulations, and 18.79, Development Project Preliminary Review Procedures; Exempt from CEQA under CEQA Guidelines 15061.

Jonathan Lait, Planning and Community Environment Assistant Director: Thank you, Mayor. Good evening, City Council. As the City Council and community knows, the City is divided into a number of zoning districts that's set forth in development standards and permitted uses. The Zoning Code also includes a provision for the Planned Community District which would

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replace the base district with other development standards and uses that are tailored to a particular project based in part on other community benefits or public benefits that are offered. Tonight you'll be considering an Ordinance that includes changes to that regulatory process as well as changes to the preliminary screening requirements set forth in the Code. This is simply a regulatory process that allows conceptual projects to be reviewed and considered by the Council before a formal application is submitted. The PC zoning process has been in place since the '50s, and there's been over 100 applications that have been approved. The community and Council can certainly cite a few examples where this process has worked well, but recently there's also been some criticisms of the projects and a number that have failed to achieve the objectives of the district. Concerns about the inadequacy of public benefits. The insufficient transparency and a lack of monitoring and enforcement are some of the issues that have been cited. Based on that, the Council over a year and a half ago established a pause to the processing of any future Planned Community District applications. Since then, the Planning Commission and the City Council have held Study Sessions. It was the October Study Session from the City Council that guided the drafting of the Ordinance that you have before you today. Notably, the Council at the time, at least a majority of the Council, believed that it was good to retain the PC District; while there are some criticisms of the process, it was not totally broken; and that we should spend the time to see if we could make some refinements to it. The Council at the time also noted that there was an interest in having PC Districts be consistent with the Comprehensive Plan and did not want to see a concurrent application to amend the Comprehensive Plan to support the PC District. Economic analysis requirements were cited as something that the Council wanted to see, knowing that this was not the end-all-be-all of the analysis but at least an important tool for considering the benefits of a project, understanding that the qualitative value assessment still needed to take place. The Council as the final decision-maker was discussed, and that's incorporated into the proposed Ordinance as well as a clear process by which to evaluate these types of applications. That is set forth in the second part of the Ordinance that's before you dealing with the preliminary screening. There was conversations about geographic delineations where the PC Districts might be best placed, but ultimately that did not carry the day. There was a conversation about the degree of variation that should be considered when reviewing PC Districts. The Council also discussed the enforcement and monitoring and definition of public benefits. The Council noted at the time that it would be difficult to define public benefits. This is something that the PTC struggled with as well as Staff. In the end, what we decided to do was focus on the types of uses that we believed were the most important for the district or expressed by the community. Those examples included the affordable housing monetary contributions which we know are controversial.

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If they were contributions that supported the Comprehensive Plan or human service assessments or other City Council priorities, there could be on rare occasions an opportunity to consider monetary contributions. The need for a better enforcement tool was discussed, so the proposed Ordinance includes a monitoring and enforcement schedule and program. The types of things that you would see in that are issues that relate to the frequency of inspections, establishing a funding mechanism, penalties for violations and procedures to address lost or diminished benefits. This program would be tailored to the specific project. The other item that I haven't talked about yet is a change from the PC District as the district in and of itself to now being an overlay district. This will be helpful where our review of past PC Districts didn't include some of the other detailed zoning regulations that are generally provided in the base district. By having this be an overlay, those base districts would still apply where they were not in competition with the PC District. The Planning and Transportation Commission also reviewed the proposed PC reforms. They had a number of other changes that they were suggesting be made, including the possibility to have the Comprehensive Plan be amended concurrently with the PC District to allow a modest increase to the 50-foot height limit. I believe it was somewhere around 4 or 6 feet above the 50-foot height limit to account for some architectural design considerations. That density bonus projects also be eligible for PC District overlays. This was Staff's recommendation to the Council, so these recommendations are not presented in the draft Ordinance as we didn't feel like they were representative of the Council's direction on the changes to that Ordinance. Just briefly on the preliminary screening. This is currently a voluntary process that exists in the Code. The proposal is to make it a mandatory requirement for certain types of development projects that would generate a policy discussion. We would retain the existing voluntary program for other projects that did not have major land use or policy implications. Staff is recommending a conversation about the Ordinance tonight. I guess "did we get it right" is the question. If you look at the volume of emails that we received on the matter, I guess the answer might not be yes. We are open to a continued dialog about the direction of the effort. If we're heading in the right direction, it would be good to know that and where we might need to make some refinements. If there's a change in perspective and we're heading toward no, we'd certainly love to know that as well as there's a mountain of other work that we can work on for the Council and the community. We stand by to take that direction. I thought we had a Commissioner representative. We have Commission representation as well. I'll conclude my Staff Report. Thank you.

Mayor Holman: We do have 12 public speakers. Why don't we do this, why don't we hear from the public and then if our Planning Commission liaison would care to make a couple of comments, that would be fine as well.

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Public Hearing opened at 10:11 P.M.

Herb Borock: Mayor Holman and Council Members, I believe you should continue this item to a future meeting. The agenda item is for an Ordinance. The Ordinance itself was not included in the agenda packet you received 11 days before the meeting, and it was not included in the agenda packet you received last Thursday. It's just at your places. It's a 17-page draft Ordinance. Producing a Staff Report is a very difficult process. Over a five-week period, the City Manager goes through it three times editing it, has to coordinate sometimes numerous departments, sometimes input from other Council-appointed officers and sometimes input from Boards and Commissions including actions and Minutes. Sometimes all those pieces don't come together on the originally scheduled tentative working agenda to meet your 11-day deadline. In those cases, it should be delayed, especially in this case where the very item that is the subject of the agenda item is the one that's missing. I didn't have time to include with my letter to meet a deadline to get it at-places to you this evening a copy from 18 months ago of the communication I gave to the Council when I indicated my position which was to eliminate this zoning regulation from the Zoning Ordinance. However, that would only apply for the future. There would still be PC zones that had been previously approved. In my communication 18 months ago, I included the items that I felt would be necessary to retain for enforcement and for minor changes to the development plan and development schedule and for inspections. I'm providing the Clerk for distribution to you another copy of my letter, but this time with the attachment of my communication from 18 months ago that contains those suggestions. Thank you.

Bill Ross: Good evening. My name is Bill Ross. I'm going to address the CEQA issue only. I believe both legally it's insufficient, and there is no substantial evidence to support use of an exemption. I will read from your own documents starting with the notice and the first page of the Staff Report references CEQA Guideline Section 15061 as the basis for the exemption. If you proceed to page 10 under Environmental Analysis, a different CEQA Guideline, Section 15305 Minor Alterations to Land Use Limitations, is used. If you go to page 16 in Section 5 of the Ordinance, it again relies on Section 15061. Which is it? Let's examine those CEQA Guideline Sections. CEQA Guideline Section 15061 sets forth two bases for exemption. One, if it can be clearly stated that there's no impact on the environment. Seriously, this is a zone change. You're dealing with height limitations. You're dealing with modifications to FARs. You're dealing with setbacks. If this were another Zoning Regulation, would it be exempt? I doubt it. Read Section 15305. It specifically says it's Class 5, that it's not applicable to situations where there are modifications dealing with land use and density, and gives examples of minor lot line adjustments and reversions to acreage under the subdivision

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map back. That's not this situation. It's further subject to the limitations in 15300.2 which include among other things it can't be applicable to any area where there's a defined hazardous waste designation. That would mean the balance of California Avenue, the entire industrial park. In summary, I'd say there's no legal basis for this to be exempt. It should go back and have an initial study. There's no evidence to support the idea that you can say without certainty, without certainty, this is an exemption. It has to be strictly construed that there's going to be no impact on the environment. Before you deal with the substance, it should be dealt with properly under CEQA. Thank you.

Robert Moss: Thank you, Mayor Holman and Council Members. I strongly urge you not to adopt the Ordinance as the Staff recommends. As you know, PC zoning has been broken for decades. It's basically a racket. We know it's a racket, because Jim Baer boasted that he had been hired by more than two dozen developers to push PC zones. We have a major problem. The developer always overstates the public benefit and understates the private benefit. I'll give you one example. A developer came in where he was getting significant increase in office space, and he claimed the office rentals would be only \$4 a square foot taking the national office rent, not the \$7 a square foot in Palo Alto. Another example. There's a building at the corner of Alma and Forest where one of the public benefits was artwork on the wall, which they valued at more than \$0.25 million. That artwork was built by the developer's wife. If you look at it, it's not \$0.25 million. We need to stop proceeding with PC zones. You should not use a PC zone as an excuse to ignore height limits, setbacks, FAR. Furthermore, as I've given in my report, when the developer fails to provide the public benefit—I can give you many examples where he did not give you the public benefits—the penalty is zero. The City has never, never fined or made any enforcement for the lack of public benefit. The Staff made that comment last year, and I could verify that with a number of examples. Do not approve the Ordinance before you tonight. Postpone discussion until later. The Ordinance, by the way, was not available on a timely manner. I was down here Thursday night, and it was not here. I couldn't get the Ordinance even five days before the Council meeting. That's not the way you should do business.

Bob Smith: Robert Smith, Greer Road. Good evening. The PC Ordinance is a failure and should either be repealed completely or very substantially altered. The proposed changes are window dressing and simply signal a return to business as usual. Once the monster building is constructed, the benefit is likely to be marginalized and scuttled altogether. The Ordinance and its enforcement policies do not assure that the community will get the benefits. I tried to find some things that could be added. Many of them

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require judgment which we never seem to have had on the allocation of PCs, but here are a few ideas. If we are to have a PC Ordinance at all, some of the requirements I would suggest are as follows. Number 1, have a process for certifying that the benefit can in fact be reasonably provided. If the benefit is a business that is likely to have problems, changes in the environment and so on over decades and decades, maybe you want to think we can't do that. You've got three PCs with grocery stores. They're going to be back here again and again and again in my opinion. You want to certify that the community is actually getting more than it gives and that the burden is distributed fairly. You've got some PCs out there where millions and millions of dollars of additional office space were given for very trivial benefits. An enforcement process. If I park my car and get a parking ticket, that'll happen right away, because you've got excellent enforcement of parking. There's a PC in town that I know of that has a plaza next to a restaurant. The restaurant has completely taken the plaza that was the benefit. Finally, I think a vote by the public on any proposed PC is in order. Thank you.

Stephanie Munoz: Good evening, Council Members. I'm really happy to have an opportunity to speak up for the principle of the PC. It is the greatest thing since sliced bread. It allows some flexibility. The idea is to have something better, better for the community than what would happen if you just punched in the button and a button came out. This is what has to be done. It could be fabulous; however, the way it has been used. I thought of it a year or so ago, there was a discussion of the blade sign on this development for this grocery store. The grocery store was going to bankrupt if they didn't have this blade sign. Karen Holman said, "Why do we have rules if you're just going to make exceptions?" I thought to myself, "We have these rules so that we can auction off the exceptions." That shouldn't be the case. It never should be like that. The PC should be organic, that is, it should spring from the location where that land is. For instance, in the hills, by putting together three acre parcels, you could have one road and save beautiful foliage, viewpoints, creeks or whatever. Maybell broke my heart, because you could have put the same 70 cars on that land and had different partners for the 40 little low-income seniors. You could have had that orchard. Nothing would do, but that it would be part of raising the value. Please the original idea of PC, better community from little changes. Better for us.

Cheryl Lilienstein: Hi, I'm Cheryl Lilienstein. I'm the President of Palo Altans for Sensible Zoning. We have a statement which is that Palo Altans for Sensible Zoning is against PC zoning, because it's been abused and used to circumvent the zoning regulations that protect us all. We stand for eliminating the Planned Community zoning or, if PC zoning changes are

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being requested in exchange for public benefits, requiring a public referendum in order to establish whether a majority of voters finds the public benefit sufficiently valuable, clearly defined and durable. I am disappointed that the proposal is deeply flawed. There was an effort made to shift the burden of discovering whether or not a public benefit really is a public benefit, and also to increase transparency by having developers bring their ideas before the Council. That's a pretty good idea, because at least the public gets a vision of what it is someone is proposing. We still need a menu of what actually is a public benefit. It's disappointing that in a Colleague's Memo that came from the PTC probably a year and a half ago, there was a pretty good menu. The other members of the PTC disregarded that. We come to the point where we say we don't trust that this could happen well anymore. If we were actually to define what a public benefit is and get some consensus from the public that a benefit is a benefit, perhaps we could go forward. We can't do it with everything being so horse-trade. Thank you.

Hamilton Hitchings: Good evening. I'm Hamilton Hitchings. I've been a resident for over 20 years in Palo Alto. I'm also a member of the CAC, but tonight I'm going to be speaking about my personal views on Planned Community zoning. When we look at the Palo Alto residential movement of the last election, which was such a strong force, one of the top items on the list was stopping zoning exceptions. One of the key reasons we have zoning is to protect the neighbors of any development as this development occurs. PC zoning is the ultimate exception. Any zoning rule can be bypassed. The practice of allowing zoning exceptions in exchange for public benefits has resulted in many insignificant benefits and many benefits that have not been adequately followed through on. I live in the Duveneck neighborhood near the Edgewood Plaza. While that developer is currently in the process of selling \$30 million worth of condos, the public benefit of the local grocer remains empty. After six months, they will start having insignificant penalties if they fail to fill it, essentially a cost of doing business. Removing the public benefit being intrinsic to the development hurts the impacted local residents. The proposal of zoning for sale by allowing money in exchange for zoning exemptions means the City Staff has put in a direct conflict of interest. The adjacent neighbors are not mitigated for the impacts of that zoning exception. Please maintain the moratorium on PC zoning and reject this Ordinance. Thank you.

Winter Dellenbach: I would really urge you to continue the moratorium. I did find some things I liked in the recommendations. I'm very hesitant about Planned Community zoning. I have looked at it closely, intensely, for two to three years. I investigated it, read about it. I still can't make up my mind if there is any justification for it. I worry about how all affordable

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housing projects are going to get built. Surely there is an alternative. I would prefer to get rid of Planned Community zoning. That said, most of the recommendations I feel are either incomplete or actually weaken the substantial public benefit part of what we have already. That's not the direction we want to go in when we talk about reform. That's not what, I think, residents of Palo Alto expect after the last two years of uproar about such things. I'd like to direct your attention to the very first section of the PC Regs, 18.38.010, which sets out the purpose for the benefit for PCs. The main part is the Planned Community District is particularly intended for unified, comprehensively planned developments which are of substantial public benefit. The development is the public benefit. The public benefit is intrinsic to the development. However, in the recommendations, Staff is recommending changing that language to developments which will result in substantial public benefits. We've gone from intrinsic to codifying extrinsic public benefits, and it can't be any surprise that that is weakening the public benefit. I want to just quickly say one other thing. Also in that section is a laundry list of the kind of developments that fit into this Ordinance. The old, tired laundry list is still included by Staff. If we were to update that, if we are going to keep Planned Community zoning, it would go a long way towards zoning for what we really want in this community at this point in time. Affordable housing, retail, social, cultural, artistic, historical preservation instead of office, administrative, all of these other things that are in the Ordinance now and that Staff wants to retain. Deeply flawed recommendations, incomplete. Please keep the moratorium. We can't pass this tonight. Here are more detailed remarks by me for all of you. Thank you. Sorry I went over time.

Adrian Fine, Planning and Transportation Commissioner: Thank you, Mayor Holman and Council Members. I'm Adrian Fine. I'm here speaking on behalf of the Planning Commission. We'd be happy to answer any of your questions. PC zoning is obviously a very divisive issue in Palo Alto. The PTC had a few heated discussions about it, as I'm sure you will tonight and maybe in the future. However, the overall feeling of the PTC is that PC zoning can be a useful mechanism to consider what projects might be possible in Palo Alto. This doesn't mean the City has to consider every single project. Some of our suggestions included in the Staff Report focused on submitting these projects to a deeper and earlier prescreening requirement as well as a few enforcement mechanisms. The PTC overall, I think, felt that applicants should have the leeway in submitting a range of project types, knowing that the final decision lies with you, the Council. There were a few major areas of disagreement on our Commission, specifically extrinsic versus intrinsic benefits, cash payments to the City in exchange for zoning benefits, and how to structure the enforcement. I was trying to explain PC zoning to a friend this morning. She said she just didn't

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get it. We've got rules, and this violates them. That's absolutely true; however, PC zoning is a fairly standard zoning tool used by many locations across the country that allows cities to consider, simply consider, projects that we cannot imagine today. The decision whether to move forward with this Ordinance depends on how prescriptive you think our development regime should be. If you feel the City is good enough at the negotiating table to extract worthwhile public benefits in exchange for zoning changes, then we may want to revise and adopt this Ordinance. If you think developers perennially have the upper hand and will win that tug of war, then we probably should keep the moratorium in place. We're happy to answer any other questions.

Council Member Burt: Commissioner Fine, can you give me a little better sense of what the Commission understood to be the general direction and guidance that the Council had given for what we were interested in, reforms. There seems to be a very strong disconnect between what the Commission recommended or even considered and what the Council gave as guidance, given that you as a Commission are appointed by the Council to advise the Council according to the directions that we provide and your best judgment.

Mr. Fine: That's a good question. I actually agree there is some disconnect on this issue and a few others. We were given some guidance in terms of considering whether PC zones should apply in only certain geographies, and then also to consider a menu of public benefits. We did not believe that those were the correct ways to approach this Ordinance, and we did consider the Ordinance as a whole. I hope that answers your question.

Council Member Burt: Not fully. The Council in no way gave any sense of direction, in fact provided really the opposite direction. For instance, a question of whether PCs should actually have an increase in building height. The Commission came back with basically that recommendation, for example, in the opposite direction in my mind from the general thrust of what the Council gave as the direction it would like to pursue. I'm basically trying to understand what the Commission thinks its role and its obligation is today.

Mr. Fine: That's a good question. Our role is to this Council and to the City. I think we do take all the Ordinances as a whole though, and we're trying to look at them to the best of our ability. We'd appreciate your feedback on any of those matters. Hearing this tonight is helpful to me. I'll definitely take that back to the Commission. As I mentioned earlier, I think we could all sync up better on these issues in general.

Mayor Holman: Do you have any other comments you'd like to make?

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Mr. Fine: No, thank you very much.

Fred Balin: Good evening. Staff inclusion that a PC must be consistent with the Comprehensive Plan land use designation at the time the application is submitted is very significant. It does not resolve a host of other issues. If the PC District is to continue, this is a necessary condition. Some background. In the early '60s, Palo Alto refused to complete its General Plan for fear it might have to comply with it. Enid Pearson, other residents and environmental attorney Pete McCloskey Jr. took the City to court, won at trial and again at the appellate level, to which the Supreme Court sent distinguished Justice Matthew Tobriner to sit and who wrote the unanimous opinion. Since then, Palo Alto has used its status as a Charter City to stay outside the requirements of consistency between Zoning Ordinance and Comp Plan, which is mandated for the 80 percent of state municipalities covered by general law. This loophole has engendered many PC abuses. Alma Plaza, the JJ&F block, Café Riacci, 800 High Street, Edgewood Plaza, plans for 395 Page Mill Road and more. Palo Alto's approach to PC-Comp Plan consistency is to change land use designation at the same time as project approval. This is not how it's supposed to be done. You request a Comp Plan change, study an area not just a project site, conduct hearings and environmental review, and only after approval by Council do you file a project application. Credit to Staff for including the two-part provision and for not accepting that it be allowed to be watered down or rejected at the Planning Commission. The wording looks good, but the Attorney's Office must confirm that it will be enforced via its common meaning. In the event at any time in the future that a PC is not consistent with the Comprehensive Plan and it is approved, citizens can take the matter to court. If they are correct, the court will invalidate the PC. Thank you.

Jeff Levinsky: Good evening, Mayor Holman, Council Members and Staff. I'm one of the signers of the PAN letter sent to the Council, but I'm speaking for myself this evening. The PAN letter points out both specific and wider problems with the proposed new PC Ordinance. So if two local newspapers, speakers here tonight and a vast number of letters sent to you. In particular, neither the Ordinance nor the Staff Report reflect the serious problems PCs often impose upon the local community where they are sited. These include extra traffic, increased density and even in some cases parking spillover. Not only are these impacts ignored, but the Ordinance raises the specter of money as a public benefit, which means neighbors will not themselves necessarily see any good coming in exchange for the problems they must endure. This is wrong, and it reflects a deeply unfair view. PCs have effectively become a tax on residents while funneling millions or often tens of millions in profits to developers. Not only is this unjust to neighbors of a PC, but it also harms our entire City. Instead of

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inspiring developers to act in the interests of our community by donating public benefits or just to have costs covered, they instead seek the largest possible profits. We then have been gulled into thinking that is the only road possible. It is not. The outsized profits sought by a developer in exchange for public benefits need to be eliminated. I urge you to rethink Palo Alto, and to use your power and influence toward this end. If we are to have PCs at all, they should be a way to honor and work with developers who seek to do the right thing, not to enrich those who don't. Thank you.

Doria Summa: Good evening, Mayor and City Council. I'll be very brief, because I don't wish to repeat comments made by other speakers. I would urge you to reject the draft Ordinance tonight. The PC zone has a long and very unpopular history in Palo Alto, and it has been unsuccessful. I don't believe the Staff Report demonstrates otherwise. The proposed Ordinance falls way short of correcting the problems with PCs. In fact, it makes some things worse, even allowing zoning for sale. At the very least, please continue the moratorium until Staff can provide evidence of the true merit of the PC zone. I think that there would be value in demonstrating how projects could not otherwise be achieved by zones that do not have such negative impacts on residents and don't promise false benefits that were never intended to be delivered. Thank you.

Patricia Saffir: Patricia Saffir. Mayor Holman and Members of the Council, if you're looking for longevity in Palo Alto, I've been here observing the development of the City for 53 years. I urge you to reinstate our PC zoning. Zoning regulations are by their nature inflexible and arbitrary. We need a way to respond to unforeseen opportunities. PC zoning has done this for us over the years, resulting in numerous projects that have been a credit to the City. We need to reinstate it. I believe in general the changes recommended by Staff are appropriate and will help by giving the Council an earlier chance to react to proposals and make suggestions and perhaps will help to make more sense out of public benefits. I would like there to be a way to exceed 50-foot height limits when appropriate as suggested by the Planning Commission. Again, I urge you to approve the proposal before you. Thank you.

Ken Horowitz: Thank you. Ken Horowitz. I'm glad I'm going to speak before 11:00. Ken Horowitz, I live on Homer Avenue. I just want to speak on one particular PC that I've addressed the Council about, and that's at 755 Page Mill Road. That's a PC that was granted to the developers there. As part of the PC, they were granted a 15,000 square foot recreational facility which the Silicon Valley Y took over until a year ago. My only concern is there are some really good public benefits of PCs. I just want to make sure that if an individual or group or developer is granted a PC, that they be

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holden to that particular PC. I wish the Wheatley Properties which manages the property at 755 Page Mill Road would be held to continue that recreational facility. The Silicon Valley YMCA pulled out of that site. We've been trying to find an operator to operate that particular site. Unfortunately, demands have been such by the managing company, very difficult to get a fitness operator, and now he's applied to convert that space into office suites. I just wish we could enforce that PC at 755 Page Mill Road. Thank you.

Public Hearing Closed at 10:44 P.M.

Mayor Holman: A couple of questions for Staff having to do with comments from speakers. One is Mr. Ross' comments about CEQA, and the other is Mr. Borock's comments about adequate availability of the PC Ordinance itself.

Cara Silver, Senior Assistant City Attorney: Thank you. Cara Silver, Senior Assistant City Attorney. I'll address the CEQA issue. Mr. Ross stated that the regulations should undergo a more substantial CEQA review. Staff's rationale on this was that the regulations that you are dealing with today really are procedural in nature. We think that a CEQA review exemption is appropriate. What happens with these types of zoning Ordinances is, of course, that once a project comes through, site-specific CEQA analysis is conducted at that point in time. With these types of procedural Ordinances, it's really a balancing act under CEQA as to when to do the CEQA review. Of course, you don't want to do CEQA review when you don't really have sufficient information on the scope of projects. That doesn't serve anyone's interest. We think that an exemption here is appropriate.

Mayor Holman: The availability of the Ordinance and the timeliness of that?

Molly Stump, City Attorney: Thank you, Mayor Holman. I think the Clerk may have some comments about the technical issues with the production of the attachment to the agenda item.

Beth Minor, City Clerk: Mayor Holman and Council, it was discovered on Friday that the Minutes were not included in the report. It was an issue with the agenda management program that we use. As soon as it was discovered that the Minutes were not included, we sent them out to the Council Members. We also uploaded them to the website to the agenda item.

Mayor Holman: I don't think we're speaking about the Minutes. We're talking about the Ordinance itself.

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Ms. Minor: I mean the Ordinance was. This one that's at-places tonight, it was uploaded to the website on Friday and sent out to Council in email.

Mayor Holman: City Attorney can speak to the adequacy of that in terms of availability.

Ms. Stump: There's no legal procedural problem with that. If the Council believes that sufficient notice was not provided to the public by not having the Ordinance available, then you certainly can put the item over so that there's additional time to review that document. I would like to take this opportunity to encourage members of the public, if they spot that kind of problem, to please contact the Clerk right away. The Ordinance was prepared and the Staff work had been done to attach it properly to the item. Due to a technical problem with the software, that in fact did not occur. We have several backup systems which also failed to catch the error. As soon as people find that that is the case, if they contact the Clerk, we can take action right away to correct the problem. We do apologize for that. That was an error; it was software related. If the Council believes that additional time is needed with the Ordinance, you're certainly welcome to give the public that opportunity before you move forward.

Council Member DuBois: I wanted to follow up on the CEQA question real quick.

Mayor Holman: Okay, sure.

Council Member DuBois: I understand what you're saying that individual projects would go under review. In this case, it refers specifically to this minor alterations in land use which specifically says will not result in changes in land use or density. We're talking about a PC District which definitely usually does result in a change in land use or density. I'm really having a hard time seeing why this doesn't apply.

Ms. Silver: Thank you. That's a good point. The CEQA action that is before you, the governmental action before you, is not the actual changing of density of a particular project. It's just implementing regulations that would later possibly impact that change in density. Once the change in density is invoked by a particular project, the Council would have to do additional CEQA review.

Council Member DuBois: It doesn't talk about actual changes. It talks about minor alterations in land use limitations, which in English seems to refer to zoning, not construction to me.

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Mr. Lait: If I can offer another point on that. The PC regulations already exist in the Zoning Code. The changes that we are making, we're deleting sections, we're adding some clarification, but we're not introducing any regulatory standards that change—in fact, we go the other direction to ensure that it's compliant with the Comprehensive Plan. We're not making any changes that would create a greater deviation than already exists in the Code. That's why 15061(b)(3) and 15305 were chosen.

Mayor Holman: Council Members, just to kind of get an idea, can you show me how many people have questions as opposed to comments? Are there very many questions? Council Member Kniss, do you have questions? I'm just trying to get an indication of how many people have questions. Council Member DuBois, Council Member Kniss have questions.

Council Member Kniss: I don't have ones that are burning at the moment.

Mayor Holman: I'm just wondering if we can just go straight to comments. That's what I'm trying to find out here. Council Member DuBois, you have questions?

Council Member DuBois: I just have one quick question. We did get the Ordinance late. Apologies if I didn't catch it. It looked like you removed the requirement to submit plans. Is that included in a further section outside the Ordinance? There was the whole thing with plans and schedules.

Mr. Lait: The reason we did that is because we wanted to reduce elements of the Ordinance that we typically handle at an administrative level. The way this typically works is that the Director sets forth through our applications those procedural requirements that we need at an administrative level. This also gives us the benefit of making modifications to our application requirements without having to go through a Code amendment to add some provision or to delete some provision that we no longer need. We would take this information and put it into our application, which is more flexible on how we (inaudible) that.

Council Member DuBois: It did refer to 18.30.080, which I believe still calls out all those documents. Is that ...

Mr. Lait: I'm sorry. Can you show me the section you're referring to?

Council Member DuBois: I'm sorry. I was trying to make this a quick question. I think it says according to ...

Mr. Lait : Yeah. I believe that section simply refers to the City may from time to time establish application forms, submittal requirements, etc., that

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will aid the efficient implementation of this Chapter. What it does is it takes the application requirements out of the Code, puts them into the application, and it gives the City more flexibility in asking for what we need to ask for.

Council Member DuBois: The second question kind of related to this. I think you also deleted what would happen if the application expired. Was there a reason for that? Let me find it here. Yeah, I guess failure to meet the development schedule, 18.38.140, was struck.

Mr. Lait: I think what we did was we moved it above to 130. Instead of having all this, we just referred it to the existing provisions that exist in the Code. Again, we tried to streamline where we could and got rid of some extraneous references where we didn't need them. No substantive change occurred; it was cleanup.

Council Member DuBois: In 18.77.090, it basically said the same thing, but that wasn't part of this. Is that what you're saying?

Mr. Lait: I'm sorry. 18.38.170?

Council Member DuBois: If you look in 18.38.130, it says that policies and procedures set forth somewhere else in 18.77.090.

Mr. Lait: Yes. That's an existing provision in the Code that is unaltered by this Ordinance.

Council Member Berman: (inaudible)

Mayor Holman: Why don't we do this? If you have questions, fine. It didn't seem like much of anybody had questions. Why don't we try to do this, because I have a feeling we're going to have most of our comments, most of our time, spent around any motion, is my sense of things. Why don't we try to do questions and comments in three-minute round, and then we'll spend most of the time, I think, around a motion. Questions or comments?

Council Member Berman: I was hoping to make a motion to just kind of kick the conversation off in some sort of direction.

Mayor Holman: Why don't we see where we go?

Council Member Berman: Can I tack that on? My comments won't really make sense without following it up with a motion. They can. When it comes time to making motions. I don't want to throw the baby out with the bath water. I think that there are a lot of times where the PC process has been abused. I think clearly the public has lost a lot of faith in a lot of PC projects that have been approved. Looking back—of course, now I've closed my

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computer—an attachment to a Staff Report a year ago had a list of PC projects for the past 15 years. While there were plenty in there that, in hindsight, we probably shouldn't have approved, there are a handful most of which that have to do with affordable housing that I think are really good projects that intrinsically, Winter, not extrinsically provided a benefit to the community. I don't know enough about each one of those projects to know whether or not those could have been achieved in other ways. I also have zero interest in seeing a PC project come up in the next two years. I think the community has zero interest in seeing a PC project come up in the next two years. I think Staff has zero interest in seeing a PC project come up in the next two years. What I will move, when it comes to do that, for numerous reasons including the fact that the Ordinance wasn't available until Friday is extend the PC timeout, or whatever the technical term is, for two years, but suggest that it come back to Council a year from now, so it's the current Council, to essentially have this conversation when hopefully Staff isn't as overwhelmed as they currently are with everything else, the Council isn't as overwhelmed as it is with everything else. It gives everybody a little more time. We can come back and have this conversation a year from now to maybe reinstate PCs two years from now. Is what I think is hopefully a good kind of compromise that doesn't just wholesale eliminate PCs right now, because I wouldn't support that. That gives everybody a little more time to come up with a better process to move forward.

Council Member Burt: I certainly would not support the proposed Ordinance tonight. That's an easy call for me. As I've tried to figure out what went on in this process over the last year and a half and looked back at what we could see in the record all the way back to our Study Session, I looked at my comments in the Study Session and saw a number of them about a better definition of public benefits, a clearer process, disclosure of ex parte communications, wanting to make sure that the cost of the benefit was not the only thing we looked at but also the value of the benefit. We did adopt a preliminary review being conceptual. A lot about enhanced monitoring and enforcement and consequences for noncompliance; about how much PCs might be diminished in their need through more precise plans and specific plans; possible location zones for PCs. Staff did recommend that the PC should not initiate a change to the Comp Plan. Also, then one of the things that Council Member Berman spoke about was trying to understand what PCs have been beneficial. We have been as a community focusing on the significant shortcomings and problems with the PCs, which we may be able to have corrected through a lot more extensive corrections than what we have before us tonight. We really don't have an answer as to whether the beneficial elements that we've seen in PCs over the decades could be achieved through other means. I frankly don't know the answer yet on that,

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because we haven't had the analysis that frankly I was hoping to see, which is to take those beneficial projects, identify what those real benefits were even if there might have been some detriments to that same project, and look at whether there would have been other means to achieve that or there would not. I'm going to be moving toward a more concrete set of recommendations on what we do in the nearer term to move this ball forward which would be either having the Mayor appoint an ad hoc committee or refer this to Policy and Services which is actually what happened a year and a half ago. I don't think that was as productive as I would have hoped. As a first cut, to try to look at, at a high level, whether there are benefits to the PC process that are worth trying to salvage. If there are not, then what are the alternatives. If there are, how would we better go about reforming the process.

Council Member Kniss: I think Council Member Burt just gave a very thoughtful analysis of this. I'm in rather a different spot tonight. I know you don't want a motion yet, but the kind of motion that Council Member Berman has considered making is one that I would consider seconding. If that does happen, I would like to speak at some length. I would call out—Pat Saffir has gone home. As somebody who looks back over the years, she did identify some very good projects. I don't think our community is at that point right now. I won't continue on, since that's not really a question any longer.

Mayor Holman: Comments are fine as well.

Council Member Kniss: Pardon?

Mayor Holman: Do you have any other comments?

Council Member Kniss: Nothing any further than that at the moment.

Council Member DuBois: I have to say, "wow." I mean there's 290 pages of PC Ordinance Minutes from years. There's PTC meetings, Council meetings, Policy and Services meetings. It was pretty painful to read through all that stuff. It was an interesting exercise though. I think comparing the Minutes from previous PTCs versus our current PTC, I felt it was pretty extreme how disconnected it was from the current community sentiment. Even though several members of the PTC were on those previous PTCs—I mean Commissioner Alcheck, Michael and Tanaka actually seemed to have changed their position over time. First of all, I want to thank Staff, I think, for not kind of submitting to the badgering to drop the 50-foot height limit and other important clauses. I think being consistent with the Comp Plan is pretty important. I also appreciated Commissioner Gardias who repeatedly pointed out the concerns of the community. In terms of where to go with PC

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zoning, I wanted to highlight a few statements from the record that resonated with me and, I think, maybe haven't gotten a lot of attention. Commissioner Keller made a point that mitigations shouldn't be considered public benefits. That's pretty simple, but I think it's worth repeating. Mitigations are not public benefits. Things like TDM passes, Go Passes, turn lanes, replacing trees, those are items that mitigate the impact of the development. I don't think they go close to the bar of a significant public benefit. I think we've seen a shift in PCs. In the past, it wasn't necessarily all about density. I think more and more that's what we're seeing. As an option for a developer where you can have an enormous financial reward, why wouldn't you try to get a PC? I just think it's too tempting. Commissioner King, I think, put it pretty well. He said, "Putting Staff in a poor position negotiating undefined public benefits." Council Member Price said, "The City needs to engage in more successful negotiations." I just think relying on our volunteer Commissions, volunteer Council, Staff to negotiate against full-time professional developers has led to the situation we're in with kind of ephemeral benefits. Then we start discussing how to cope with those side effects, how do we do an economic analysis or how do we enforce these PCs. Commissioner King also commented that PCs are costly in terms of Staff time, Commission time, Council time. I'm not suggesting that we don't do things just because they're time consuming. To me this process, even with the cleanup that's suggested, is not worth the cost benefit of actually having PCs. It consumes a huge amount of time just to think about a PC, and then sometimes it's not even built. If we just do two a year, I think we could better spend all that Staff time elsewhere. Just having the PC option potentially leaves lots empty for a long period of time. I think the Edgewood Plaza is a good example of that. For all those reasons and probably maybe the most important one, reestablishing the public trust, I'm actually for completing eliminating PC zoning. I believe we do have enough other incentives at the City and State level for affordable housing. Applicants can go off menu and ask for a concession, and then the burden's on the City to make the findings that that concession is not needed for affordable housing. If we find that there are other desirable projects that we're missing, then we do have these other options. We could do a Master Plan. We could do an area plan, or we could even bring back PC zoning. I think we've talked about this for years, talked about it for a long time. Just extending the moratorium is not really a solution.

Council Member Scharff: I actually agree with everything Council Member DuBois just said. I think we should eliminate PC zoning. When I looked through the list of PC projects that have been approved, no one has come here and said, "Without PC zoning, we would not have had this project and we really want this project." I think the only ones Staff talks about as being positive projects are affordable housing projects. I agree with Council

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Member DuBois that those can be achieved through the concessions. In fact, I remember asking Staff about 801 Alma. 801 Alma is an affordable housing project. It was not a PC project. I think this is not true when we talk about how we need PC projects for affordable housing. It seems we can clearly do them without that. I think there's more community buy-in then. I mean I think Maybell is the clear poster child for using affordable housing project in a PC process that goes really awry in the community. I don't think there's any trust in the PC process. I don't think there ever will be any trust in the PC process. I look at the Ordinance that Staff brought us, and I think Staff did a fine job with what they were thinking about. I just don't think it's possible to reform the PC process. I think any Ordinance they bring us, people will send us 100 emails on why that's bad. I think part of the problem with this is that there's no trust in violating the zoning, there's no trust in selling the zoning even if it's for money or should we say we can do it here or it's for a particular project, that all PC zoning projects will either have trivial benefits which are meaningless or the project will be so big that people will hate the project. There was nothing trivial about J. Paul's offering to give a Public Safety Building. That was a clearly non-trivial, huge, \$50 million benefit to the City. I don't see our community going with large projects like that. I can't think of any that have ever been approved every time people have suggested something on a scale like that. There's the Arrillaga project with the theater; obviously we all know where that went. The only project I can think of that had PC benefits that was in that moderate range was frankly the SurveyMonkey building. It was like \$6.5 million. I think \$2 million went to new parking, \$2 million went to affordable housing. Yet I don't see anyone in the community coming up and saying, "We need PCs so we can have more SurveyMonkey building projects in Palo Alto." Given that, I don't see how we reform this in a way that people have faith in the process and say to themselves, "This is something that we want." Theoretically, people like it, but in the details people at least want to keep it open sometimes. I don't see how we get there in any sort of way to reform this. I think we'll spend huge amounts of Staff time on it. We'll come back over and over again, and we really will just be spinning our wheels. I think it's time to close the book on a PC process and see how it goes. As Council Member DuBois said, if we really find, we can always bring it back. I bet after five years of not having it, we'll never miss it. I'm going to support completely eliminating the PC process.

Vice Mayor Schmid: I'm not in favor of moving ahead with the PCs. Just a couple of notes others have mentioned. I think the late Ordinance is important. There were 14 people who stayed 'til 11:00 to speak. We probably got 30, 40 serious notes about it. It's hard to really deal with it without the Ordinance in front of you, so I think that is an issue. Affordable housing comes up as one of the benefits. I noted in the PTC discussions

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someone made the case of here's a list of every PC from 1990 and what the context was. I looked through my materials and I don't think I had that. That would have been very helpful to have to assess the past and to see when they were done, how many units were added, so you could look around town and say, "That's a PC." Not having that, I found, is a missing element. One of the key things the Council asked for was that the PCs be consistent with the Comp Plan in place at the time. Since we are just starting our Comp Plan discussions, it is hard to assess where we will be and what Comp Plan we're going to be consistent with. Just as an example, I would find it hard to vote for a PC without knowing how L-8, land use, comes out in the Comp Plan. Number 4, I think in the few PCs I've dealt with an issue is always negotiation. The Council has the problem of sitting at a negotiating table where on the other side of the table are lawyers and economists and business people with 30 years experience. We come, spending most of our time on parks and recreation and budgets and City personnel and Staff and so on. It's an uneven balance. I would think if we do go to a PC Ordinance, the starting point really should be the first element of the value of the benefit to the developer, so that we know right off the bat what type of funds we're talking about that's available to the developer and to put a context on the public benefit that's needed. Finally, the last item is just enforcement. As people have pointed out, we've had a hard time enforcing the PC. The only one that I see as really effective was the College Terrace where finally we said the fine would be, what is it? \$2,000 a day, which was the full value of the property that was supposed to be a public benefit if it was used at its maximum beneficial use by the developer. Something like that right up front would put a context on what we're talking about and what the negotiations would be about. I think right now we're not in the position to be talking about PCs. If we do come back to it, those are some of the elements that I would look for.

Council Member Wolbach: I think everybody here knows that I'm deeply concerned about the lack of affordable housing in Palo Alto. I think as a number of my colleagues have pointed out, there may be other and better ways to get affordable housing in Palo Alto than through the PC process. I used to be pretty clearly opposed to the PC and advocated eliminating it entirely. I'm not sure if I'm at that point right now. I think it is okay for people to change their views over time, if they're exposed to new arguments or new evidence. I've moved from a hard opposed to a tentatively opposed position on PCs. I probably would not support a motion tonight to eliminate them entirely, but I'll listen to the arguments when motions start coming up. Just a couple of other things for comments for consideration before we get to motions. Some of the things that really stand out to me that we really need to think about, just fundamental issues with anything when it comes to zoning. First question, is zoning a jacket or is it a straightjacket? You could

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argue both ways. You could argue either way. In both cases it protects you, protects you from rain and wind and cold. It might also protect you from harming yourself when you're not capable of making rational choices. There could be an argument for wanting to have very inflexible Zoning Codes with no exceptions at all. We do have other options as were mentioned before, so I won't go into those. Another key issue, who's in charge? Are developers in charge or is the community in charge or at least the community's representatives, the Council? If we do consider reintroducing PCs, I absolutely feel that intrinsic benefits are a must and extrinsic or cash benefits just won't fly. I'm intrigued by Council Member Burt's idea of an ad hoc committee that would come back with either specific reforms or perhaps a recommendation to eliminate in, say, six months or a year. That might actually dovetail to what Council Member Berman was discussing. I'll try and wrap up here pretty quick. On the question of Staff/Council/PTC interaction, there's been a lot talked about that this evening. There's been a lot talked about that in the press. I think it's really important. I am grateful to see, I believe, the two newest and, I think, also the youngest members of the PTC both here, staying through this conversation. You've taken a lot of heat. Some of it I think is fair, some of it I'm not so sure. I appreciate you being here. I appreciate the work that you put in. I strongly disagree with the recommendations that came from the PTC. I don't think they match where this Council's at. I think you've heard that. My question's actually for Staff. When is our next joint session with the PTC? If we don't have one scheduled real soon, I think it might be good to schedule one coming up soon, so that we can recalibrate our relationship with the PTC. We've heard the representative from the PTC tonight, Commissioner Fine, talk about how useful this has been and how he'll take our comments back to the PTC. I want to continue to build upon that, so we can kind of restore the trust between our groups.

Mr. Lait: There is no joint session currently scheduled.

Council Member Wolbach: I think we should think about getting one scheduled pretty soon. I think that would be very useful for everybody. At the same time, I don't have a problem with the PTC coming up with recommendations that are different from where we stand. I think it's useful to get devil's advocacy. I think it's very useful. As I said, I don't agree with what the devil advocated this time.

Council Member Filseth: I think the one thing that's really clear from this whole process has been that the push to bring back PCs and in some ways expand them, the push for this hasn't come from the community. I think one of the speakers said PCs were divisive. If anything, it looks to me like they're more of a unifying kind of thing. If there are divisions over them,

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they don't seem to be within the residential community. I think at this point, most voters in Palo Alto see them as loophole bombs that are more trouble than they're worth. I think that Council Member Burt's concept of finding other ways of getting what we want potentially through an ad hoc committee or something like that is a very good one. I think the baggage of PCs is going to be a distraction to that process. If anything, it'll hold us back and constrain us as we try to find other ways to get the things that we want. Affordable housing is clearly one of the main topics here. I think we should kill them and focus on finding out how to get what we really want for the community. If in the future the result of that is some future Council decides that actually PCs are a good way to do it, they can always be brought back. I think as long as we're sort of thinking through the filter of PCs, it's going to limit our ability to go after what we really want. I would favor getting rid of them and starting over.

Mayor Holman: Thank you to colleagues for their comments. I'm going to be consistent in my comments that I've said all along. I'm not in favor of eliminating PCs. I think we have some systemic issues that we need to deal with. The systemic issues are not specific to PCs. If we can look towards correcting those systemic issues, if we can look towards correcting those systemic issues, then we don't have the issues with PCs that we've seen in the past. Whether it's enforcement or whether it's excesses or whether it is flawed process, those apply to not just PCs. They apply to pretty much a broad spectrum of planning projects. I don't need to go down a list of what those are. I look forward to when Staff's coming to us in the near future—I believe October—with a list of things that should help rectify a lot of what has been wrong and just too subject to interpretation and mooshy rules and mooshy interpretations. What Staff is bringing forward is Code cleanup, clarification of interpretations, closing some loopholes, those kinds of things that will actually, in my mind, and hopefully will eventuate in better projects. I believe that there have been some very beneficial projects in this community that have been PCs. Many of those have been affordable housing projects. I don't think 801 Alma, I don't know specifically but I don't think, could be built now just from density bonus laws, because that was built when the barn door was wide open on density bonuses. Since then, we have put parameters around those and put constraints on density bonuses for what we really want them to do and not do and be able to do and not be able to do. There's that. There are also a few other things I think we can do that make PCs a lot more attractive and appealing and transparent to the public. Something I've advocated before is the City should initiate PCs if there's something that we need. If it's an infrastructure matter or a community need, then the City Council should initiate a PC and identify what we want, have a preliminary hearing with the public, find out if the community also wants whatever it is that we're proposing, and perhaps

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even put out a proposal to the public to get property owners to come forward with their ideas of where it might be and what it might look like. We'd have sort of a different version of something that we've referred to here as a beauty contest. That way it's not so one-on-one transactional. It's much more transparent. Proposals, when they come forward, should be conceptual, not full-blown, 30-page sets of drawings that we get a lot of times. That applies not to just PCs. I just really want us to identify that the issues that we have been addressing and been complaining about are not just intrinsic to PCs. PCs can deliver some good things, if we just let them and form the proper management around them as well as other planning items. I think I will stop there, except I have one question for Staff. The Ordinance actually that's in front of us has actually two different parts to it. One of them is the Planned Community (PC) District regulations. There's another section that's 18.79, Development Project Preliminary Review Procedures. I'm wondering if you're looking actually for two different motions as opposed to those run together, because the second one is something much broader than just PCs.

Mr. Lait: That's correct. If the Council found that the section dealing with Chapter 18.79 was worth moving forward, you could certainly make a motion to advance that portion of it and continue the dialog as you see fit for the other part.

Mayor Holman: If there were just some aspects of 18.79 that we thought should be implemented anon, we could just move that portion of it and not in its entirety.

Mr. Lait: Yes.

Mayor Holman: Council Member Berman, you're quick on the draw this evening. You had also mentioned that you wanted to make the motion on this item.

Council Member Berman: After listening to everyone's very thoughtful comments, I've decided I'm not the best driver of this bus. I'm going to go ahead and hold off for now.

Council Member DuBois: I'll make a motion and we'll see where it goes. I would direct Staff to come back with an Ordinance that removes the PC zone for all applications that aren't already approved and retains the provisions for existing PC zones.

Council Member Scharff: I'll second that.

Mayor Holman: What was the second part of that?

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Council Member DuBois: I don't think we can just delete the PC Zone Code, so we would retain the provisions for existing PC zones. In terms of enforcement, that would remain on the books.

Mayor Holman: That's seconded by Council Member Scharff.

MOTION: Council Member DuBois moved, seconded by Council Member Scharff to direct Staff to return with an Ordinance removing the "PC" Planned Community Zoned District for PC applications not already approved, retaining provisions for existing PCs.

Council Member DuBois: Real quick. I do think PC projects are very different from other kinds of development projects. There may be similar issues, but I really think they're amplified with the PC zone. It's a much cleaner slate with a lot more to be negotiated. In terms of the State Density Bonus Law, my understanding is, yes, we have a menu, but that doesn't prevent a developer from going completely off menu and asking for anything else. I also believe there's more concessions if it's 100 percent affordable housing. I really think public trust is critical, and we need to reestablish it. I think eliminating the PC zone outright is a good step. It frees us from the temptation. I don't think Council likes to limit itself, but we haven't demonstrated a great track record in our ability to negotiate a great benefit that's enforceable over time. Again, I think PC zones have been discussed almost since 2001 when this paper on flexibility versus constraint came out. I mean, it's 14 years of discussion. Let's free up our Staff by eliminating this distraction and not just kicking the can down the road.

Council Member Scharff: I think we shouldn't underestimate the amount of Staff time that goes into the PC Ordinance and the community angst it creates. I think both of those are strong reasons to get rid of the PC Ordinance. In some perfect world, we might be able to reform this. I'm just looking at the suggestions people make. One of the issues is that the benefits we get are not outweighed by how people feel about the rules being broken that affect them personally. They will always come out to Council and rightfully so be concerned about the impacts on themselves. It provides carte blanche to Council. It looks like sausage making when we come up here and talk about we want this, we want that, someone makes a motion and says "No, pay us this instead," or "I want my pet project over here," "I want this." I think it's unseemly, and I think that the community feels it's unseemly. I really don't see how we maintain and keep that trust and go through the process of reforming it. I would argue that maybe yes, maybe we could get there in some perfect world, but the cost in Staff time, we'd be so much better off using that Staff time for other things. I really would urge us to get rid of the PC process. We can always come back if someone really

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thinks that it's a great process and wants to come up with ways to do it, and there really aren't other ways to achieve things, and put it back on the table at some point if that's really necessary. I don't think it is. I was interested in the Mayor's comments that there are good PCs. There's some affordable housing projects that people mention it. There's the Opportunity Center. I believe in our Housing Element we're supposed to identify a place for another type of Opportunity Center, which we have in our Housing Element, somewhere we've put. We could always rezone something if an opportunity comes along for something like that. The issues with concessions, we put parameters around the concessions as a Council because we didn't want developers just going off on a whole bunch of things. Now we're saying maybe we want them to be able to do that with PCs. I say we don't really. We want to produce affordable housing. We want to produce affordable housing that is within certain parameters that we like. I think if we're unhappy and we're not producing the affordable housing we want, we can either loosen restrictions; we can grant more concessions for affordable housing if we want to at the discretion of Council. I'm convinced that we can do affordable housing projects and not have a PC process. I think affordable housing projects in this environment that are done through a PC process are less likely to have community buy-in than ones that are done outside of the PC process. I think it actually hurts the production of affordable housing to have the PC process. I would recommend that we go ahead and get rid of this.

Council Member Kniss: Even though I thought your comments were very good, Mayor Holman, I did. I can look back and see some projects as well. I think, because our job is to represent the City and we are voted to do that, I think this is a City that doesn't believe in the PC process anymore. They have sent heaven knows how many emails. They have sent messages in many ways. There are certain things that finally are broken and you say, "This is beyond repair and we're actually going to throw it out." I think that's where we are. I'm sad in some ways about it, because I think it had good prospects when it was used at the time. It was particularly used in the '90s, and a number of good projects came out of that. I think we're in a different period. We're in a period where we're either no growth or less growth or something that is clearly a difference in our community. We've had these chambers filled time after time after time with people who have been unhappy with where we're heading with certain items. Our job is to listen to the community, and it's pretty clear to me the community is saying, "We're kind of done with PCs." We'll find something else in the future, but at the moment, I think it's finished sadly.

Council Member Burt: I am somebody who is open to eliminating PCs, but I have not seen the basis to make that determination yet. I haven't seen that

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analysis where we've gone through and looked at not only what's been detrimental about PCs that were poorly executed and poorly enforced, but what benefits have occurred. Through this discussion over the last year and a half, we haven't seen any progress on that. We didn't see it really from Staff coming forward with that analysis. We didn't see it from the Planning and Transportation Commission. We really didn't see an effort by the Planning and Transportation Commission to reform the PC process, and so we're left with something that is unreformed. We have this choice of can it or embrace something that is clearly broken. I don't think that's the right choice. I want to know whether we have good alternatives to replace it, and then make our decision. If we do, for instance would an affordable housing overlay achieve within certain boundaries the objectives of affordable housing that are probably the biggest achievements that we've had in PCs, but not the only ones? People have said, "I don't know of any good PC projects." We haven't gone through that list and looked at it. I would say that this Council is not very familiar with really the history of the projects we've had, what's worked and what hasn't. Take for example the PC that's on the—I guess that's the southeast corner of University and Ramona, Spanish Colonial style on the end of Ramona. Not only is that a building that the design is generally very well embraced by the community, and it has a great design, it has courtyards that are favorable, it has an entire floor of underground parking that is public parking that came about as a result of that PC. I don't recall much of anybody ever criticizing that PC; they've embraced it. They like the building. They like the public benefit of parking. We haven't had enough of those kinds of results. If it was a choice of one in ten PCs being good and we're going to be stuck with nine out of ten that are bad, that's a pretty clear choice for me. Maybe that is what the choice is, but I just haven't seen us do the analysis. We haven't been presented with that analysis, and we haven't performed it. We've had a process that has been here for 50 years. It's clearly gotten sideways. It may not be reformable. We are not just here to listen to the public and follow them; we are here to listen to them. We are here to value their insights and their opinions. We're also elected to lead, and that may mean that in some cases we say, "We need to look at this more thoroughly than what has been done yet." Then make quality decisions which may in fact be for me eliminate the PC. I don't see it; I just don't see this as a responsible action by the Council if we tonight choose to eliminate it. I think we need to go through the additional analysis to make good, quality decisions. If that decision is eliminate it, I'm fine with that. I don't see that we've gotten to that point. I think the Council really needs to look at not just kind of running from a problem. I think we need to analyze it, understand it and make quality decisions. That's where I stand on it.

Mayor Holman: You're clearly not supporting the motion.

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Council Member Burt: No, and I guess ...

Mayor Holman: It sounded like you were doing a run-up to a motion.

Council Member Burt: All right. I will offer a substitute motion which is to request that the Mayor appoint an ad hoc committee for the purpose of evaluating the benefits that have been derived from PCs and whether there are alternative mechanisms that can be used to provide those benefits other than PCs or, alternately, at a high level a set of reforms that would be necessary to reform the PC process should we choose to retain it.

Mayor Holman: Looking for a second. I will second that.

SUBSTITUTE MOTION: Council Member Burt moved, seconded by Mayor Holman to request that the Mayor appoint an ad hoc committee for the purpose of evaluating the benefits that have been derived from PCs and if there are alternative mechanisms that could provide these benefits, or alternately, at a high level, a set of reforms that are necessary to reform the PC process should it be retained.

Council Member Burt: I think I've spoken to it fully. I encourage colleagues to reconsider just reacting and instead acting in a thoughtful, deliberate manner. We may still end up in the same place, but we'll have done it based upon good information and good, quality analysis.

Mayor Holman: In speaking to my second, I support this because I too am really concerned about—I think this is a good process and workable, but I also think that the original motion, with due respect to colleagues, is a recoiling from what have been some unfortunate circumstances. I guess what I would equate the original motion to is we've had three, that I can think of right off hand, appeals of projects in the CDC zone in the last, what? Year and a half. Does that mean you repeal the CDC zoning? Do we repeal the CS zone because we've had appeals in the CS zone? No. I think again pointing back to what Staff's coming forward with to make some changes to what have been systemic problems over a long period of time. I can mention other projects that are PCs that are widely acceptable and popular. The Hamilton is a PC. 449 Addison is a PC which created no change whatsoever that was visible to the public. It was a lot line that was dropped down, and the public got covenants to protect the two houses on the property. That was a PC, and it was the only way that that project was going to happen. There are some definite benefits and flexibilities that a PC offers that we just don't have any other tool that does that. The other thing that I would suggest is we talked about and the Staff Report talks about this as well, is there another tool that we could use instead of a PC. What about development agreements? They're subject to the same kinds of abuses that

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a PC is if not well managed. That's where I go back yet again to let's fix the systemic issues. Development agreements also are typically in place for 20, 25 years. That's the general life of a development agreement. I don't know that that's a requirement, but that's what they typically are. That means after that period of time that the development can change and you get something that isn't what the public has been expecting to have the long life. I agree with what Council Member Burt said and to a degree what Council Member Kniss said. We are here to listen to the public, and we're here to respond to the public. We're not necessarily here to follow the public. That's where we as electeds have to make some kind of judgment decision about what is the best action to take and on what basis and with what set of information. I don't think right now we have enough information, and I don't think there's good information in front of the Council or the public to understand really what the benefits are and have been of the PCs. It might be beneficial when we get another look at this to actually look at all the changes that Staff's recommending to try to change and fix the systemic issues. I think I've said enough to my second.

Council Member Wolbach: This has been a really good discussion. I am going to be supporting the substitute motion and not the prior one. As Council Member Burt pointed out, we may end up in the same place. We often talk about how we want good data. A lot of us say that. We want to see the evidence; we want to be thoughtful before we rush to judgment. I don't think we've done that yet. Council wanted to consider serious reforms of the PC process. That's what the Council wanted to do. The reforms that were brought to us, I think we all agree did not reflect the kinds of reforms the Council wanted to consider. We still haven't had a chance to do what we wanted to do. I say we speaking of the Council that existed prior to my joining it. I still think that's an important thing to do. I think it's important for this Council to consider very serious reforms, and then decide is there something worth salvaging. Until we've done that, it's hard to make a decision. It's unfortunate that we're extending this very tedious discussion. I apologize to Staff for giving you more time, but I do think that an ad hoc committee appointed by the Mayor, which I'm sure will include at least one of the people who supported eliminating them tonight, I think that would be very useful. Also, I will just say that I don't think that the community is unanimous, even amongst those who expressed concerns through emails and through public comment this evening. Many of them proposed reforms, not outright elimination. Many of them also were very clear that while working on those reforms, we should definitely continue the moratorium. I think we're all in agreement that we will not be lifting the moratorium. Again, we might end up getting rid of it, but we need to have the data. We need to have the full discussion which includes consideration of some really serious reforms.

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Council Member Berman: I quickly agree with everything the last three Council Members/Mayors have said. My big concern is that we're adding on another big element for Staff's plate. I will request that they push back, whether that's through the Mayor or however, with the changes that this will necessitate to other things, because this isn't a small feat. We've sat up here and said I think this, I think that, I think you could build that under existing. We don't know that. That analysis hasn't been done, and that needs to happen. I'd like to have people from the affordable housing development community come in and give us their opinion. They know this a lot better than we do about how best to develop affordable housing. We need to be thoughtful about how we go about this process. To me eliminating it is not that thoughtful way.

Vice Mayor Schmid: I think the points have been made that there are some real positive benefits that have come from PCs in the past. We have not that information in front of us tonight, that we can sit and talk about that. It seems almost premature to eliminate it without that. On the other hand, we do have a full plate on our agendas. I think the Comp Plan should take primary focus. I think we had said that whatever the PC comes up with, it should be in compliance with the Comp Plan. Let me make a suggestion that we add, after the word "request that," "following the approval of the Comp Plan" which would postpone this until the Comp Plan is done a year and a half from now or two years from now, also allow us to look at alternative mechanisms during that time that might obviate the need for PCs. At least keep the possibility open that this is one tool.

Mayor Holman: Council Member Burt, as maker of the motion?

Council Member Burt: I wouldn't accept it, but I would like the opportunity to respond to both that concern and the staffing concern in a moment.

Council Member Scharff: I'll second it. I'll second your amendment.

AMENDMENT TO THE SUBSTITUTE MOTION: Vice Mayor Schmid moved, seconded by Council Member Scharff to add to the Substitute Motion, "following the approval of the Comprehensive Plan" after "request that."

Vice Mayor Schmid: Just to conclude, I think some perspective and time, ability to look at alternative mechanisms would be useful in looking at PCs before we bury them.

Council Member Scharff: I don't mind necessarily if we move forward in the direction of the substitute motion as much if we put this off beyond the Comprehensive Plan. I just think Staff has way too much on their plate for us to spend all of this time going on the PC process. I think it's not useful.

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Even though I agree with the sentiments of Council Member Burt, I just think they're impractical in terms of getting all this information, going through it, when I made those points. If we put it off like this and discuss it after we approve the Comprehensive Plan, I can live with that.

Council Member Burt: First, I don't envision this ad hoc committee as being principally Staff-driven. I see it as principally a group of policymakers sitting down, going through the pros and cons with some Staff support on looking at the list of PCs and breaking that down. The bulk of the discussion would be having an opportunity for having a thoughtful, deliberative process on looking at these pros and cons. I'm in no rush to reinstate the PC, but I actually think that this process of the ad hoc committee would inform the Comp Plan process. Right now, what are we doing? Are we saying that the Comp Plan is going to go through and make this determination? Is this something that the Council should be giving the guidance on? We were ready to consider an action that would eliminate it before the Comp Plan. That's preceding the Comp Plan. Why would we not consider an action that would give us an informed decision making before the Comp Plan? I don't quite follow why we'd be willing to take a deliberate action to affirmatively eliminate PCs, but not be willing to take an action to figure out whether we should continue them. If we elect not to continue them on the basis of putting some guidance on determining alternatives that would achieve the objectives that would be lost if we didn't have PCs, I think that would also be very useful for the Comp Plan process. If, for instance, we were to say, "We think that an affordable housing overlay looks promising," let's give that guidance to the Comp Plan. If we don't go through this process, we're not going to provide that. That's my reason for not supporting the amendment to the substitute motion.

Council Member Kniss: I will be supporting the amendment and not go into great detail at this point.

Council Member DuBois: My motion was not a reaction. I've given this a lot of thought. I've been tracking PC zoning for several years before I joined the Council, and I've seen analysis of the list of PC zones. I would ask Vice Mayor Schmid to reconsider the original motion. We've tried to reform for a long time. I think we can lead by ending a bad program that's really outlived its usefulness. There are examples in the Minutes of other cities and how they do it.

Mayor Holman: I just want to speak very briefly to this. I'm finding myself aligned once again with Council Member Burt. I think that going through the process that is the substitute motion will help inform us on a lot of different levels. The things that need to happen as a community, as a Staff, as a

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Council, as a Planning Commission on how we do projects, how we evaluate them, how we review them and what information we need to make good decisions and have good outcomes as a result of any project review that we do. I will not be supporting the amendment.

Council Member Berman: I'm kind of torn, but would like to hear from Staff on what their thoughts are. I know that in theory it'd be great to have this not have too much Staff involvement. I think in practice it might end up being a little bit different and what impact this might have on the Comp Plan process. Just give Staff an opportunity to weigh in before I vote.

James Keene, City Manager: Thank you all for asking. I was a little bit worried that you might not ask us, which is problematic.

Mayor Holman: We expect you to insert yourself too, Jim.

Mr. Keene: We just spent a year and a half working on this and failed. I think that the support that would be required could potentially be more demanding than what we've done already. I would say that what the amendment to the substitute motion does is allow us as Staff to not even say whether or not you ought to eliminate it or reform it, but it acknowledges all the other big initiatives you've already assigned to yourselves and to us to work through. I've got on my wall 61 projects under the Council's priorities, and almost all of them are big and complex. In one sense, we minimally supported the PTC work in some ways. I'm not underestimating what the Staff did, but the hope always is when we get to that point that we're nearing the end. It's very clear we're not at the end here. My own reaction right now is the Council doesn't have enough information to know whether or not we could support the project. If it were me and you were really going to do the committee, I would have to say that you need to have a committee that doesn't rely on the Staff at all. I don't know if that's a kind of process you ultimately want to get into, because I don't think you can guarantee what the impact will be on the other assignments that you have already given us plus the other assignments that almost emerge on a regular basis, on a monthly basis. I mean just in the past couple of months the concerns about single-story overlay, looking at other ways to sort of protect neighborhoods have kind of popped up. That sounds a little more urgent right now than PCs that could have been on ice and could certainly be on ice for some time going forward, probably without any changes. There's nothing that precludes the Council from talking about PCs to some extent as part of the Comp Plan process, even if they exist or don't exist. I think your idea about a zoning overlay for affordable housing is a really interesting idea. That could be something that could exist without having a PC zoning. I'm really worried that we won't be able to support

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what you're asking in an effective way, just knowing the expectations that our community and the Council has. I'm sensitive to the fact that the Staff—honestly, they're already spread too thin. We're bringing back—what? Next week or something, another contract to bring in more outside consultant assistance to support—I mean adding \$350,000 in spending to support new requests. I think we need to be able to focus on what you've already assigned. That's my reaction. If you're not happy with it, then give us six weeks and we'll come back with the data that would explicitly be able to explain what the tradeoffs are in supporting one project versus another.

Council Member Berman: I'm going to support the amendment, but I'm going to ask and hope that my more planning knowledgeable colleagues essentially go through some of this thought process in terms of bringing back during the Comp Plan process some things that they might think could help achieve some of these objectives in different ways other than the PC process. It's not ideal, but we've just got too much going on.

Council Member Filseth: I'm thinking about what the City Manager just said. In some ways it almost seems like the difference between the motion and the substitute motion is, because of what you just said, to do this sort of assessment, that could take a long time. What's the status of PCs during that time? At the moment, there are going to be sort of these zombie things. I mean they exist, but we don't use them. It's sort of not clear. It seems to me that our choice is between we kill them but maybe we'll bring them back in the future or we've still got them but we don't use them. Neither one of those things seems sort of terribly clean to me. Based on what the City Manager said, I think at the very least I'm going to support the amendment.

Mayor Holman: With due respect to the City Manager, truly, I'm not going to support the amendment because of what Council Member Burt was saying and I was saying earlier. I think this can help inform the Comp Plan process. I'm okay with instead of Council Members and whoever doing as much as they can do and come up with some thoughts that could help inform the Comp Plan process. If we wait until after the Comp Plan process is over to undertake this, then we've missed that opportunity. There's like this real disconnect. I would ask colleagues just give us the chance to see what we can do with very minimal Staff support, what we could bring back to the Council for vetting to help inform the Comp Plan process itself. I will not be supporting the amendment. Vote on the board please. We're voting on the amendment which is to request that basically the substitute motion does not take effect until after the Comprehensive Plan completion. That amendment passes on a 6-3 vote with Mayor Holman, Council Member Wolbach and Council Member Burt voting nay.

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AMENDMENT TO THE SUBSTITUTE MOTION PASSED: 6-3 Burt, Holman, Wolbach, no

Mayor Holman: We return then to the substitute motion which is the Mayor appoint an ad hoc committee for the purpose of evaluating the benefits that have been derived from PCs and if there are alternative mechanisms that could provide these benefits or, alternately, at a high level a set of reforms that are necessary to reform the PC process should we retain it. Vote on the board please.

Vice Mayor Schmid: You left out the words "following the approval."

Mayor Holman: Yes. "Following the approval of the Comprehensive Plan." I'm sorry. Vote on the board please. That passes on a 6-3 vote with a different mix. Council Members Scharff, Filseth and DuBois voting no.

SUBSTITUTE MOTION AS AMENDED PASSED: 6-3 DuBois, Filseth, Scharff no

Mayor Holman: With that, question for Staff. I'd mentioned earlier that we have as a part of this Staff Report—noting the time, it is midnight straight up. We have Chapter 18.79. If I could ask if Staff can bring that back at a subsequent time, I think there are some things in this that are critical. I'll get to you in a just second, Council Member Filseth. I think there are some things in this that are critical and helpful and should be addressed in the near future, but I don't think midnight is the time to do that.

Council Member Filseth: I have a question here. Based on what we just approved, is it clear what the status of PCs is at this time?

Mayor Holman: We did nothing. They're still in limbo. They're still on hold.

Council Member Filseth: There's still a moratorium?

Mayor Holman: On hold, yeah. Timeout, whatever we called it. Yes. Can Staff bring back the 18.79 at a different time? 18.79 is Development Project Preliminary Review Procedures. It's already written, so it's no additional Staff work. We just need to find a time to address it on our agenda. Does Staff have any comments regarding that?

Ms. Silver: I think that if you wanted to further discuss 18.79 and make further amendments to it, I assume that you'll want to do that at a later meeting. We can certainly bring that piece of the Ordinance back later.

Mayor Holman: That's what I was suggesting, that we do that. We don't need a motion to do that, correct? Or do we?

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Ms. Silver: Why don't you make a motion? That would be fine.

Mayor Holman: I'll make a motion that the Staff bring back Chapter 18.79, Development Project Preliminary Review Procedures, at a subsequent Council meeting for Council consideration.

Mr. Keene: Thank you. I'm not intimately familiar with what that does. Just so we don't send any confusing messages to the public, this is really not related to PCs.

Mayor Holman: That's correct.

Mr. Keene: This would be procedures as they apply to other zoning or land use decisions.

Mayor Holman: This is a much broader consideration.

Mr. Keene: Pardon me?

Mayor Holman: This is a much broader consideration. Can I get a second to the motion?

Vice Mayor Schmid: Second.

Mayor Holman: Thank you, Vice Mayor Schmid.

MOTION: Mayor Holman moved, seconded by Vice Mayor Schmid to direct Staff to bring back changes to Municipal Code Section 18.79, Development Project Preliminary Review Procedures at a subsequent Council meeting.

Mayor Holman: If there are no questions ...

Council Member Kniss: I have a question. Why don't I just get it out now? In our packet for tonight is a long list of PCs, but it ends at the end of 2012. Have we done one since the end of 2012 that I've simply forgotten? If you look at packet page 4 ...

Mr. Keene: Was it 101 Alma, the last one that we did? I mean 101 Lytton.

Mayor Holman: Yes, yes.

Mr. Keene: SurveyMonkey building.

Vice Mayor Schmid: College Terrace ...

Council Member Kniss: Yeah. That's before I was here.

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Vice Mayor Schmid: College Terrace?

Mr. Keene: That was really before.

Mayor Holman: Council Members.

Council Member Kniss: I apologize for interrupting, but I thought that's an important thing to know, when did we last do one. Council Member Filseth said, "Where is it?" I'd say it's already been dead for three years.

Mayor Holman: Frankly, they have not been that prolific for a while. Edgewood Plaza was the one prior to that, I would say. Motion on the floor is to direct Staff to bring back changes to 18.79, Development Project Preliminary Review Procedures, at a subsequent Council meeting. That Staff Report is already complete. Vote on the board please. That passes on a 9-0 vote.

MOTION PASSED: 9-0

Inter-Governmental Legislative Affairs

None.

Council Member Questions, Comments and Announcements

Council Member Wolbach: Kind of dovetailing on the conversation that we just had on the subject of affordable housing. I would encourage all of my colleagues to think very carefully about how the frankly political environment in the community right now might discourage people who have good ideas about affordable housing from bringing them forward. I will leave my comments to that for now.

Council Member Burt: I wanted to briefly report that the Mayor had appointed Council Member DuBois and myself to a committee that is a water recycling committee—I'm trying to remember our exact title—in conjunction with the Santa Clara Valley Water District to explore potential directions and capital investment by the Water District in water recycling, either potable or non-potable, and different alternatives. We made the recommendation that that committee be expanded to include our partner agencies in our wastewater treatment plant. That was tentatively approved. At our next meeting, we hopefully will officially adopt that. At the nomination of Council Member DuBois, I was selected Chair of the committee. I think that this is a very interesting, exciting opportunity that could move us toward a sustainable water supply long term.

TRANSCRIPT

Council Member Kniss: I doubt anyone remembers, since we probably did it at 12:30 or 1:00 before we left on the break. I had three wishes at the end of that. One had to do with Everett and Hawthorne. The other with the light at Paly, and the last one had to do with the County Road which is Oregon. I want to let you know tonight that not only has the signage at Everett and Hawthorne made a difference, but I talked to Chief Burns earlier tonight. They gave a little bit of warning, but since the end of July until now they have issued 320 tickets. It actually turns out that there have not been a number of accidents at that. I will be glad to send that to you. I can't find more than five or six accidents that actually happened there. I'd say congratulations. Some of the things we actually get right, and this was one of them. I'm just delighted. The light at Paly is a different story, but I did see people up on high ladders today attempting to do something. Maybe that will actually happen too. The last was I was in touch with the County, but they haven't done much about the lights yet on Oregon that I think are still poorly timed and certainly very irritating. Thank you.

Council Member Scharff: I just wanted to comment on leaf blowers. I remember in 2009 when I got elected. I think it was some time in 2010 that we cut back the money on enforcement. We used to have a dedicated person with phone calls, if I recall correctly, who would take them and we'd deal with it. The economy has now improved. The City has money. The situation is different. I think it's time to focus on how we're going to deal with enforcing leaf blowers. We used to do a much better ...

Council Member Burt: Enforcing what? I could (crosstalk).

Council Member Scharff: Enforcing our Ordinance against leaf blowers.

Council Member Burt: I thought you opposed the addition of a Code Enforcement Officer at Finance Committee.

Council Member Scharff: That was a separate issue. First of all, we shouldn't be having an argument about this. We used to have a dedicated phone line, of which people would take that and then the Police Officers would enforce it. It was never the Code Enforcement Officers, Council Member Burt, which you know full well, who did that. I think we need to deal with that issue.

Adjournment: The meeting was adjourned at 12:10 A.M.