



CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting
June 6, 2016

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

Present: Berman arrived at 5:05 P.M., Burt, DuBois, Filseth, Holman, Kniss, Scharff, Schmid, Wolbach arrived at 5:14 P.M.

Absent:

Closed Session

1. CONFERENCE WITH CITY ATTORNEY

Existing Litigation - 1 Matter

Authority: Government Code Section 54956.9(d)(1)

Buena Vista MHP Residents Association v. City of Palo Alto, et al.

Santa Clara County Superior Court, Case No. 115CV284763

Existing Litigation - 1 Matter

Authority: Government Code Section 54956.9(d)(1)

Toufic and Eva Jisser, and the Toufic and Eva Jisser Revocable Trust v. City of Palo Alto, et al.

United States District Court for the Northern District of California – San Jose Division, Case No.5:15-CV-05295 EJD.

Mayor Burt: Our first item tonight is a Closed Session item, which is a conference with the City Attorney regarding potential litigation, two related matters, the first being Buena Vista Mobile Home Park Residents Association versus the City of Palo Alto, the second being the Toufic and Eva Jisser and the Toufic and Eva Jisser Revocable Trust versus the City of Palo Alto. I will entertain a Motion to go into Closed Session.

Council Member Kniss: So moved.

Mayor Burt: Motion by Council Member Kniss.

Council Member Holman: Second.

Mayor Burt: Seconded by Council Member Holman.

MOTION: Council Member Kniss moved, seconded by Council Member Holman to go into Closed Session.

TRANSCRIPT

Mayor Burt: Please vote on the board. That passes unanimously with Council Members Wolbach and Berman not present. We will now go into Closed Session.

MOTION PASSED: 7-0 Berman, Wolbach absent

Council went into Closed Session at 5:02 P.M.

Council returned from Closed Session at 6:14 P.M.

Mayor Burt: The Council has just returned from a Closed Session, Item Number 1. There is no reportable action.

Agenda Changes, Additions and Deletions

Mayor Burt: Our next item is Agenda Changes, Additions and Deletions. We actually have made changes from the published Agenda. One is that Item Number 18 has been moved forward.

Beth Minor, City Clerk: Correct. To be Agenda Item 14A. It'll be right after the bid, the second item on Action.

James Keene, City Manager: You're also removing Item 15.

Mayor Burt: Item 15 is being removed from tonight's Agenda, rescheduled ...

Mr. Keene: For the 27th of June meeting. That is the Storm Drain Blue Ribbon Committee recommendations regarding future storm water management funding. One other just technicality, Mr. Mayor. There is an at-places memo related to Item Number 10 on the Consent Calendar, approval of the first amended agreement with the San Francisquito Creek Joint Power Authority. It really is just a reformatted item. The substance of the item stays the same.

Mayor Burt: Thank you.

City Manager Comments

Mayor Burt: Our next item is City Manager Comments. Mr. Keene.

James Keene, City Manager: Thank you, Mr. Mayor, Council Members. I did want to share with the Council that the City has been recognized as a One Star winner by the Green Electronics Counsel as part of its Sustainable Purchasing Awards program, which recognizes excellence in the procurement of sustainable electronics. The award was the result of a collaboration

TRANSCRIPT

between our Information Technology (IT) and Purchasing Departments. The combined impact of all the 38 winners announced in this program resulted in almost \$17 million in energy savings and greenhouse gas reductions. Other One Star winners include such cities as the City of Seattle, the District of Columbia, and the Province of Nova Scotia. Also, as we do year after year, our City's Administrative Services Department received a Government Finance Officers Association award for achievement of excellence in financial reporting for the 2015 Comprehensive Annual Financial Report. The City has received this award going 19 straight years which does represent obviously a long-term, consistent record of exemplary financial management and reporting. Accounting Manager Laura Kirk and her team in Administrative Services Department (ASD) are to be specially recognized for their efforts in that regard. As you know, the VTA, Valley Transportation Authority, has engaged a consultant to review existing bus routes and make recommendations for future routing and scheduling resulting in the development of three concepts for public review and comment. At our request, the City's request, VTA hosted a community meeting on Wednesday, May 18th, at the Rinconada Library to present what they call the three next network concepts. Our Staff has been following this study closely, and we share our community's concerns regarding the level of cuts to service within Palo Alto under both what they call the 80 percent and the 90 percent concepts that were presented by VTA. Without getting into the details of what those measurements mean, our concern is of course that students, commuters and seniors who rely heavily on the service provided by Route 35, Route 88 and Route 89 to travel to and from school, work and services could be affected by these recommendations. These routes also provide direct connections to Caltrain, helping to support ridership on our key transit link. While some of our Palo Alto routes do not generate high levels of ridership when compared with some other VTA routes, the transit choices report prepared by Jarrett Walker and Associates for VTA in February 2016 identifies Palo Alto as one of the top activity centers in Santa Clara County. As the Council wellknows, this is due to the high concentration of employment and residential density. In fact, Downtown Palo Alto is one of only four zones in the County in the top tier for activity density related to these transportation measures. We hope that, as the next network initiative moves forward, VTA staff will look for ways to better serve Palo Alto and achieve both the City's goal for more convenient transit service and VTA's goal of improved efficiency. I have just signed today a letter to VTA General Manager Nuria Fernandez strongly opposing the recommendations of the 80 and 90 percent concept and requesting they limit service cuts to Palo Alto as they move forward. The topic of the Middlefield Road/North California Avenue Complete Street project, the Planning and Community Environment Department cordially invites our community members to attend an open house this Thursday, June 9th, in the City Council Chambers between 6:30

TRANSCRIPT

P.M. and 8:30 P.M. to learn about a minor roadway restriping project along Middlefield Road between Channing Avenue and Oregon Expressway and on North California Avenue between Alma Street and Jordan Middle School. Our Staff will present the revised concepts which include measures to reduce vehicle speeds, a separated bikeway in front of Jordan Middle School, new crosswalks where needed, and operational improvements at several signalized intersections. In response to community feedback on the last proposal in January, the current concept maintains most existing on-street parking on both sides of Middlefield Road and does not include bicycle lanes. Additional information on the project can be found on the City's website under transportation. Project Safety Net, our community collaborative related to youth well-being, has distributed a community survey as a follow-up to the Federal Center for Disease Control Epi-Aid investigation here in Palo Alto, that asks our residents and students, who must be at least 13 years of age to participate, about their insights and attitudes related to Palo Alto's efforts to prevent and respond to youth suicide. The online survey is available in English, Spanish and Chinese. To access the survey, one can go to the Project Safety Net website at psnpaloalto.com. The survey is anonymous and runs from last Friday, June 3rd, through the 24th of June. The information will be shared with the various stakeholders in the Center for Disease Control Epi-Aid process. Just a comment related to the Council Consent Agenda. I'll just do it here, right now. I did want to say thanks to Herb Borock for his comments on the High Speed Rail comment letter. Our Staff looked at the suggestions and will be happy to add a request that Palo Alto participate in the Section 106 process for historic resources. With that change, we're recommending approval of the draft letter which was crafted with input from the Council's Rail Committee. Other than acknowledging the passing of Muhammad Ali, that's all I have to report.

Mayor Burt: Thank you.

Oral Communications

Mayor Burt: Our next item is Oral Communications for items that are not otherwise on the Agenda. We have three speaker cards. If there are any other speakers who wish to speak, they need to bring a card forward at this time. Our first speaker is Claude Ezran, to be followed by Doria Summa. Welcome.

Claude Ezran: Good evening, Mr. Mayor, Council Members. I'm Claude Ezran, 770 Seale Avenue. I would like to invite all of you as well as members of this audience and people who are watching us to Palo Alto World Music Day, which this year will take place on Sunday, June 19th, which is also Father's Day, on University Avenue, which will be closed to

TRANSCRIPT

traffic. It will be from 3:00 P.M. to 7:30 P.M. I want to mention also that it's the eighth time now that we're having this festival in Palo Alto. It's becoming a good habit. We named this festival World Music Day; there are two meanings behind World Music Day. One is music from around the world. Let's not also forget that it's a celebration that is taking in place in something like 120 countries around the world, around the summer solstice on June 21st. For instance in the U.S., New York, Chicago, Los Angeles, San Diego, Pasadena are having huge celebrations. Oftentimes it's on June 21st which is the exact date of the solstice. In that case, we usually call the event Make Music Day. In Palo Alto, we expect to have about 42 musical groups playing jazz, classical music, pop, rock, Greek music, music from Eastern Europe and so on. This event would not have been possible without a very generous grant from the Stanford Federal Credit Union, which by the way is not only sponsoring Palo Alto World Music Day but also several other public events organized by the City or sponsored by the City of Palo Alto. I want to thank them for a very generous contribution. Finally, I want to say there are many employees of the City who are involved in organizing this event and helping me. I want to highlight first the help from the Palo Alto Police Department. Some of the officers have volunteered to work during Father's Day, so I'm very thankful for their contribution. Also, there are two employees from the Community Services Department, Amy Johnson and Stephanie Douglas, who have been very, very supportive of our efforts. I'm very, very thankful to all they have done to help me. I hope to see you there on Sunday, June 19th. Thank you.

Mayor Burt: Thank you. Our next speaker is Doria Summa, to be followed by Rita Vrhel.

Doria Summa: Good evening, Mayor Burt, City Council and City Staff. Doria Summa, College Terrace. I sent you an email and photos regarding an event that occurred in College Terrace last Friday morning. I'm here to follow up on that. On Friday morning, an extra-long truck came up Cambridge Avenue and attempted to turn left onto Yale Street. The truck could not make the turn, partially because of the traffic circle. After much maneuvering, the truck was able to go back up to Cambridge, then the truck attempted to turn right going the other direction onto Yale Street. Of course, it couldn't make this turn either because of the traffic circle and parked cars. It ended up taking out the stop sign, shearing the hydrant, sending the hydrant and a giant geyser of water into the air. The hydrant landed 23 feet away, narrowly missing an occupied building. It could have injured vehicles or bystanders. This accident never should have happened. The truck was not on an approved truck route, nor was it on the route allowed by the construction logistics plan for its destination, 1601 California Avenue, the upper Mayfield site. Trucks cutting through the neighborhood

TRANSCRIPT

for this project and others have been a frequent occurrence over the last two years. The College Terrace Neighborhood Association has worked with Stanford and Public Works Staff for years to try to prevent just these types of incidents and to keep large trucks from cutting through residential streets. After the accident, the driver told me that he had no idea how to get to the site and had not been given any instructions or a map. The approved route to this site is Page Mill to Hanover and then up California Street. Since he didn't have this information, he called his supervisor in Oregon, who instructed him to cut through the neighborhood which led to this event. We greatly appreciate all the efforts and help by Public Works Staff and Police Department, even very recently two weeks ago, to remind project leaders that their large trucks need to use the approved routes. Even so, this accident took place. We hope to work together with all parties to find solutions such as effective signage and better communications and accountability. Thank you.

Mayor Burt: Thank you. Our next speaker is Rita Vrhel, to be followed by our final speaker, Sea Reddy.

Rita Vrhel: Good evening. I have a copy of a letter from Jaclyn Schrier that I have provided to each one of you. It talks about Mayor Burt's comments on May 16th regarding tech firms in Downtown not being in compliance with the zoning laws. I was here for that meeting, so I did hear that comment. This letter brings out the issue of violation of permitted administrative, medical and professional uses. I'm not sure if that is or is not correct. I do wonder, since the comment was made, how the City goes about having these companies come into compliance with the existing zoning laws or is that a concern. I think the writer of this letter makes several excellent points, which are shared by many in the community. If anyone on the City Council would care to email me and provide any information as to how I should proceed, should I go to the Fire Department, should I go to Policy and Services, where do I go. Thank you. The other thing is that a couple of weeks ago the Olive Garden project was approved. I was also here for that meeting. It appeared that there was no transportation mitigation policy—I hope I'm calling it the right thing—but at the end of the meeting, everybody agreed that a 30 percent reduction in transportation would be worthwhile. I guess I have question as to how are these transportation mitigation policies, once they're put into place, followed. Do the companies submit data to the City Council or to someone? Is this just an idea which everyone hopes will come to fruition? Are the programs actually occurring with substantive results? It seems like traffic is still horrible. Again, if anybody wants to email me on how these programs are implemented and monitored, I would be grateful for that. Thank you.

TRANSCRIPT

Mayor Burt: Thank you. Our final speaker is Sea Reddy. Welcome.

Sea Reddy: Good evening. I want to take this opportunity to side with Doria about the concerns of the construction going on in our neighborhoods. I noticed today there is like seven to eight trucks all around us, surrounded by a huge amount of whatever. I plead with the people that are working in that industry to be careful. We have a lot of people that are riding their bikes and walking. Be very careful. That's the only way that we could minimize, and we want zero accidents. Not low accidents, zero accidents. Thank you. I also want to take this opportunity to congratulate the two winners that'll be tomorrow's election. I can read the tea leaves. Is that how they call it in America, they say in America? I congratulate them. It's a very open process. We've spent \$2.3 million, I heard. We're going to spend another million-plus. It doesn't have to be. Ideas don't need to be that expensive. I was talking to Dr. Robert Reich the other day. I said, "What do you even need 1,500? You could do it with your ideas." I think we are getting there. Our ideas are heard. I appreciate your kindness, your thoughtful suggestions, the friends I made. It's nothing to complain about. I'll continue the journey, possibly at the 18th District level to Congressional District in 2018. Thank you all.

Mayor Burt: Thank you.

Minutes Approval

2. Approval of Action Minutes for the May 9 and May 16, 2016 Council Meetings.

Mayor Burt: Our next item is approval of Minutes. We have Minutes from the meetings of May 9th and May 16th.

Vice Mayor Scharff: So moved.

Council Member Berman: Second.

Mayor Burt: Motion to approve by Vice Mayor Scharff, seconded by Council Member Berman.

MOTION: Vice Mayor Scharff moved, seconded Council Member Berman to approve the Action Minutes for the May 9 and May 16, 2016 Council Meetings.

Mayor Burt: Please vote on the board.

MOTION PASSED: 9-0

TRANSCRIPT

Consent Calendar

Mayor Burt: Our next item is the Consent Calendar. Entertain a Motion to approve.

Female: (inaudible)

Mayor Burt: I was going to allow public speaker after the Motion to approve.

Council Member Kniss: So moved.

Council Member Holman: Second. Looking to the maker of the Motion, that's incorporating the recommendations and suggestions by Mr. Borock and confirmed by City Manager?

Council Member Kniss: Yes.

Council Member Holman: That's Item Number 13.

Mayor Burt: Can I ask a clarification? Is it incorporating specifically what Mr. Borock said or what the City Manager said he intended to do, not necessarily identical?

Council Member Holman: I understand. Correct me if I'm wrong. I understood the City Manager to concur with Mr. Borock's comments regarding Section 106 process. I thought there was some reference to his suggestion about commenting dates also, which were in the latter part of Mr. Borock's letter.

Mayor Burt: I'm just wanting to clarify whether you are explicitly saying Mr. Borock's language as opposed to the thrust and at the City Manager's discretion.

James Keene, City Manager: I'd really prefer, I think, the Staff's comments were to be responsive and respectfully responsive to Mr. Borock's comments. I'd feel better if the—I can't find them right now. The way that I expressed it would be the language that he would be asking us for.

Council Member Holman: Say that again please.

Mr. Keene: The way that I had worded during the Manager's Comment would be the direction, the change that's correct.

Council Member Holman: If you could find that to repeat it, it would be most helpful. Apologies.

TRANSCRIPT

Mayor Burt: I think the distinction is whether we are adopting it with the City Manager's statement that he intended to address the thrust of what Mr. Borock's comments were.

Council Member Holman: That's what I'm trying to get clarification on.

Mr. Keene: Sorry. I'm looking for that right now. Hillary, could you come up here and help me with this? Just (crosstalk).

Mayor Burt: Jim, I'm not sure that she's looking for the exact language but the intent.

Council Member Holman: Yeah.

Mr. Keene: The intent was to be responsive to the comments in part.

Hillary Gitelman, Planning and Community Environment Director: Thank you. Hillary Gitelman, the Planning Director. We spent some time reviewing Mr. Borock's suggestions. Our thought was to incorporate his suggestion regarding Section 106. The other comments related to the comment period and the duration of that, we felt like we didn't need to incorporate those. We've completed the letter. It's going to meet the deadline as originally articulated by the agencies.

Mayor Burt: Is that acceptable?

Council Member Holman: Yes. I'd specifically reference Section 106. Just a quick process point. I thought we usually heard from members of the public who wanted to speak to the Consent Calendar before we made a Motion about the Consent Calendar.

Mayor Burt: I don't know.

Council Member Holman: I'm pretty sure we do, because it could be that a member of the public could influence our vote potentially.

Mayor Burt: It's certainly before we vote. That Motion to approve has been made by Council Member Kniss, seconded by Council Member Holman, with the modification as stated by Director Gitelman. We have one speaker, Omar Chatty, to speak on Item Number 13.

Omar Chatty, speaking regarding Agenda Item Number 13: Hello. My name's Omar Chatty. As you know, from time to time I come to this esteemed Council and the Mayor to give you the latest kill numbers on Caltrain High Speed Rail since 1995, when the Peninsula Joint Power Board and High Speed Rail and Sacramento agreed to use the Caltrain standard-

TRANSCRIPT

width tracks. Two hundred sixty-five people have been slaughtered on these tracks since 1995; 75 have been killed since I've been coming to you for the last 5 years, and six this year. Like clockwork, turning a calendar, one a month at least on this track. Admittedly, many of them are suicides, but it's very easy to do. It's unfortunate how many have been Palo Altans, even if they have to go to Mountain View to kill themselves. I think the comments from Palo Alto are not unreasonable. I hope you will consider them and Mr. Borock's input. I do want to comment that the Federal and State safety people have not discussed blended solution. It's a political solution with political bodies, not Federal and State safety. It is not unlikely that the safety people will come back and say, at the State or Federal level, you can't have four train different speeds between 50 and 110 miles an hour on the same single track where you're doing a two-track, even with positive train control. I would ask you please to consider again Bay Area Rapid Transit (BART). At least reaching out because it's going to take 15, 20 years and over 200 people will die. Less die with BART, but there are still some suicides. I want to remind you of something Joe Simitian seems to overlook. In 2008, the people of Palo Alto gave a two-thirds vote for BART to San Jose using operation and maintenance. That's what that was about in 2008. It was two-thirds. That's been ignored by the City Council and others. However, luckily in November we had Redwood City voters vote out of office Mrs. Jim Hartnett, whose husband is the Chief Executive Officer (CEO) of the Caltrain High Speed Rail and, until last year, was on the High Speed Rail Board. Maybe that's one way to approach knocking out High Speed Rail in addition to the future ballot measure. On the November ballot measure proposed by the Leadership Group and VTA, it's important to note that \$1 billion of that is for Caltrain, really High Speed Rail, the grade separations and the electrification. All that's for High Speed Rail. Hopefully the public will be aware of that and kill it. That's unfortunate to say that. If we do get grade separations, I would encourage this Council to consider making the grade separations wide enough to handle BART in the future when the people realize what's going on or decide to support BART over Caltrain and allowing for two tracks and a single track for the freighter. Thank you.

Mayor Burt: Thank you. Council Member Schmid, did you have a question?

Council Member Schmid: Yeah. The Motion, I think the City Manager requested to substitute an at-places "10" for "10" in the packet. Is that included in the Motion?

Council Member Kniss: Of course.

Council Member Holman: Agreed.

TRANSCRIPT

MOTION: Council Member Kniss moved, seconded by Council Member Holman to approve Agenda Item Numbers 3-13 including changes to Agenda Item Number 10- Approval of the First Amended Agreement With the San Francisquito... as outlined in the At Place Memorandum and Agenda Item Number 13- Approval and Authorization for the Mayor to Sign... as outlined during City Manager Comments.

3. Resolution 9590 Entitled, "Resolution of the Council of the City of Palo Alto Approving two Escrow Deposit and Deposit Agreements, Authorizing the Deposit of \$6.1 Million Into Escrow Funds Related to two Series of Library and Community Center General Obligation Bonds and \$2 Million for the University Avenue Parking Assessment District Bonds for the Purpose of Early Redemption of Such Bonds, and Authorizing Related Actions."
4. Approval of Contract Number C16163554 for \$206,056 With Trafficware for San Antonio Road SynchroGreen Adaptive Timing System Implementation and an Associated Amendment of the Budget Appropriation for the General Fund and Capital Fund.
5. Resolution 9591 Entitled, "Resolution of the Council of the City of Palo Alto Summarily Vacating a Public Utility Easement at 3276 Kipling Avenue."
6. Acceptance of the Palo Alto Fire Department Quarterly Performance Report for Third Quarter Fiscal Year 2016.
7. Approval of Four Contracts for On-Call Inspection and Plan Review Services in a Combined Amount Not-to-Exceed \$7,700,000 Over a Three Year Term Ending June 30, 2019 With: (1) 4Leaf, Inc.; (2) Kutzmann and Associates, Inc.; (3) SAFEbuilt; and (4) Shums Coda Associates.
8. Approval of a Contract With Airport Management Consulting Group in the Amount of \$183,008 for Planning and Consulting Services at Palo Alto Airport, Including Evaluation of Options in Managing the Office Spaces and Hangars, Development of Primary Management and Compliance Documents Including the Airport Rules and Regulations, Minimum Business Standards and Leasing/Rents and Fees Policies, and Related Matters; and Approval of Budget Amendments in the General Fund and Airport Fund.
9. Approval to Amend the Current Purchase Order to Include Equipment for new Ambulance Purchase.

TRANSCRIPT

10. Approval of the First Amended Agreement With the San Francisquito Creek Joint Powers Authority and its Member Agencies for Funding of Construction of the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project, San Francisco Bay to Highway 101.
11. Ordinance 5384 Entitled, "Ordinance of the Council of the City of Palo Alto Repealing Ordinance Number 4936, the Council's Prior Authorization for Natural Gas Purchases (FIRST READING: May 16, 2016 PASSED: 9-0)."
12. Ordinance 5385 Entitled, "Ordinance of the Council of the City of Palo Alto Amending Municipal Code Sections 12.32.010 (Water Use Restrictions) and 12.32.020 (Enforcement) (FIRST READING: May 16, 2016 PASSED: 9-0)."
13. Approval and Authorization for the Mayor to Sign a Letter Responding to the California High Speed Rail Authority's Notice of Intent/Notice of Preparation.

Mayor Burt: Please vote on the board. That passes unanimously.

MOTION PASSED: 9-0

Action Items

14. PUBLIC HEARING: to Hear Objections to the Levy of Proposed Assessments on the Palo Alto Downtown Business Improvement District and Adoption of a Resolution Confirming the Report of the Advisory Board and Levying Assessment for Fiscal Year 2017 on the Downtown Palo Alto Business Improvement District.

Mayor Burt: We will now move on to Item Number 14 which is a public hearing to hear objections to the levy of proposed assessments on the Palo Alto Downtown Business Improvement District and adoption of a Resolution confirming report of the Advisory Board and levying assessment for Fiscal Year 2017 on the Downtown Palo Alto Business Improvement District. Mr. Keene, did you want to kick it off?

James Keene, City Manager: Mr. Alae, did you have any opening comments?

Khashayar Alae, Senior Management Analyst: I don't have any opening comments. There is an at-places for you, Mr. Mayor, with some comments, a script for you.

TRANSCRIPT

Mayor Burt: I'm sorry. We couldn't hear you.

Mr. Alae: There's a script there for you for reading.

Mayor Burt: Council Members, any discussion? Yes, go ahead and ask questions at this time. Council Member DuBois.

Council Member DuBois: Am I addressing questions to Staff?

Mayor Burt: Who do you want to ask questions of?

Council Member DuBois: I wasn't sure. I guess Mr. Cohen would answer questions or Staff, either one.

Mayor Burt: If there are—Cash, are you prepared to answer all the questions? There may be some directed toward the representatives of the Business Improvement District (BID).

Mr. Alae: I think we're able to certainly answer any questions. I think the City Attorney is able to answer questions, and Russ is able to answer any questions.

Council Member DuBois: I'll try to be quick here. We've seen a lot of growth Downtown. I just wondered has there been any discussion about changing the boundaries of the Business Improvement District.

Russ Cohen, Palo Alto Downtown Business Improvement District: We haven't discussed that lately, because in order to expand the boundaries or even increase the fees, we'd basically have to go back to square one and reorganize and reemerge the organization. That is really problematic in our view.

Council Member DuBois: I had a question about how you defined the benefit. Could you maybe speak to that a little bit in terms of what the benefits are?

Mr. Cohen: I think if you look at our annual report, you'll see a long list of accomplishments that are the fundamentals of what we do at the BID. The two fundamentals would be cleanliness and safety. If we don't concentrate on cleanliness and safety, then we can promote as much as we want, but nobody will come because it's not safe and it's not clean. Another benefit to our organization is that we represent all the businesses within the district as a conduit to City Hall. They count on us to represent their interests here at this dais.

TRANSCRIPT

Council Member DuBois: it was interesting reading the definitions and categories of companies. I think a large professional company was considered ten or more employees. It seemed kind of obvious. There's not a category for a company with several hundred employees. It's considered large, I guess.

Mr. Cohen: Ten or more is how we definite it.

Council Member DuBois: If a business has multiple locations, do you charge per (crosstalk)?

Mr. Cohen: Per address.

Council Member DuBois: Just a few quick comments. It was kind of a mismatch between what's been going on Downtown versus the way the business development district was set up. It kind of matches our zoning in terms of categories of companies. Talk a lot about retail, talk about small professional offices. There's been some stuff in the press lately about kind of large professional offices. To me, it was striking the mismatch. I do think as companies come Downtown, there's a lot of benefit to attracting, recruiting, retaining professional staff that the Business Improvement District actually contributes to. Some of your lower rates for people that are on the first floor, who aren't traditional retailers—it's just more of a comment that you might want to think about redefining benefits. I think a lot of that attractiveness is what's bringing these very large companies Downtown. I still don't really understand in terms of being able to change your boundaries or rates, but we have a lot of different boundaries Downtown. Maybe not for this year, but if you guys could consider maybe aligning with the Parking Assessment District or some other boundary. I do think Downtown is growing, but we have this kind of old boundary and kind of old fees at this point.

Mr. Cohen: I'll certainly take your comments back to the Board.

Council Member DuBois: Just my comments. Thank you.

Mayor Burt: Council Member Kniss.

Council Member Kniss: Just looking back through this and trying to remember—I wasn't on the Council then—why this was established and when it was established. Is it actually 2004?

Mr. Cohen: 2004.

TRANSCRIPT

Council Member Kniss: Can you remind me what was going on economically and so forth at that point that brought this together?

Mr. Cohen: I can try. It was certainly ...

Council Member Kniss: Since it was established by the City Council.

Mr. Cohen: ... certainly before my time. I'll try my best. I can call folks like Barbara Gross and Georgie Gleim who were there at the time of the foundation of it. As I understand it, the Chamber of Commerce at that time had what they called a Downtown marketing committee. That's how the BID grew out of that committee. There was an interest in focusing the attention on Downtown to make it a more vibrant location and a destination. There was an interest in finding a funding mechanism in which to do that. The BID actually grew out of the Chamber of Commerce.

Council Member Kniss: It looks like it was formed as a result of, I'm guessing, the early recession in that decade that persisted at least through 2003.

Mr. Cohen: Some tell me—folklore here; I wasn't here—that you could roll a bowling ball down University Avenue at that time. It really wasn't ...

Council Member Kniss: And not hit anyone, I presume.

Mr. Cohen: Not hit anyone, right. I didn't finish the metaphor there.

Council Member Kniss: Thank you for the reminder.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. I'd like to address my questions to Russ as well. Just briefly, the overview. You collect roughly how much money?

Mr. Cohen: About \$131,000 to \$140,000. Are you asking how much we invoice or how much we collect?

Vice Mayor Scharff: How much you collect.

Mr. Cohen: It's just shy of \$100,000.

Vice Mayor Scharff: It's about \$100,000. After you pay administrative staff and that kind of cost, what's left?

Mr. Cohen: About 30.

TRANSCRIPT

Vice Mayor Scharff: What do you with that 30? What did you do with that 30,000 roughly?

Mr. Cohen: If you look at our budget that is submitted to you, that you have before you, you'll see exactly how we allocate those funds. Everything from administrative costs to event planning, printing, postage, the list goes on. Lamp post banners are a big expense. Lamp post banners that you see throughout Downtown, that's a major expense. Our financial audit every year is a major expense.

Vice Mayor Scharff: You talked about—the primary goals were cleanliness and safety. Yet, the City is the one who pays for all that.

Mr. Cohen: Not exactly accurate.

Vice Mayor Scharff: The BID pays for none of it.

Mr. Cohen: That's not exactly accurate either. We partner with the Parking Assessment District. Up until this year, there was money allocated for street cleaning or sidewalk cleaning. We also contribute to the Downtown Streets Team. We promote their efforts financially.

Vice Mayor Scharff: What do you do for the Downtown Streets Team when you say do it? When I read through the list of accomplishments, it feels to me like what you really do is you do a lot of event planning, which is great.

Mr. Cohen: Some.

Vice Mayor Scharff: You put signs out, and you advocate on behalf of the businesses in the Downtown. Everything else the City actually pays for, and you take credit for it. That's sort of how it feels.

Mr. Cohen: That could be how it feels, because we do pride ourselves on public-private partnerships. One of our greatest partners is the City of Palo Alto itself. For example, I might come to the City, and I might advocate for Public Works, for example, to paint the University Avenue tunnels. Now, we did not pay for that project, but we advocated for that project. We made it a priority for the Public Works to get that project done. You're absolutely right. We'll take credit for getting the project done and spearheading that effort. From a funding standpoint, no, we did not pay for it. That's a good example.

Vice Mayor Scharff: In the last year, what were the three things you think would not have happened if it wasn't for the BID?

Mr. Cohen: You're asking me to remember my accomplishment list.

TRANSCRIPT

Vice Mayor Scharff: I'm asking you the top three things you're proud of, that you think would not have happened if it wasn't for the BID.

Mr. Cohen: I think our lamp post banner program defines our district in a differentiating way than any other downtown. I'm particularly proud of that, because it helps brand our Downtown. What typically happens in a downtown is there are banners that are put up once a year, and they last for probably 10 years. They get old and stale, and they do not differentiate the downtown experience as we have with our banner program. Our banner program is unique. Once again, for that program what we've done is form private-public partnerships and found sponsors to underwrite the cost of changing out those banners at least four times a year. The installation may come out of our budget, but the actual production does not.

Vice Mayor Scharff: Thank you.

Mayor Burt: I have a couple of follow-up questions for you, Russ, and then for Staff. On Page 290 of the Packet, it talks about the sidewalk cleaning, steam cleaning, once a month. Who pays for that?

Mr. Cohen: That did come out of the Parking Assessment District funds.

Mayor Burt: What's then the relationship between the Assessment District and the BID?

Mr. Cohen: We, for the last five years, have been the administer of the Parking Assessment District Committee. That used to be a standing committee of the Chamber of Commerce. What was realized over time was that the issues that were brought forward by the Parking Assessment District were basically Downtown issues. We took over the sort of administration, doing the minutes, doing the secretarial duties, and trying to hear what the issues were and trying to influence that budget.

Mayor Burt: The Downtown Streets Team, is there a funding that is going to ...

Mr. Cohen: There's two funding mechanisms. One through the BID itself in our budget, and one through the Parking Assessment District. The Parking Assessment District funds go directly to the Downtown Streets Team particularly for the maintenance of the garages.

Mayor Burt: What's the dollar amounts coming from the Assessment District and the BID respectively to the Downtown Streets Team?

TRANSCRIPT

Mr. Cohen: I do know the BID amount off the top of my head, which is \$5,000 per year. I do not remember the amount from the Parking Assessment District. Barbara reminds me it's about 90.

Mayor Burt: Ninety thousand?

Mr. Cohen: Right.

Mayor Burt: The sidewalk cleaning, you're saying that is an accomplishment of the BID because you ...

Mr. Cohen: Because we work closely with the Parking Assessment District and City Staff. I meet regularly with Public Works Staff.

Mayor Burt: I think it would be a lot better if there was language that was really more credible in terms of what the role is. That's not the way the report from the BID reads, I think, to an objective reader. Without the clarification you just provided, I would have interpreted it that the BID was paying for the sidewalk cleaning.

Mr. Cohen: Duly noted.

Mayor Burt: Just in general, I mean, that's an example. The same thing when you reference the Downtown Streets Team. \$5,000 toward it is notable, but that's not a primary portion of the funding.

Mr. Cohen: There are two different funding sources and two different buckets in which those funding goes. The Parking Assessment District funding goes specifically to parking garages. The other funding goes to support their efforts on the Downtown streets.

Mayor Burt: Did I understand you correctly that there's \$5,000 coming from the BID and \$90,000 coming from the Assessment District?

Mr. Cohen: Correct.

Mayor Burt: Does the BID do the billing to the members?

Mr. Cohen: This year, we tried a new offsite system with a third-party vendor. A company called Muni Services, LLC does the invoicing.

Mayor Burt: What about the collection? You had talked about first \$131,000 to \$140,000. When the question was clarified as to the incoming, it was \$100,000. There's X amount invoiced and Y amount collected.

Mr. Cohen: That's correct.

TRANSCRIPT

Mayor Burt: How does that work? Who is responsible for closing that gap between the billed amount and the ...

Mr. Cohen: Ultimately, it's the BID's responsibility to make sure that we don't have a gap in that funding. Unfortunately, there is and there always has been. It's very difficult to close that loop. There is no carrot and stick. There's a lot of companies out there that simply don't pay their invoices, their assessment fees. There's a variety of reasons why that happens. I'll give you a couple of examples. Let's take Bank of America, for example. By the way, the highest assessment fee is a financial institution. They get their invoice to the local branch, and they don't know what to do with it. They pass it on to a regional branch. The regional branch sends it to their company headquarters in South Carolina. They don't know what to do with it. It just goes into this bureaucratic quagmire, sort of the swirling vortex. It's very difficult to get a company like Bank of America, for example, to pay a simple \$500 invoice. Another example might be a startup. A startup says to themselves, "We're only going to be here for a year or two. We're either going to get sold or we're going to go away. What is the incentive for us to pay the invoice?" There's a lot of different reasons why they don't pay the invoice. We're lucky that our attrition rate is what it is; it could be larger.

Mayor Burt: Thanks. I want to direct the other question to Staff around really the purpose of the BID. The question is about whether the BID has a lobbying function. We've had the BID come before the Council and be strong lobbying advocates often against positions that the City is intending to take. As I look at the Bylaws, there's a section that says including but not limited to the following activities. Then, it goes into a description of the following activities that seem to describe what was the intention of the BID, which really I believe when it was set up didn't include lobbying, but it's morphed into that. The question is really is that a proper use. If the Council did not want to enable a body, because we create the BID, who has as one of its functions to oppose the actions of the Council ...

Mr. Cohen: And support.

Mayor Burt: ... how would we—pardon me?

Mr. Cohen: And support as well.

Mayor Burt: Thank you. We're done. I'm speaking to the Staff.

Mr. Cohen: I'm sorry.

Mr. Burt: You can sit; that's okay. How would we go about addressing that?

TRANSCRIPT

Molly Stump, City Attorney: Thank you, Mayor Burt. City Attorney Molly Stump. In addition to the Bylaws, which you referred to, there are a couple of other relevant documents. The Palo Alto Downtown Business and Professional Association is essentially a contractor to the City and is the City's partner in administering the—both collecting the funds at an administrative level and then engaging in the activities benefiting the businesses in the district. Under both State law and the City's contract with the Business and Professional Association, the purpose of the funds is described as acquiring, constructing, installing or maintaining improvements and promoting activities that will benefit the businesses located and operating within the district. It's really a policy question for the Council as to whether the activities described in the annual report and otherwise known to the Council fall within that description or to some degree are other types of activities. The City's contract with the Downtown Business and Professional Association provides that if the Council has some concerns about the proposed activities in the annual report, that there is a pause in approving that report, which is before you tonight, of up to 30 days to allow the Staff to consult with the Business and Professional Association to resolve any Council concerns. That is one option. The Council could engage in that process, and that puts this process on hold for no more than 30 days. Ultimately, the City does have a contract with the Business and Professional Association that was entered into in 2004. It is an annual contract that's renewed automatically by the approval of the annual report that's before you tonight. That contract potentially at some point could not be approved and/or it could be terminated during the course of the year on 90 days notice by either party.

Mayor Burt: This is a Public Hearing, and I'm supposed to provide specific remarks. If the Council wants to have any other discussion and action, should I nevertheless open the Public Hearing, provide the remarks and then consider whatever action, whether it be to go forward or otherwise?

Ms. Stump: Yes. Certainly, you do need to open the Public Hearing and provide an opportunity for members of the public generally but in particular the businesses against whom a charge is levied to register their concerns or comments.

Mayor Burt: At this time, I'd like to open the Public Hearing, which is a levy of an assessment on businesses in the Palo Alto Downtown Business Improvement District for Fiscal Year 2017. It's the time and place for the public hearing on the levy of an assessment on the businesses in the Palo Alto Business Improvement District for FY 2017. In February 2004, the City established the Palo Alto Business Improvement District. Annually, the City must hold a public hearing to authorize the levy of an assessment in the

TRANSCRIPT

next fiscal year. On May 16, 2016, the Council set this time and day as the time and date of the Public Hearing on the proposed levy of an assessment for Fiscal Year 2017. The Council appointed the Board of Directors of the Palo Alto Downtown Business and Professional Association as the advisory board of the BID. The advisory board has prepared its annual report for the 2017 fiscal year and submitted it to the Council. The City published the required notice in a local newspaper of record regarding reauthorization of the BID for 2017 as required by bid law. All interested parties will have an opportunity to provide testimony this evening. At the conclusion of the public hearing, the Council will determine whether a majority protest exists. A majority protest will exist if the owners of businesses that will pay 50 percent or more of the proposed levy of an assessment have filed and not withdrawn a written protest. We've actually already had the brief report by Staff and the BID representative. The public hearing is open. I see we have at least one card. Our first speaker is Barbara Gross. Welcome.

Public Hearing opened at 7:04 P.M.

Barbara Gross: Hi. I just wanted to clarify some points as to the origin of the Business Improvement District and how it came about and why it's important. The Chamber of Commerce, as Russ described, had a Downtown marketing committee that was an all-volunteer committee. It was impossible to keep up the amount of volunteer hours that it really took to be able to create the relationships within City Hall and to follow up on all the activities that the immediate Downtown core business district really needed to pay attention to. As a result of that, with some help from actually City Staff, the Business Improvement District was created. As of today, we work in concert with the Chamber of Commerce. As the Chamber of Commerce is concerned with the entire City, the Business Improvement District focuses on the Downtown. We also have, as Russ said, under our auspices the parking district committee as well as overlooking Lytton Plaza. The Friends of Lytton Plaza, who redeveloped that, handed it over to the BID to oversee its upkeep and improvements, which the BID has by putting in new plants, encouraging the City, which is great because that's part of the relationship-building, to install additional trees and umbrellas and some additional tables, because the park has been so successful. Again, what we do, based on the official requirements of a Business Improvement District, which is to have the City administer the funds but have the contract to the Downtown Professional Association actually activate all of those things. The music on the plaza and those kinds of events in the Downtown, Meet the Street and other events in the Downtown, trying to bring business to businesses together as well as the residential community to come Downtown and enjoy what they can. The focus is to have a Downtown monitor really overlooking benches, which Russ does, in concert with the banks and all the people in

TRANSCRIPT

the Public Works Department, the tree wells, the cleanliness of the garages, the receptacles that he's been working on with the City to replace. There is this motivation and emphasis to push this focus on the Downtown where it might not be if it weren't for the Business Association. Thank you.

Mayor Burt: Thank you. We have a second speaker; it's Brad Ehikian.

Brad Ehikian: Well done. Most people get that fairly wrong, so thank you. My name is Brad Ehikian, and I am with Premier Properties. We have probably one of the larger management portfolios in Downtown Palo Alto. We have about 35 properties alone that we have under management. One of the reasons why I joined the BID was to really get a pulse on what was happening Downtown. We interact with a lot of tenants and businesses that are coming into Palo Alto. When I joined, I viewed it as a conduit to the City and to our businesses, to really get a feeling for what issues were affecting them. I think it's really important that our businesses do have an outlet to the City to be able to communicate some of the concerns that they have. These are things that we're really concerned about. We have a large interest in making sure that Palo Alto stays vibrant, stays clean and safe. This is our important market for us, and we really try to protect it. Again, I want to put out there that I really want to just promote that there's this conduit for businesses to be able to kind of explain some of the concerns that they have and issues that are affecting them, so that we can help kind of address some of these issues and make our City better and stronger and more economically vibrant. Thank you.

Mayor Burt: Thank you. We have one final speaker, Georgie Gleim. Welcome.

Georgie Gleim: Thank you. Ditto to everything that's been said before. The idea for the BID actually came from the City's Economic Development Manager at the time, when the marketing committee and the Chamber of Commerce was really struggling with how can we try to promote Downtown as an entity and do it strictly on volunteer labor which was just getting more and more difficult. She said there is this instrument call the Business improvement District; let's investigate. Over the course of two or three years, I think, we did a lot of surveys. We really crafted the boundaries as carefully as we could as well as the definitions of the types of memberships and the levels of assessments that would be charged. One thing I was just thinking of. If the BID didn't exist, there wouldn't be a Downtown Streets Team to help keep the City clean and help some of the homeless, because that organization came from the BID. There wouldn't be a way for the City to get very organized information from the business community in Downtown. I do know that there are a lot of different departments—Russ

TRANSCRIPT

has done a wonderful job of engendering relationships with different city departments. They will come to him and ask for ideas. What can we do about this? What did the businesses think about that: That would be made much more difficult and much less—it wouldn't have as uniform a series of ideas if something like the BID did not exist.

Public Hearing continued to the June 27, 2016 Council meeting.

Mayor Burt: Thank you. That concludes public comments. Molly, if the Council's going to consider whether to either go forward tonight and conclude the matter or refer it, do I close the public hearing either way or do I leave the public hearing open if we may be doing this other action that you described?

Ms. Stump: I think if you're going to take another action, I would suggest that you keep the Public Hearing open so that we can, when we return, incorporate any additional comments (crosstalk).

Mayor Burt: Thank you. Vice Mayor Scharff.

Vice Mayor Scharff: A couple of things. I wasn't quite following what your other action was. The other action was to leave the Public Hearing open and then, if we raised concerns, talk to the BID Board and come back to address those concerns. Was that the action?

Ms. Stump: Thank you, Vice Mayor Scharff. The City's contract with the Business and Professional Association includes a provision wherein if the Council has concerns about the annual report and proposed activities for the upcoming fiscal year, that there be a stay in the proceedings—it's described as a stay—to allow an opportunity for the Association to consider the Council's comments and potentially for the Staff to work with the Association and come back to Council within 30 days.

Vice Mayor Scharff: Just to zone in, is it the activities that would be going forward in the future that are outlined in the report? Is that it?

Ms. Stump: That's correct.

Vice Mayor Scharff: Where are those exactly in the report, the activities they're doing in the future? I saw a list of accomplishments, but I guess I didn't focus on a list of what we're doing in the future.

Ms. Stump: As I read it—maybe Mr. Cohen can help us—Section 3 includes a budget for 2016-17.

Mr. Keene: Presumably that starts July 1st. Is that correct?

TRANSCRIPT

Mr. Cohen: Yeah. The budget reflects where our monies will be allocated in this fiscal year.

Vice Mayor Scharff: It reflects where the money is going, but it doesn't reflect what the BID is necessarily going to do. Obviously there's some overlap, but ...

Mr. Cohen: Many of the activities—if I can clarify for you. Many of the activities that are listed are the same from year to year. They're ongoing costs and activities.

Vice Mayor Scharff: There's a couple of things you've asked us to do. First is hold a public hearing, which we're doing. The second was to approve the Resolution. I saw the Resolution. Then, levy an assessment. Can we levy the assessment while we think about how we want to restructure the BID?

Ms. Stump: That's a good question. If the Council has concerns, the process calls for some of those to be articulated this evening to allow the Staff to work on the item. We would advise you on other types of options for structuring the activities funded by the assessments when we would return.

Vice Mayor Scharff: What we should be doing then, as Council Members, is articulating any concerns we might have. Is that what you're looking—I will do that. First of all, I just need to know what are the non-assessment sources of revenue that the BID gets? It's a fair number. It's \$54,000. Where does that come from?

Mr. Cohen: \$40,000 of that is for our concert series, and that is raised by myself. I fundraise for that concert series and look for sponsorships for that series. That is similar with our banner program as well. I'd have to turn to the actual numbers. That's usually how it works. I go to the community at large and look for underwriters and sponsors for various projects. As you can see, our budget is very, very small. I recommend to our Board that if there's a project or an event that we want to hold, we need to go find people other than ourselves to fund those activities. Legal is donated to us.

Mayor Burt: Council Member Filseth. I'll just come back to a couple of things that were raised. On the one hand, the fee structure, as Council Member DuBois had stated, has essentially up to ten Full Time Equivalent (FTE) employees—I guess, retailers for some reason it's 11. There's really not a very graduated fee structure that charges the large firms a lot more. Am I understanding that correctly? On the other hand, I assume that the sponsors are probably more often almost invariably from the larger companies. I think that—yes.

TRANSCRIPT

Mr. Cohen: If I can clarify. That's not an accurate assumption. I'll give you an example. The summer concert series, we do have one major sponsor, but we have a long list of minor sponsors. They are not big companies.

Mayor Burt: I think I'd be interested in having a fee structure that reflected the wide range in sizes of our Downtown employers and have greater proportionality of the fees to the size of the company. I'll say that even though some of the reporting on the activities maybe slants the role of the BID beyond its actual role, it does have a facilitation role in a lot of these things. I think that these are a lot of good activities. From my standpoint, I actually think that the activities are worthwhile. What I don't see listed among the activities is essentially acting as a political force. It's not listed that they're doing it, but that's my concern. I don't think it's an appropriate role of the BID. When the City Attorney cited the structure of BID's activities to me, it does not constitute lobbying. I have no problem at all with the individual members of the BID coming and being active and sharing their opinions on whatever action the Council is taking. I don't think we wanted to create an entity that becomes a political force. I think the rest of what the BID does is great. I don't know whether other colleagues share any of those interests. Since we'd be giving guidance to Staff without necessarily voting on this, how would that ...

Ms. Stump: The documents do provide that the Council can actually modify the public report but does suggest that if the Council were going to do that, that there be this pause to allow the Association to weigh and consider and work with Staff to respond.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Actually I just had a question. I was trying understand with greater clarity about the relationship between the BID and the Downtown Business Association. Is the Downtown Business Association just a shorthand for the BID?

Ms. Stump: Maybe I can help with that. The Business Improvement District is a legal structure. It allows the City through an Ordinance authorized by State law to create an area where there will be a special assessment. The purpose of collecting the special assessment is to provide benefits above and beyond, different than those provided generally. That's a legal structure that involves boundaries, a formula for rates, the authority to collect. The Downtown Business and Professional Association is an entity that has been created under State law to serve as the City's contractor, in essence, to both handle the billing and collection of that assessment process, but more significantly then to go ahead and expend those funds and engage in those

TRANSCRIPT

activities on behalf of the City. The Business and Professional Association is in that sense a contractor to the City.

Council Member Wolbach: Thank you.

Mayor Burt: Since I don't see any lights, I will move that we ask Staff to engage with the—it's really the Downtown Business Association to—I'm sorry. I need to pause here a moment. Molly, if there was a change in the fee structure, is that more complicated than some of these other matters?

Ms. Stump: It is. I'm not an expert in that. I'll need to look at it. At the time that the Business Improvement District was established, the state of State law on special assessment districts was a little different. It's frankly become more difficult and there are more procedural rules. It may be that we will need to come back and suggest to the Council that modifying the fee structure is a really substantial effort, both in terms of operational effort and legal procedures that will need to be followed.

Mayor Burt: Let me modify the Motion then. Direct Staff to review the mechanisms of modifying the fee structure with the intent to require larger companies to pay a more proportionate share of the BID. Second, to clarify the Bylaws so that activities are not construed to mean functioning as a lobbying group.

Ms. Stump: One clarification. Does the Mayor mean to clarify the City's contract? The Bylaws are really ...

Mayor Burt: Yes, I'm sorry. The City's contract. That's a better way. I'm sorry.

Vice Mayor Scharff: I'll second your Motion (inaudible).

Mayor Burt: Seconded by Vice Mayor Scharff.

MOTION: Mayor Burt moved, seconded by Vice Mayor Scharf to direct Staff to:

- A. Review mechanisms for modifying the fee structure to require larger companies to pay a larger portion of the District costs; and
- B. Review mechanisms for modifying the contract with the Downtown Business Association so that activities are not construed to include lobbying.

Mayor Burt: I think I've spoken to it enough. Vice Mayor Scharff.

TRANSCRIPT

Vice Mayor Scharff: I agree with Mayor Burt that the lobbying portion of this seems like a distraction from the goal of the BID, which for me is making the Downtown cleaner, safer, doing the banners, raising funds to have events, that kind of stuff. That's really a role of the Chamber of Commerce. I support that. Looking at the fee structure, I think it's a good plan. I'm a little concerned about how much time Staff may spend on this. It wouldn't be my highest priority if we were prioritizing things. I think over time it's good. As long as it's not an "as soon as possible" kind of thing, we do it before (crosstalk).

Mayor Burt: I meant it to be open, because my assumption was that it may or may not be something that we could address this year.

Vice Mayor Scharff: Mayor Burt, you might consider—I also have some concerns, frankly, that when you look at this, most of the money goes towards an Executive Director's salary, invoicing, that kind of stuff. Frankly, I probably wouldn't vote to even reauthorize this if it wasn't for the \$40,000 or \$50,000 that's collected in. I've always thought in the back of my mind that there may be a better way to do this; that we don't have all of the money basically going to pay an Executive Director's salary and so small amount of money actually goes to achieve things in the Downtown. Maybe you can't achieve that without having the Executive Director and staff. Maybe that's why you need to do it. I'd like to add in there that we direct Staff over the term to look at other structures of the BID that may provide more funds to do tangible things as opposed to going to salary.

Mayor Burt: I'm fine with that.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "investigate other structures for the Business Improvement District (BID) that may provide a more efficient use of the funds that minimizes staff and administrative overhead and focuses more on direct services." (new Part C)

Mayor Burt: The same thing as with Part A of the Motion, do we need to clarify that we're not ...

Vice Mayor Scharff: We don't expect this to be the highest priority.

Mayor Burt: Or that it will not necessarily be accomplished in the 30 days. It may be for the following year.

Vice Mayor Scharff: I thought it would be accomplished in the following year, not in the 30 days. I think this is too big for the 30 days.

TRANSCRIPT

Mayor Burt: I agree.

Ms. Stump: That's helpful clarification. I think what we would be doing is—I did want to amplify my earlier comments about the Business and Professional Association. It certainly is a contractor to the City, but it also is, as the speaker discussed, in a sense a grassroots organization that's grown up out of the business community. I didn't wish to slight that aspect of its function. I think what we would do is use the next few weeks certainly to consult with them, to come back to the Council perhaps with a recommendation that you go ahead and issue the levy for next year, but that there be some work that's planned out to address some of these concerns with the potential for modifications the following year.

Mayor Burt: The contract potentially could be done in the next—those changes could be done in the next 30 days, right?

Ms. Stump: Potentially.

Mr. Keene: We'd be coming back June 27th, was the thought.

Mayor Burt: I would hope that "B" could be addressed in the next 30 days with an understanding that "A" and "C" probably will not be able to be.

Ms. Stump: Yeah. Recalling that the Council's Agenda publication means that that's a week from Thursday, so it's more like 10 days Staff work to address that, but we'll make an effort.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I'd like to offer a Friendly Amendment, also within the timeframe of looking at it for next year, to consider evaluating the boundaries of the BID to maybe align with another Downtown boundary such as the Parking Assessment District.

Mayor Burt: That'd be fine.

Vice Mayor Scharff: That's fine.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "evaluate the boundaries of the BID to align with other Downtown boundaries." (new Part D)

Ms. Stump: Just to note for the Council, that one is probably quite a bit like Item Number A, somewhat more complex.

TRANSCRIPT

Council Member DuBois: I just think if we're going to do it, we might as well do both.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I just wanted to turn to Staff for just another minute here and ask about who on Staff or how does Staff conceptualize—at first glance, I know this is just coming at you right now. I know that we lost Mr. Fehrenbach, who I would guess would probably be a primary person on Staff who would be doing work like this. I heard that we're looking at this maybe for some time in the next year. Do you envision this being doable in the coming year? I know it's hard to commit off the top of your head.

Mr. Keene: I think we have to bi-furcate the motion with "B" being the return ASAP before you go on break, and the other items we'd be able to give a status report on, once we get into the fiscal year, as to what that would take.

Council Member Wolbach: Can we amend the Motion to do that?

Mayor Burt: We didn't stipulate a timeframe for any of it. Staff has clarified. I don't know if we've—it doesn't sound like they feel we have to clarify it in a motion.

Council Member Wolbach: If it doesn't need to be in the Motion, that's fine.

Vice Mayor Scharff: I just changed it, what I wrote down, to be more—I just want to make sure you're okay with it.

Mayor Burt: If I might just comment on that modification. I'm okay with Staff evaluating it. I don't have a heartburn over the bulk of the dollars going to—it's titled an administrator, but there's a great deal of facilitating functions. Even barring some of the concerns we had on the report, there's a lot of activities that are things that a person does, and they aren't necessarily purchasing and physical things. I don't have a great problem with the way it's structured, but I'm open to Staff looking at it. As long as Staff is not seeing that as a mandate to make those changes but just to evaluate.

Vice Mayor Scharff: I agree.

MOTION RESTATED: Mayor Burt moved, seconded by Vice Mayor Scharf to direct Staff to:

- A. Review mechanisms for modifying the Fee Structure to require larger companies to pay a larger portion of the district costs; and

TRANSCRIPT

- B. Review mechanisms for modifying the contract with the Downtown Business and Professional Association so that activities are not construed to include lobbying; and
- C. Investigating other structures for the Business Improvement District (BID) that may provide a more efficient use of the funds that minimizes staff and administrative overhead and focuses more on direct services; and
- D. Evaluate the boundaries of the BID to align with other Downtown boundaries.

Mayor Burt: We can vote on the board. That passes 8-1 with Council Member Schmid voting no. Thank you. I'll guess we'll see this back on the magical 27th. We are now moving on—the public hearing will remain open.

MOTION AS AMENDED PASSED: 8-1 Schmid no

14a. (Former Agenda Item Number 18) Authorization for the Mayor to Sign a Letter Regarding the Governor's By Right Housing Proposal.

James Keene, City Manager: We are doing Item Number 18, which is now whatever it is, 14a.

Mayor Burt: 14a, excuse me. Authorization of the Mayor to sign a letter regarding the Governor's by-right housing proposal. Welcome, Director Gitelman.

Hillary Gitelman, Planning and Community Environment Director: Thank you. Planning Director Hillary Gitelman. I'm aided this evening by Cara Silver from the City Attorney's Office. She and a colleague have helped draft what I hope you received at places this evening, which is an alternate letter. At the Mayor and Vice Mayor's suggestion, we drafted a letter that included some suggestions about how the Governor's proposal could be amended. That substitute letter is before you. We would be happy to answer any questions.

Mayor Burt: Can I add that the—what instigated that request was the Council received an update from our Sacramento lobbyist, where the Governor's Office had opened the door toward the City recommending changes to the Governor's proposal as an alternative to us opposing it. Without wanting to presuppose the Council's inclination as to which of those we want to do, I just wanted to make sure that there was some help if we wanted to look at recommended changes to the Governor's proposal, what might that look like that would be consistent with our own policies. It may

TRANSCRIPT

be that we can't find something that meets that requirement. That additional information, Hillary, is it this set?

Ms. Gitelman: There's a whole substitute letter that was at your places.

Mayor Burt: That's the substitute letter that (crosstalk).

Ms. Gitelman: We do have a few extra copies if there are members of the public who still need them.

Mayor Burt: Council Member Kniss, questions.

Council Member Kniss: Not a question, a comment. You want questions now, comments later?

Mayor Burt: Let's go through questions first, and then we can come back for comments. Council Member Wolbach.

Council Member Wolbach: I actually also had a comment. If I could be put in queue behind Council Member Kniss.

Mayor Burt: Council Member Holman.

Council Member Holman: Just a quick question. There's not a recommended or preferred approach here, that's been recommended or suggested by anybody. These are just alternate approaches. Do I understand that correctly?

Mayor Burt: That's right. What we have in the second letter is possible amendments to the Governor's proposal as opposed to the other alternative that we were looking at, which was opposition to the proposal.

Council Member Holman: Thank you.

Mayor Burt: Council Member Berman.

Council Member Berman: I had a quick question on the at-places memo, on Section 1. Under amendments, it says amend Section 65913.3(a)(3) to clarify that housing developments containing office use do not qualify for by-right entitlement, which I'm perfectly comfortable with. It goes on to explain the amendment. I didn't see any ambiguity in the amendment, so I'm not sure why there's the recommendation for the clarification.

Mr. Keene: Can you help me out with the recommendation for the clarification, where that's coming from?

TRANSCRIPT

Council Member Berman: By Number 1 on Page 1, it says amend this section to clarify that housing developments containing office use do not qualify for by-right entitlement. Then, it says currently the amendment references Government Code Section 65589.5(h)(2)(b) which defines housing developments to include mixed-use projects containing neighborhood commercial defined as small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood. Is there a concern that small-scale general or specialty stores might also include office?

Cara Silver, Senior Assistant City Attorney: I think the concern is because the amendment references another Government Code section that could be amended later, we just wanted to clarify in the new bill language itself that there should be a reference to community service businesses which are essentially retail businesses. Also, the underlying language is what we are proposing to add to the bill, which clarifies that if there is a mixed-use qualifying project that contains some retail, the retail component should not magnify the project. It should be the housing component that's greater than the retail component.

Council Member Berman: There are kind of two things. One is that second part. The first part is a concern that in the future the definition of small-scale general or specialty stores might change to allow office. To specifically prohibit office upfront so that's clear to everybody.

Ms. Silver: Correct.

Council Member Berman: That makes sense to me. I think that's the only—just out of curiosity, why the change from 90 to 120 days? Was that just to give more time or was there a specific reason for the new number?

Ms. Silver: It's because the bill contemplates that a design review shall take place in 90 days; however, logistically it really can't start being conducted until the application is reviewed. The bill allows 30 days for the review of the application. We thought 120 days more accurately reflects the timely ...

Council Member Berman: The combination of the two. I'm with you. Thanks.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Just looking at this new amendment, could you speak a little bit more about—this was a change in the opportunity for the public to review and comment. That was a change to the proposed bill from the previous version. Is that correct?

TRANSCRIPT

Ms. Gitelman: I think we still have a significant concern, as the League of Cities does, about the fact that these qualifying housing projects will be ministerial. They're not really going to be subject to California Environmental Quality Act (CEQA) review and the same opportunity for public comment and discretionary review by the City as they would today. I think we still capture that at the end of the letter, the alternate letter.

Mr. Keene: If I just might add. I think this is the kind of tricky balance we need to figure out whether we've struck or not between an original proposal that basically says we oppose the bill because of the fact that it excludes some of the public processes that we and other jurisdictions deploy to get a thorough review. Yet, the comment being out there that in many ways says you better come up with some language changes that we want to be listened to. That's what we've done, but you could look at that and say, even if we got those, would that be satisfactory enough to us or do there need to be some changes. This doesn't mean we're getting everything that we were trying to get by opposing it, but putting these comments in here.

Council Member DuBois: I'm trying to understand exactly that. Number 2 here, with the 120 day review, is still not really addressing the CEQA concern.

Ms. Gitelman: That's right.

Council Member DuBois: The public could participate in those 120 days but are not ...

Ms. Gitelman: Obviously there would be public participation in design review, but design review as intended by this bill is really a nominal process. It's not going to be the kind of in-depth Architectural Review Board (ARB) process that we have now, where we attach conditions and do a whole CEQA review. We have the potential for multiple hearings at the ARB and a recommendation to the Director and appeal. None of that would be available. It would be limited to a perfunctory or a high-level review of design only during the 90 or 120-day period.

Council Member DuBois: I still find that area probably the most troubling. We're under a time deadline here, but I didn't know if there was any discussion of an amendment that would capture some aspect of public review or if you just felt like that was (crosstalk).

Mayor Burt: Can I just say that this is just a straw man for us to consider. We're open tonight to either not have any recommended modifications and oppose; we could support the Governor's proposal; or we could do whatever in between we want.

TRANSCRIPT

Council Member DuBois: My comment is I'm concerned about the lack of CEQA review and public participation.

Mayor Burt: Council Member Holman.

Council Member Holman: I'm sorry. I do have one more question. When we get to motions, we're not looking for exact language; we're just looking for what we want the letter to include or not. I just want to be clear on that.

Mayor Burt: I think that'd be correct. It'd be with adequate clarity that Staff ...

Council Member Holman: Thank you.

Mayor Burt: ... understands it. Council Member Wolbach.

Council Member Wolbach: I actually realized I did have one question. Looking at the at-places draft, the amendments draft. On the second page, Section 3, it talks about the amount of affordable housing to be included with the project. Sub-items i and ii, are these in parallel or in series? Is this an "and" or an "or" where, if I'm reading this right, we're talking about at least 10 percent for low income and five percent? Is it 10 percent of low income and five percent on top of that of very low income or is it 10 percent low income or five percent of very low income?

Ms. Gitelman: It's either/or.

Council Member Wolbach: Either/or.

Ms. Gitelman: We're proposing—a suggested change would be in the italics below, because saying that those low percentages, which are lower than the City's current inclusionary requirement, should not be allowed if there's an inclusionary requirement that applies.

Mayor Burt: See above, it says "either."

Council Member Wolbach: Thank you. We just got it, so I was trying to read it fast. Thank you.

Mayor Burt: We have two members of public who wish to speak. Our first speaker is Stephanie Munoz, to be followed by Bob Moss. Welcome.

Stephanie Munoz: Good evening, Mayor Burt and Council Members. I'd like to speak to this and suggest to you that you also want what the Governor and the Legislature wants. You should be thinking very seriously. You have a member who's running for Assembly and a concerned citizen in this very

TRANSCRIPT

room also running for Assembly. It seems to me you should get a good idea of what you would like the Legislature to do for Palo Alto to implement an orderly and beautiful and acceptable way of low income housing. This is what I would like to suggest. I would like to suggest that instead of taking a paternalistic attitude about what you will allow and who will be, you make it a marketplace decision. I would like to suggest that when you give permission to build a structure which is higher, you immediately improve the value because the roof and the foundation and the land can all be shared amongst all units. I'd like to suggest that you start with the model of the Ronald McDonald House, which is every person that's renting or occupying the structure gets a big bedroom and a nice, acceptable bathroom and a little bitty kitchen, like one you'd have in many hotels. I'm sure you've gone skiing or to resorts, and they all have a little kitchen, like a dorm fridge, a sink, a little microwave. Let's say it was \$400 a month because Social Security recipients get a minimum of \$800. Suppose they want to only pay that, fine, then they don't have to pay the extra \$100 or \$200 for the parking place and the extra \$100 for the nice, big storage room in the basement. Those can be divided up according to wealth. If you've ever been to Ronald McDonald House, I suggest that you go. The point is that there are community facilities that make up for the rather limited range that you have. A nice big kitchen with lockers and freezers where you can go roast that turkey for the 12-person family dinner and little rooms and computers and viewing rooms. I think anybody could afford that, and you'd like it. Thank you.

Mayor Burt: Thank you. Our next speaker is Bob Moss, to be followed by Herb Borock.

Bob Moss: Thank you, Mayor Burt and Council Members. This is a new item; I hadn't seen it in the packet earlier. Looking at the report, it appears what is being proposed is to eliminate any city control of the Zoning Ordinance and designation of land uses. For example, it says that you can build these multifamily housing units on any site which is zoned residential, which means the R-1 zones and the R-1-10,000 zones are no longer restricted to single-family homes. They could become apartment sites. It also talks about not requiring CEQA evaluation, which means if someone wants to build a large number of these multifamily developments on a street which is extremely narrow or build housing over a site which is toxically contaminated, you wouldn't be allowed to do any evaluation and find out that this could be a real serious problem to health and safety. I think this proposal is beyond appalling. It's truly stupid. Whoever proposed it has no concept of proper land use, safety, environmental issues or what makes a city livable. I would certainly urge that the City Council send a letter strongly opposing this and point out it is more likely to damage a community

TRANSCRIPT

than to help it. What it's going to do over time is get the developers who really want to make a ton of money building multifamily units all over single-family areas. One of the things you might want to do is talk to the people in Atherton. As I understand it, it would apply to cities statewide. Is Atherton going to want to have apartment blocks on their property next to the single-family lots which are half an acre to an acre? I don't think so. This is a really bad proposal. It's not well thought out, and it will destroy the viability of any place where this is allowed to be developed. I would strongly urge opposing it and making it clear to the Governor and the Legislature that this is not something that's very viable or very desirable.

Mayor Burt: Thank you. Our next speaker is Herb Borock, to be followed by our final speaker, Shani Kleinhaus.

Herb Borock: Mayor Burt and Council Members, I believe that you should send the original letter that was distributed with your Agenda packet material. That letter opposes the Governor's proposal and says it opposes the proposal because such fundamental policy changes should not be rushed through but merit extensive review. The response time provided undermines the principles of transparency and public engagement. That letter goes on to say that the public who are affected by such projects and such as proposed have a right to have their concerns considered. Such public review and discussion oppose the accountability of elected officials and ensures a fair process for all proposals. Now, we have arriving tonight a change in what should be done and essentially providing a way under certain circumstances to support the Governor's proposal. It seems almost a parody of what the proposal itself is. Here we have something arriving at the last minute with even less opportunity for the public to consider than the letter that you had in your packet. The Agenda Item was scheduled for about two hours from now. Instead, it's being held earlier. Those who would have had an opportunity to have reviewed your original letter and were expecting it to come up for discussion and approval two hours from now are not aware that you're discussing something entirely different. In the interest of following the principles of transparency, extensive review that have been discussed in your previous letter, which are appropriate for a proposal of this magnitude and scope, I think this is going in just the opposite direction to attempt to craft something tonight to try and do something that you might be able to express approval for when you don't even know what the changes are going to be that might come about during the legislative process, which happens very quickly during the budget review time. I think the best thing to do and to be consistent with those fine statements that are in the original letter is to approve the original letter and not attempt to make changes on the fly tonight in advance of the time you

TRANSCRIPT

had originally told the public you were going to be discussing this Agenda Item. Thank you.

Mayor Burt: Thank you. Our final speaker is Shani Kleinhaus.

Shani Kleinhaus: Thank you, Mayor Burt, City Council. I didn't have a lot of time to study this, but it's been coming to me from a lot of different directions just today from different organizations throughout the State that are opposed to this effort to bypass CEQA. The Sierra Club and Audubon generally support CEQA and transparency. We also support affordable housing, but this seems to be a last minute and not well thought out effort to bypass transparency and CEQA. I encourage you all to oppose it. Thank you.

Mayor Burt: Thank you. Now, we'll return to the Council for discussion. Council Member Kniss.

Council Member Kniss: As part of my being involved with the League of California Cities, I was at the quarterly meeting of the Tax and Revenue Committee in Sacramento last Thursday. There was a lot of discussion about this. There is general concern that—certainly conventional wisdom at the time would say this is probably going to pass. For that reason and because I could see that people were not even willing to really commit last Thursday, we didn't vote to oppose or not support. I'd be concerned if we don't send a letter like this that proposes some amendments so that when this passes—it's likely to; the Governor is very much in favor of it obviously. I think this kind of thing, which is what the President of the League had suggested, make some comments, try to fashion something you think would work for your city and let us know about it. I think doing this—I heard your comments, Bob Moss. I know you'd like us to take a strong stand, but I think in this case this is a balancing issue. If we can get out something now, it may influence where this is going to go.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Also, referring to another League of California Cities event I attended with Council Member Kniss, their quarterly dinner a couple of weeks back, at which time our local staffer for the League of California Cities for the Peninsula Division talked about how this was probably going to be a negotiation, which was hopeful because obviously the initial recommendation from the Governor was all guns blazing, a broadside attack on local control. As I mentioned at our table that evening, he has a point, and that point has been well demonstrated by academic research and by the Legislative Analyst's Office that local municipalities overstepping and overusing their local power and local control does have and has had a very

TRANSCRIPT

negative impact on the development of market rate and affordable housing, leading to this being the number one cause of our housing affordability crisis. It's good that the Governor has admitted that this is a negotiation. He's open to discussion. I do think that the political reality that Council Member Kniss just illustrated is important to remember. If we just oppose 100 percent, we're likely to end up with something pretty bad. If we're willing to come to the table for negotiation, we might find something that's a more reasonable common ground. I do think that the letter proposing amendments is pretty good. I do have a couple of major concerns still. One of which is, as Mr. Borock pointed out, our own process of just moving this up earlier in the evening. I am concerned about this coming through in the budget proposal rather than coming through as legislation. I'm not thrilled with that, but that's something the Governor can do and something he has done. Again, Council Member Kniss has pointed out that he might be successful, as much as we don't like it. I do think whatever letter we send should mention that, perhaps in very strong terms expressing our displeasure in how this has come about. This is a really, really substantial proposal, and it does deserve the proper legislative process, going through legislative committees in both houses of Legislature separate from the budget process. Again, whatever letter we send really ought to highlight our frustration and disappointment in the Governor trying to ram through this as part of the budget, because it's just not the right process. I'm open to hearing more discussion about CEQA. Actually I do have a question. I was listening carefully to Mr. Moss' comments. I wanted to turn to Staff perhaps for some clarification. Would this apply to R-1 neighborhoods and would it overrule our ability to zone a neighborhood as R-1?

Ms. Gitelman: Thank you for the opportunity to clarify, Council Member Wolbach. The way the Bill is written it would only apply to projects that conform with our Comprehensive Plan and our zoning. If you were going to change the zoning, this would not apply.

Council Member Wolbach: That means projects that would get expedited approval under this proposal would be those meeting the residential unit limitations stipulated under our zoning?

Ms. Gitelman: That's correct.

Council Member Wolbach: If our zoning says R-1, an R-40 project couldn't go in there under this proposal?

Ms. Gitelman: That's correct.

TRANSCRIPT

Council member Wolbach: That means if we had an R-40 zoning and a project came in proposing R-30 or R-40, that would then qualify for the expedited?

Ms. Gitelman: As long as it met the other conditions in this Bill.

Council Member Wolbach: That also means that, as I understand, it would have to abide by our Comprehensive Plan, our zoning maps and also any specific or coordinated area plans. Is that correct?

Ms. Gitelman: That's correct.

Council Member Wolbach: I'm still not thrilled with the proposal. I do want to hear from my colleagues. This is definitely something we're trying to rush. That is unfortunate, but we do have to get something to Sacramento for it to be considered. Again, just to loop back with the concerns that Mr. Moss raised, which I think are worth addressing. As we've just heard from Staff, this would not overrule our own ability to have our own zoning in place. I think that is important to keep in mind.

Mayor Burt: We have a number of Council Members who wish to speak. Let me just add another way that we might consider approaching it, just so that everybody can think about it in their comments. This is something that the Vice Mayor was just suggesting to me. We might want to merge the two letters, so that we have a letter that opposes the legislation as proposed and as part of the budget, and that we offer some recommended changes without implying or stating that we would support the legislation if the changes were made. Just a thought. Council Member Holman.

Council Member Holman: Thank you. Perhaps the latter is the way to go. I find, frankly, both of the letters—appreciate the drafting, because it's not an easy thing to do. I find both of the letters are not addressing the range of concerns. How I view this is, because it's a very complex proposal, it's a multifaceted proposal. I think it's something with good intentions with the potential of a contradictory outcome with relation to housing production. I'll give a couple of examples. For instance, displaced persons. It talks—we have this at places and in the other thing. If you look at Page 4 of one of the attachments that we have, it talks about no net loss. Page 4, the first bullet down, may not reduce the residential density on any parcel unless remaining sites identified in the Housing Element are adequate to accommodate Regional Housing Needs Assessment (RHNA). That supposes that a property that is identified as a housing site is going to be developed in a short period of time, that will pick up the people who are going to be displaced. We have no control over that. Private property owners will redevelop or develop when they so choose. We don't have any control over

TRANSCRIPT

that. This, for me, is one of the biggest concerns. Last year we were dealing with Buena Vista Mobile Home Park. One of the biggest concerns was displacement of those people, where would those students go to school and where would those people go. This imposes on the County funding to find alternative locations for these people to live. In what communities and how far away and in what school districts will those students go? For me, this is a devastating aspect of this proposal that is here in the Governor's proposal. There's also—a question for Staff. I'll pick a simple one, second units. We have zoning that restricts second units to go into X-size parcels. Does zoning also include development standards? I just want to make sure that—it's not clearly stated in this. Are they including development standards with zoning?

Ms. Gitelman: Yes, they are including—I'll find the terminology that they use. They're including development standards. It's in an early paragraph. The development is consistent with the following objective planning standards: land use and building intensity designation applicable to the site under the general plan and Zoning Code, land use and density or other objective zoning standards, and any setback or objective design review standards.

Council Member Holman: You read design review standards the same as development standards?

Ms. Gitelman: Yes. I think it's clear that the intent is if a project conforms with development standards in the Zoning Ordinance, then it would have to be approved.

Council Member Holman: All right.

Ms. Silver: If I could just amplify on that. This bill uses the term objective standards. Sort of more subjective standards like our context-based zoning requirements would be more difficult to implement under this bill. That's one of the concerns.

Council Member Holman: Also, mixed use. This is, without going into detail, referencing the comments that were made earlier about—I think Council Member Berman brought it up. It still results in the potential to create more housing demand than housing units. Square footage does not indicate how many units there would be. You could have 5,000 square feet of retail and 5,000 square feet of housing, but you could have two housing units and the demand for—what is that? How many jobs is that? Twenty? Quick math. Something like that. I go through this, and I just find all kinds of things that are really counterproductive.

TRANSCRIPT

Mayor Burt: I would encourage folks that either we say we oppose it outright or, if there are concerns, you translate them into what you'd want to see in legislation, whether it'd be a preference for in the new development for displaced residents or that a project must have a significant net gain in housing supply versus jobs created or any of those things. Or just simply oppose it altogether. I think in the interest of us being expeditious tonight, let's try to translate it into specifics or clear opposition or whatever.

Council Member Holman: I'm happy with the language you used about job creation and housing units. It's a little bit more difficult when it comes to the no net loss language. I'll work on that while maybe some other Council Members are speaking. Having to do with CEQA, there's a reason that—I don't think it's practical. There's a reason that we do a Comprehensive Plan Environmental Impact Report (EIR) and then also subsequently do project EIRs and environmental analysis. Some of those include changing conditions, site-specific impacts. I don't need to go into it. There's a reason why we do that. The loss of that is not a helpful thing having to do with the environment or necessarily with even housing production. I agree with comments that have been made and that are actually in the letter, having to do with the proposal—actually is less than what our current inclusionary housing provides. Those, I think, are most of my comments. I would concur with Council Member Wolbach that this is not the right process, to go through the budget process and to rush this through without adequate consideration. Whatever we send, I think we should include comments that are positive, whether we oppose the legislation or say we approve it with these modifications, which I think would be several, that we say we'd be interested in working with the League of California Cities and the State Legislature to come to a conclusion that actually does help address housing concerns rather than something that could be again contradictory to the outcome that's the stated intention, which is where I believe this is now.

Mayor Burt: Let me raise a process question. Mr. Borock raised this issue. We brought this forward in the Agenda. Council Member DuBois had raised the issue earlier today that this was a time-sensitive item and, because we have significant other items, to move it forward in the Agenda. There is the concern if members of the public were anticipating it being at the end of our meeting to make sure that they have an opportunity to be heard. On top of that, I have one additional speaker card. For that very reason, I'm inclined to reopen public comments to allow the additional speaker. We could have discussion now, and then put this item off on action until after Item Number 17 to make sure that any member of the public who had planned on speaking to it has that opportunity to do so before we take a vote on it. I don't know what is the druthers of colleagues on that. It's okay? If there aren't objections, I think I want to, out of intention to make sure the public

TRANSCRIPT

has an opportunity to participate, let's go ahead and do that. We'll make sure we're able to accomplish it tonight but also leave it open. Before returning to other colleagues, I'll allow one more speaker, Hamilton Hutchings. Welcome.

Hamilton Hutchings: Thank you, Mayor Burt and Council. Sorry. I thought this was going to be at the end of the meeting; I got caught a little bit by surprise. My comments are not that well prepared for this topic, so please take the spirit rather than the precise comments. I strongly support Mayor Burt's letter that opposes this legislation. I am a member of the Citizen Advisory Committee (CAC). These comments are not for the CAC, but I'm on the land use subcommittee. One of the things we're looking at is trying to increase the amount of below market housing and affordable housing. This is actually a significant step backwards. I currently believe our 15 percent requirement is too low, and we want to concentrate the new housing development in the Downtown areas. This would require that to drop down to 10 or 5 percent for the developers, being a substantial step backwards in our effort to provide low-cost housing for those who need it most, many of whom already are working in the City. Also as you pointed out, it is not appropriate to put it as part of the budget. It sounded to me, based on a brief skim, that not only would it eliminate project-specific environmental review—I've seen a number of projects come in front of this Council which had very specific project concerns, that had very specific impacts. It's impossible to create zoning for every possible scenario. At some point, things have to come back to Council. If we remove the process of Council and public input, which in some ways this does, I think that's a real step backwards for the community in many cases actually achieving these. What if we decide we want to raise the minimum affordable housing higher? Imagine a scenario where there's a higher height limit, but we require a significant higher percentage of affordable housing. That would not be possible under this proposal. In addition, there already is a rule on the books from the State that allows for offsets for affordable housing to grant zoning exceptions. In some ways, I feel like that covers it. I don't want to take any more of your time. Thank you very much for listening.

Mayor Burt: Thank you. We have one more speaker, Lydia Kou. Welcome.

Lydia Kou: Thank you so much for allowing the oral comments. I wasn't prepared for this to move forward, so I actually don't have anything prepared. However, I urge you to oppose this legislation. It takes away every civil liberty from a city. I think it's a very, very bad move for the Governor to come up from the top down and demand that we come up with housing. As it is, the Association of Bay Area Governments (ABAG) numbers that are coming through, we are having a really hard time to come through

TRANSCRIPT

with that. With our Comprehensive (Comp) Plan still in the works, this is just taking our control away from every single resident that there is here and is not really focused on our quality of life here and our schools, the water that is going to be used. There's a lot of impacts that this legislation is going to—that's going to have an effect on us. I hope that you'll oppose this and let them come back with something else. Thank you.

Mayor Burt: Thank you. Council Member Filseth.

Council Member Filseth: My intent originally was just to ask the question that Cory asked. I won't speak very long, because I hope I get a chance to come back to this later. I'd support the concept that the original letter—I think we ought to oppose this thing. I think to propose some ideas to make it better makes sense. It just seems like it's very rushed to me. I'm not sure I feel confident in our ability to propose reasonable things. The bugaboo of these kinds of—frankly, the whole thing feels kind of like a head shot out of Sacramento. The bugaboo of these things is nobody really understands what the unintended consequences are, as pointed out in the letter. I think we need some more time. I like the idea that Sacramento would just work differently with us to try to figure how to do this. I think as it is it represents—irrespective of process, I do think it represents some overreach by Sacramento. I think we ought to oppose it strenuously as opposed to tacitly trying to get what we can right now. I think part of what we oppose should be the process. Maybe there's a better process to do this. I think it's just too rushed, it's too short of time. Nobody has time to figure it out, and there's some significant risks there.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. To elaborate on what Mayor Burt was talking about, what I think we should do is go ahead and put in the first few paragraphs of the original letter. I'll elaborate on that. I think we need to say in the first sentence after "considerable examination, the City of Palo Alto opposes the recently released proposal as part of the budget." I think it's important to get the term "as part of the budget" on there. Somewhere in here I'd like to see the concept, which Mayor Burt alluded to, that we want to work with the League and have—what was the phrase you used? Work with the League—Karen? Work with the League and work with that. I'd like to see us actually use the first part of the letter, all the way up to where it says the dangers of State housing mandates. I'd put that up there, and then I would include in the new letter that "notwithstanding, the proposal would be better with the following additional amendments," which then puts the particular amendments into there, if that's all they're going to listen to. I think the amendments make it better.

TRANSCRIPT

Council Member DuBois: I'd second that. That was almost exactly what I was going to propose.

Vice Mayor Scharff: I'll propose that, if you want to second it.

MOTION: Vice Mayor Scharff moved, seconded by Council Member DuBois to authorize the Mayor to sign a letter regarding the Governor's By Right Housing Proposal including the first five paragraphs of proposed language in the Staff Report and the text of the language included in the At Place Memorandum beginning with "Amendments, published as recently..." and;

Direct Staff to include the following concepts in the letter:

- A. The City is opposed to this bill being part of the budget process as opposed to the regular legislative process; and
- B. The City intends to work with the League of California Cities concerning this bill; and
- C. The proposed amendments would be at a minimum of modifications to the bill.

Mayor Burt: Did you want to speak to it further?

Vice Mayor Scharff: I'll just say that I think it's important to send the message that we oppose this, but if it's going to move forward, here are the amendments that would make it better, and that we also want to work with the League. I think that's an important concept in there. Also the concept that the budget process is the wrong vehicle for this. Those were the major points.

Mayor Burt: Council Member DuBois.

Council Member DuBois: If I could just clarify kind of what I was thinking. I think it aligns with what you proposed. We'd include the first six paragraphs from the original letter with your changes to Paragraph 1. In the seventh paragraph ...

Vice Mayor Scharff: I have the first five paragraphs, not the first six.

Council Member DuBois: I was including the dangers of this example which, I thought, was useful, which I believe is the Page Mill project. I was including that sixth paragraph, which speaks about a recent example here in Palo Alto. I got kind of iffy on that one. It makes it longer, but it also gives an example. The next paragraph, there are amendments published as

TRANSCRIPT

recently as June 1st, would you just pick up there and jump to the second letter, which is the second paragraph?

Vice Mayor Scharff: I was going to. I was going to jump to the second letter and say that "notwithstanding the following" or some language.

Council Member DuBois: Just pick up "amendments published as recently."

Vice Mayor Scharff: Yeah, we could do that. That's fine.

Council Member DuBois: Is that clear?

Mayor Burt: Should we say "at a minimum, the following changes should be made"? So that we don't ...

Vice Mayor Scharff: Yes, I think so too.

Mayor Burt: ... limit ourselves subsequently to that.

Council Member DuBois: Just if I could wrap up for a second. Again, I think this is moving; we should get a letter in. The State's not going to wait for us. I would like to point out, I think there are—again, I feel like our State government feels like they need to act. There's this rush to act. I don't think this has been particularly thought through. These initial paragraphs that talk about integrity of local government and restricting design review is shortsighted, I think are really important to get in there. We're not talking about it tonight, but there's at least four other bills that are also along these lines that I think we need to continue to monitor and be prepared to respond to. Those are Assembly Bill (AB) 2299, 2406, 2501 and Senate Bill (SB) 1069. They're all in a similar vein. I appreciate us putting this letter, and I think this combination is really the best approach.

Mayor Burt: Council Member Filseth, you wanted to speak to the motion?

Council Member Filseth: Without wanting to sort of wordsmith this to death, the two proposed amendments, how about we position those as "for example"? It's not necessarily these are our minimum, we'd be okay with no more, but we think there's a bunch of things it needs and here's two examples, but there's more.

Mayor Burt: We'll wait until Vice Mayor Scharff gets back on that. Council Member Berman.

Council Member Berman: Kind of everything that I was going to say has been said. I think we're striking the right balance between symbolism and effectiveness. Just saying we reject this and don't agree with it, the

TRANSCRIPT

Governor's not going to care. If we actually propose possible amendments to make it better, that's something where we might be able to have an impact. I think this is the right balance. I think we should definitely oppose the process, and I'm glad that we're merging the two letters to do that. Other than that, I think it's moving in the right direction.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I think we're where we were a good half hour ago. We're really saying let's send forth a balanced letter, something that is balanced. In addition to that, I think we need to be working with our legislative person that we have—who drew the attention to this to begin with. This is going to move so fast, they will be voting on it, and it will be in place before we know it. This is the time of year when things go so quickly. If we can, yes, put this together, let's make sure that we're talking with the League representative and with our lobbyist in Sacramento in order to let them know what we're willing to do. As I mentioned, the person who is the President of the League said that they are going to try and work very closely with everyone. We are not the only city in California thinking—I just said to Marc, "How many are there?" I think there are 450 cities. Everyone is taking a stand on this. Everyone has something to lose or gain. A lot of cities feel they have something to gain. While we may feel very strongly about this, there are a number of other cities that are feeling just the other way.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I like the direction this conversation is going. I think this is definitely heading us in the right direction where we're talking about the process, we're opposing it on principle primarily because of that process if nothing else. We're also being politically realistic and addressing that something might happen regardless of whether we weigh in. We are weighing in with some recommended changes. I would suggest including language about displacement protection for existing tenants, whether that's in the form of right of return or relocation within the community or other language. Having something referring to displacement protection, I think, is important. Addressing jobs/housing imbalance is important, rather than square footage. Both of these were Council Member Holman's recommendations. I fully support both of them. Changing our recommendation from addressing square footage of commercial to residential, it should be addressing jobs/housing imbalance and just saying this would only apply to projects that do not provide for more jobs than housing. Also support what Council Member Kniss was just saying about working with our lobbyist. Obviously Palo Alto has unique experiences and

TRANSCRIPT

challenges. We have our own lobbyist. They're paid on retainer; they don't charge us by the hour. I was up in Sacramento recently and saw them at work talking with the Governor's Office, the Speaker's Office and with our legislators. They have a good relationship, and we should work that as well as reaching out directly, of course, to our own legislators, Assembly Member Gordon and Senator Hill. I know that they will be interested in hearing from us as Council Members and from the City Staff directly as we work through this in haste.

Mayor Burt: Council Member Holman.

Council Member Holman: I pretty much like the direction this is going. I don't intend to try to wordsmith this. I think there's a danger of trying to include too many comments on what we think ought to be fixed, because it looks like we're addressing a lot of things, like we've done our work. That's not what I think we are doing tonight. I think we ought to pick two or three areas where we feel like we can make some kind of reasonable comment. The displacement comment, I think, is a serious one. I think there ought to be a statement—I'll offer this as a friendly amendment—that the text of the letter at some point should address the counter—where did I have it? I've got it here somewhere. More thoughtful legislation could potentially address the potential contradictory outcome as to housing creation. In other words, we've got—should address the potentiality of actual loss of housing units.

Mayor Burt: Rather than saying more thoughtful or anything, why don't we—and not a potentiality ...

Council Member Holman: I took that out.

Mayor Burt: How about if it just be a "D," that it establish a preference in new development for displaced residents from the former development? Is that what you were trying to get at?

Council Member Holman: Just generally, kind of as a sweeping statement that, I think, several aspects of this legislation could actually be counterproductive to housing creation. I'm trying to make a general statement, not just the displacement. Although, I think that's a serious concern to that.

Mayor Burt: The maker and the seconder?

Council Member Holman: The other thing that we haven't mentioned is something that ...

TRANSCRIPT

Mayor Burt: Wait a minute. Are you proposing an amendment?

Council Member Holman: Yes.

Vice Mayor Scharff: What's the amendment?

Mayor Burt: It's as written here.

Council Member Holman: More thoughtful legislation should address the potential loss of housing units.

Vice Mayor Scharff: I can't accept that, because I don't see how this would actually cause loss of housing units.

Council Member Holman: We've just talked about how displacement of persons, for instance ...

Vice Mayor Scharff: I'm not going to accept the amendment.

Council Member Holman: Is there a separate second? Cory, are you seconding that?

Council Member Wolbach: I was actually going to suggest slightly different language that might be amenable to the maker and seconder. Yeah, go ahead.

AMENDMENT: Council Member Holman moved, seconded by Council Member XX to add to the Motion, "more thoughtful legislation should address the potential loss of housing units."

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Mayor Burt: I don't know if this is the same intent as yours and it may not capture all of Council Member Holman's concerns, but I would add that "a new development should provide preferences for displaced residents from the former development."

Ms. Gitelman: Mr. Mayor, if I could interject. You've had a fantastic discussion about a lot of different issues here. I think we have the sense of the Council's direction. This is a letter that would come to the Mayor for signature. If I could suggest that if everyone has put their ideas on the table, we'll take a stab at it. The Mayor can review to see whether we've captured the discussion here this evening, rather than wordsmithing the whole thing.

TRANSCRIPT

Mayor Burt: I don't think we were intending for this to be the wording. I think we were actually having the amendments trying to capture the intent as opposed to wording.

Ms. Gitelman: Additional issues, okay.

Mayor Burt: There are various issues.

Council Member Holman: I would agree with that, and this is kind of a broad brush statement that I would hope would help.

Mayor Burt: My proposed amendment is—this is not artful at this hour. In the vein of capturing the intent, "new development would provide a preference for displaced residents from the former development."

Vice Mayor Scharff: As long as you add "if any."

Mayor Burt: If any.

Vice Mayor Scharff: It could be vacant land; it could be an office building.

Mayor Burt: That's fine. That would be "D."

Council Member DuBois: That's acceptable.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "new development would provide preference for residents, if any, displaced from the former development." (new Part D)

Council Member Holman: No other amendments on my part. Just comments that I hope persons, Council Members and members of the public both notice that on Page 3 of one of the attachments of our Staff Report talks about the Governor's proposal allows for the following types of land use decisions to occur without any public review. General plan amendment, zoning changes. I'll stop there. There are other things too, but those are significant changes. While saying this is supposed to be consistent with our general plan ...

Mayor Burt: We can gripe, but if we actually want to have something concrete, that would be more useful. Council Member Wolbach.

Council Member Wolbach: Again, we're not trying to wordsmith here. I do think that we should throw things out there. Just to make sure it's clear, I would suggest a friendly Amendment E, "to include language addressing not exacerbating the jobs/housing imbalance."

TRANSCRIPT

Mayor Burt: So that a new project would, as a whole, not exacerbate the jobs/housing imbalance.

Council Member Wolbach: Correct. Would that be amenable?

Vice Mayor Scharff: No. I'll tell you why. This is for not just Palo Alto; this is for all communities in California. A lot of communities don't have jobs/housing imbalances. A lot of communities want jobs. Take San Jose for instance. They don't have a jobs/housing imbalance in their community, but maybe in the region. I just think that's so Palo Alto-specific and our mindset right now.

Mayor Burt: Can I offer though that it's not about general development. It's about projects that are exempt from CEQA for the purpose of improving the housing shortfall.

Council Member Wolbach: How about this? What if I added to the end of the sentence "where such exists, as in Palo Alto"? It would be where relevant. It wouldn't apply to, say, Tracy or Modesto.

Mayor Burt: You're getting at whether a citywide circumstance exists as opposed to whether a project that is exempt from CEQA should not exacerbate, in itself—it shouldn't create more jobs than provide housing, if the whole purpose is to reduce the housing problem.

Council Member Wolbach: Where relevant.

Mayor Burt: We don't have to capture all of it. That would be my perspective.

Vice Mayor Scharff: I think we're getting far afield. The more things we put in here, the less impact we're going to have, frankly, if we have a (inaudible). I'm not going to accept it.

Mayor Burt: Council Member Schmid.

Council Member Wolbach: Actually, I ...

Mayor Burt: Sorry.

Council Member Wolbach: I wanted to see if there was a second to that, and then I had one other suggestion for a minor change. Any second?

Mayor Burt: I will second it, but I hesitate. I don't want to get us into a protracted debate.

TRANSCRIPT

AMENDMENT: Council Member Wolbach moved, seconded by Mayor Burt to add to the Motion, "include language so that a new project would not, as a whole, exacerbate the jobs housing imbalance.

Council Member Wolbach: We can even say "consider language," and then let Staff and the Mayor work it out. The other—I guess we'll have to vote on that.

Mayor Burt: Would it be possible for us to vote on the amendment without discussion? Let's go ahead and vote on the amendment at the bottom.

AMENDMENT RESTATED: Council Member Wolbach moved, seconded by Mayor Burt to add to the Motion, "include language so that a new project would not, as a whole, exacerbate the jobs/housing imbalance, where such exists. (new Part E)

Mayor Burt: That passes 7-2 with Vice Mayor Scharff and Council Member Berman opposed.

AMENDMENT PASSED: 7-2 Berman, Scharff no

Council Member Wolbach: The last suggestion I'd offer is to add into Section B to work with the League of California Cities, our lobbyists, and our legislators.

Vice Mayor Scharff: That's fine.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part B, "our lobbyists, and legislators" after "California Cities."

Council Member Holman: Isn't that "B" basically?

Council Member Wolbach: I was saying add that ...

Council Member Berman: (crosstalk) amending "B."

Council Member Wolbach: Right. It was amending "B" to expand it to include our lobbyist and our legislators. Thank you.

Mayor Burt: Council Member Schmid.

Council Member Schmid: I just wanted to say that I approve the notion of retaining the first five paragraphs of the original letter. It states clearly our perspective for process and including the public in making decisions. I like "A," trying to remove the bill as part of the budget process, and "B," to work

TRANSCRIPT

with the League of California Cities on amendments. I also appreciate the comments made by Council Member DuBois, that there is a bill here but there's lots of other bills out there. We should be sensitive to the fact there's this whole range of these things that we are discussing and talking about.

Mayor Burt: Thank you. Please vote on the board.

MOTION RESTATED: Vice Mayor Scharff moved, seconded by Council Member DuBois to authorize the Mayor to sign a letter regarding the Governor's By Right Housing Proposal including the first five paragraphs of proposed language in the Staff Report and the text of the language included in the At Place Memorandum beginning with "Amendments, published as recently..." and;

Direct Staff to include the following concepts in the letter:

- A. The City is opposed to this bill being part of the budget process as opposed to the regular legislative process; and
- B. The City intends to work with the League of California Cities, our lobbyists, and legislators concerning this bill; and
- C. The proposed amendments would be at a minimum of modifications to the bill; and
- D. New development would provide preference for residents, if any, displaced from the former development; and
- E. Include language so that a new project would not, as a whole exacerbate the jobs housing imbalance, where such exists.

Mayor Burt: Council Member Wolbach, are you voting yes?

Council Member Wolbach: You can put me down for yes.

Mayor Burt: That passes unanimously. Thank you.

MOTION AS AMENDED PASSED: 9-0

Mayor Burt: What do you think about taking a five minute break? We're going to have a long next item.

Council took a break from 8:33 P.M. to 8:39 P.M.

TRANSCRIPT

15. ~~Review of Recommendations From the Storm Drain Blue Ribbon Committee Regarding Future Storm Water Management Funding and Request for Council Direction on Whether to Proceed With a Proposition 218 Hearing and Property Owner Ballot by Mail to Approve Future Storm Water Management Rates.~~
16. PUBLIC HEARING: Request for City Council and Public Comments on the Draft Environmental Impact Report (DEIR) and Fiscal Study Prepared for the Comprehensive Plan Update. The Draft Environmental Impact Report was Published on February 5, 2016 for a Public Comment Period That Will end on June 8, 2016.

Mayor Burt: ... is a request for City Council and public comments—request for review by the City Council and public comments on a Draft Environmental Impact Report and Fiscal Study prepared for the Comprehensive Plan Update. The Draft EIR was published on February 5, 2016, for a public comment period that will end on June 8th of this month.

Hillary Gitelman, Planning and Community Environment Director: Thank you, Mayor Burt and Council Members. Hillary Gitelman, the Planning Director. I'm joined this evening by Joanna Jansen, who is an associate principal of PlaceWorks, a consulting firm that's been working with us for a long time now on the Comprehensive Plan Update. With her is Ben Sigman, an Executive Vice President of the firm EPS that helped us develop the Fiscal Study. They'll be helping with the presentation and questions this evening. Before we launch in, I also wanted to mention that I know the Council's received a number of letters since the packet went out. We've also held a number of hearings at other Boards and Commissions in the City to gather comments. All of the comments we receive, whether in writing or orally, at these hearings like this evening's will be included and responded to in the Final EIR. Joanna and Ben are going to give you a quick overview of the Draft EIR and the Fiscal Study as well as the process we're engaged in. We're going to motor through this really as fast as we can. We're here to get any additional feedback you have on these drafts and get any remaining public comments. This comment period has been going on for quite a while, and we've had a number of discussions. This is kind of a cleanup opportunity. If you have any remaining comments, tonight's the night. We'd also like the City Council's final signoff on the fifth and sixth scenarios that have been described in Attachment F. We tried to capture your direction from the meeting of May 16th. I did, in reviewing it in preparation for tonight's meeting, notice one typo in the description of Scenario 5. In our rush to make the packet date, we seemed to have gotten that one confused a little bit. When we get to Council questions, I'd be happy to

TRANSCRIPT

point that out and make the necessary correction. With that, I will turn it over to Joanna.

Joanna Jansen, PlaceWorks: Thank you, Hillary. I want to just briefly explain a little bit about what an EIR is and what we've analyzed in this EIR that's before you tonight mostly for the benefit of any members of the public or the community who haven't had the opportunity to spend a lot of time with the document yet. I know that you're all very familiar with CEQA and the CEQA process, but I want to make sure that everybody here is sharing the same context. An EIR is required by the California Environmental Quality Act. We often call it CEQA. It looks at projects or policy documents to help inform the public discussion and decision-making around those projects and policy documents. This EIR for the Comp Plan, because it does look at a policy rather than a specific project, is what we call a program-level EIR, which means it's at a little bit more of a 50,000-foot level in terms of the level of detail that it offers. The EIR is not a policy document, and it doesn't set City policy; although, this EIR does propose mitigation measures that could be incorporated into the Comp Plan as policies. Really, the EIR's primary purpose is to disclose impacts and identify mitigation measures to avoid those potential impacts. In addition to the mitigation measures in the EIR, the policies and the programs in the Comp Plan itself can help to avoid or mitigate impacts. You'll notice throughout the analysis that we refer in many places to the policies and programs in the Comp Plan and their potential to help avoid or mitigate environmental impacts. Those are important components of the Comp Plan to keep in mind. Another point I want to make sure is clear is that the EIR evaluates the changes that the proposed Comp Plan would result in from existing physical conditions. CEQA requires us to look at existing conditions on the ground, so this is not an analysis or a comparison of the changes between what would happen under the proposed Comp Plan versus what would happen under the existing Comp Plan. That's easy to get mixed, and it's an important question to ask ourselves, but it's not the specific question that the EIR is trying to answer. Another question that the EIR doesn't really address is fiscal impacts. The EIR is really focused on the physical environment. Because it doesn't address fiscal impacts, the City has commissioned a separate Fiscal Study which EPS has completed. Ben is here tonight to answer any questions that you may have on that. What are the physical environmental topics that the EIR looks at? They're up on the screen. There's about 17 different topics. Each one of these has a specific set of what are called thresholds or standards of significance that the statute and that the City have asked us to look at. In Palo Alto, you have your own individual set of thresholds of significance, a set of questions about each one of these topics, asking how or under what conditions the project, in this case the Comp Plan, might create an impact. That sets out the framework of the EIR and gives us our

TRANSCRIPT

marching orders for the questions that we have to answer and the impacts that the City has said that it wants to identify and mitigate. I touched on this earlier but just want to reiterate the importance of understanding the distinction between program and project-level EIRs. With the project-level EIR, you have a very high degree of specificity about a particular project, where the buildings will be located, where the driveways will be, the entrances and exits, how many parking spaces there are going to be, how many feet tall it will be, how many wetlands or tenths of an acre of a wetland might be on a given site, for example. Of course, when we're looking at a Citywide document that's going to be in effect for the next 15 years, we really don't have that level of specificity. The programmatic-level review enables us to be a little bit more conceptual rather than specific. I know that can be frustrating when you're used to seeing a very high degree of detail in an EIR, but that's not the role of the Comp Plan EIR specifically. That's part of the reason why, at least under current law, future projects will have to undergo additional review to give you that level of detail. For this EIR, we compared four scenarios. As you know, we've since added a fifth and sixth but, for the Draft EIR that was published earlier this year, we looked at four scenarios in terms of their housing, population, jobs, different land use policy, different transportation improvements, different potential sustainability measures that could be included and how the Comp Plan would be implemented through necessary Zoning Code amendments for each one of the four planning scenarios. This is, as you've heard each time we talk about this EIR, somewhat of an unconventional format for an EIR. It was really chosen very carefully in order to help move this process forward. Rather than be kind of a retroactive look back at the end of the process, we wanted to make an EIR that really fed into the process and helped to support your decision-making by testing a range of possible choices about land use, transportation and other types of policies. We set that range based on the outcomes of workshops in mid-2014, and then we analyzed them to provide you with the whole range of quantitative data as well as qualitative assessments on the potential outcomes of those different ranges of choices that are represented by the four scenarios. Of course, since then you've also given us direction to add a fifth and a sixth scenario that further expand the range of different options that we're going to be analyzing. After tonight, we are going to be preparing that additional supplemental analysis. As Hillary mentioned, tonight's one more opportunity for you to make sure that we've understood you correctly when we talked about those fifth and sixth scenarios in that those scenarios are going to represent what you do want us to analyze. After we have that analysis, we're going to be circulating that for public review just like we have with the Draft EIR. At that point, you'll be able to make a very informed decision about a preferred scenario that would be the basis for your updated Comp Plan. As we've said all along, the preferred scenario is not going to be—it could be, but we don't

TRANSCRIPT

necessarily anticipate that it absolutely will be any one specific scenario. I think what we're trying to do is provide scenarios, again, that offer you a range of choices. It's anticipated and expected that the final scenario might represent a blend of different aspects of one or more of the different scenarios. You will have some flexibility there. I don't want to rehash the details of each one of the individual scenarios, because I know you've been through them numerous times. I think you're probably anxious to get on with the public comment and your own discussion. We do have slides on each one of the four scenarios as well as a final slide that kind of compares all six of the scenarios. Scenario 1 is the "business as usual" scenario that maintains existing Comp Plan policies. Scenario 2 would slow the pace of both job growth and housing growth and has the lowest number of housing. Scenarios 5 and 6 have a lower number of jobs. Scenario 3 is kind of a midrange in both housing and population. One of its defining characteristics is a shift in housing sites from south to north as well as the introduction of grade-separated Caltrain crossings. Scenario 4 in the Draft EIR was the scenario with the greatest amount of housing and job growth, more consistent with ABAG projections. It also includes both grade-separated Caltrain and mixed-flow Bus Rapid Transit (BRT) on El Camino. Again, since the time of the publication of this Draft EIR—not reflected in this Draft EIR but to be analyzed in a supplemental analysis is Scenario 5, which slows the pace of job growth even more than Scenario 2, which was previously the lowest job growth scenario, and then adds to that kind of the midrange of housing that was consistent with the housing in Scenario 3 as well as a range of sustainability and mitigation measures from the EIR. Scenario 6 would add a new bookend of the highest number of housing while retaining the same lowest number of jobs as in Scenario 5. That's of the highest housing and lowest jobs scenario, pairing those two facets up to see what the interaction of those is like and how the potential impacts might change under that scenario. This slide just compares, kind of at a glance, all six scenarios. This slide also provides the jobs to employed residents ratio for each one of the scenarios. I know that, when we talked about Scenarios 5 and 6, seeing a more significant decline in that ratio was something that was important to the Council and one of the primary motivators for adding those scenarios. You can see that that does decrease under both Scenarios 5 and 6 from the four scenarios that were analyzed in the Draft EIR. I want to just briefly touch on the Fiscal Study. Again, Ben is here to answer more detailed questions. For the purposes of the presentation, I'll just give you a brief overview. The Fiscal Study is really focused very specifically on the City's General Fund and looks at what the impacts on the General Fund would be under each one of the four scenarios. It's based on the most recent adopted budget. It also includes a 15-year look back at revenues and costs as well as the 15-year forecast for each one of the four scenarios. It's important to understand about the Fiscal Study that this was a very

TRANSCRIPT

quantitative analysis focused on dollars and cents outcomes. It does not attempt to evaluate or incorporate more kind of qualitative analyses of the City's quality of life over that same 15-year period. The conclusions of the Fiscal Study were that under all four scenarios the City could expect to see positive fiscal impacts. The cost of growth does not exceed the revenue-generating potential of that growth. This is true for both residents and workers in Palo Alto. Although, it's important to note that the overall effect for all four scenarios is—I think we could characterize it as relatively modest. There's not any one of the scenarios that results in enormous positive revenue for your General Fund in 2030. We did take the Fiscal Study to the Finance Committee back in March, and we got some great feedback and had an excellent conversation at the Finance Committee. Really appreciated the very careful review and thoughtful input that we got from Finance Committee Members. Part of that included some requests for additional analysis and, as part of the contract modification that you approved on May 16th, included other resources to do that additional analysis. That will be part of what's prepared at the same time as we're doing the supplemental analysis for the fiscal impacts of Scenarios 5 and 6; we'll also take that opportunity to add some of the information that the Finance Committee requested. Turning back to the EIR. I just want to briefly touch on some of these timelines, because they're very important under the statute. We issued a Notice of Preparation back in 2014 and had a scoping hearing that summer. We published the EIR back in February. We had originally planned a 60-day public review period that would end in May; we've extended that to June to make sure that we incorporate this hearing and any comments that we're going to receive around this hearing. The public review period is now slated to end on June 8th. That's Wednesday. We hope to then be conducting the analysis of the fifth and sixth scenarios over the next few months and publish that in late fall of this year. All of which will be moving you towards the publication of a Final EIR in May 2017, just slightly under a year from right now. At the same time, of course, the CAC is going to be continuing their work, and the City Council is going to be continuing your review of the CAC work. That's how this fits into the process overall. I'll turn it back over to Hillary to close.

Ms. Gitelman: Thank you, Joanna. That concludes our presentation. We're looking forward to your comments and questions and those of the public, and then any final direction you have for us on the scenarios defined in Attachment F. Thank you.

Mayor Burt: How many speaker cards do we have? Just a question of colleagues. Do we want to have questions from us first or hear from members of the public first? I think we'll go ahead and hear from members of the public, and then go to our questions and comments from the Council.

TRANSCRIPT

Our first speaker is Judy Kleinberg, to be followed by Tiffany Griego. Welcome, Former Mayor Kleinberg.

Public Hearing opened at 8:56 P.M.

Judy Kleinberg: Thank you, Mayor and Council Members. Thank you for letting us address the Draft Environmental Impact Report (DEIR). Appreciate that. We have a lot of hope for the new EIR and for solving the jobs/housing imbalance in town. We want to work collaboratively, as we've said many, many times, with the City on solving all of the problems that come with increased population and the vitality of the job market. We have a few concerns. The conditional use permit, which I think you'll hear others speak about tonight, we believe would have a negative impact on business by preventing flexibility in uses and job growth and would slow down the progress that makes Palo Alto so vital. The Conditional Use Permit (CUP) would hinder the ability for a business to thrive in Palo Alto and damage how business operates. You can't actually legislate how a business will operate to have it really innovate and grow its product and its services. We believe the City should really focus on impacts and mitigations, not limiting empty density and job reductions. The CUP and density controls really would have a chilling effect on small startups. We've heard over and over again that you really favor this City as being a hotbed for startups. In fact, the CUP would absolutely jeopardize them. The Chamber represents the ecosystem of businesses in Palo Alto from very small to global enterprises. By hampering the startup environment, the vitality and vibrancy of the business community will be dangerously jeopardized. Impeding job growth, limiting square footage and controlling employee density would drastically change the business and, we believe, is a misguided strategy for solving the jobs/housing imbalance. It also could jeopardize tax revenues, and that's part of the fiscal analysis that your consultants are doing. The smarter alternative strategy is to mitigate impacts through Transportation Demand Management (TDMs) and the Transportation Management Association (TMA) program plus adopting policies and zoning that encourage and allow more housing and reduce commute traffic, especially through trip reduction. The Staff analysis shows that impacts from lowest density to highest is virtually equal; that's in the first four scenarios. We note that 45 percent of the residents are tenants who want or need permanent housing. The City's own poll has shown that 76 percent of likely voters believe affordable housing is the most severe challenge and that the City must address that unmet need. We believe Scenario 6—we're looking forward to that analysis. It's too bad public comment will end before that's analyzed. We believe Scenario 6 is really worth very careful examination. We appreciate the fact that you've added that scenario. Thank you.

TRANSCRIPT

Mayor Burt: Thank you. Our next speaker is Tiffany Griego, to be followed by Jamie Jarvis. Welcome.

Tiffany Griego: Thank you, Mayor and members of the City Council. My name is Tiffany Griego. I'm responsible for Stanford Research Park. Thank you for the opportunity to share with you Stanford University's concerns about Comp Plan policies in the Draft EIR that are related to mechanisms that are designed to do four things: regulate the number of employees a business can hire in Palo Alto; control the proportion of office and R&D uses through the Research Park and possibly even on a building-by-building basis; charge for parking spaces in Stanford Research Park; and regulate the build-out of square footage currently available under RP zoning. This is quite frankly a profound shift in the regulatory framework for Stanford Research Park (SRP), and it's proven deeply disconcerting to SRP employers and to our business community. The DEIR does not quantify the impacts of these regulations. From what we could tell, there's no quantitative evidence that they would do any good. We're concerned that the City's also unaware of how much detriment these policies would cause the business community in the Research Park. As we are all aware, Research Park employers represent a fountainhead of revolutionary inventions, therapies and advances in sustainability. They also serve as an important economic engine for the City of Palo Alto. In 2015, the Research Park generated \$45 million in taxes of all entities and 40 percent of that flowed to Palo Alto and to the Palo Alto Unified School District. Businesses need predictability in their regulatory framework. Could you imagine a longstanding Palo Alto sales-tax-producing company in the Research Park if it were denied the right to hire new employees in scale as their business needs changed? Would its founders have located its startup here or its point of sale in Palo Alto if they didn't believe they could grow here? Could you image if a Research Park company had to wait 12 months for a discretionary permit before it could modify the proportion of R&D and automotive labs inside its existing Palo Alto headquarters? How would they innovate within the very competitive electric vehicle and automotive mobility spaces? Could you imagine if an SRP medical systems company needs to add 100,000 square feet but be subject to the 50,000 per year annual cap? They would have to win the very unpredictable beauty contest two years in a row before it could actually build its facility to advance medical diagnostics imaging. Could you imagine a pharmaceuticals company telling patients that they had to wait for a very promising leukemia clinical trial, but they're waiting for Palo Alto to sign off on a conditional use permit to hire employees for that clinical trial? It's very hard to imagine this regulatory framework. Please ask yourself, after you've had a chance to read several letters that SRP employers have provided, how will these changes affect businesses here in Palo Alto and in Stanford Research Park. We encourage you to work with us to craft policies that will

TRANSCRIPT

not limit the ability of these innovative companies to compete here in Palo Alto. We definitely encourage you to work with us to support the very solid framework we have developed for reducing traffic congestion in Stanford Research Park, which we hope will improve quality of life as well. Thank you very much.

Mayor Burt: Thank you. Our next speaker is Jamie Jarvis, to be followed Karen Bouvier. Welcome.

Jamie Jarvis: Thank you. Good evening. My name is Jamie Jarvis, and I'm the Transportation Demand Manager for Stanford Research Park. I lead the Stanford Research Park transportation working group, an organization dedicated to developing and implementing transportation programs tailored to the needs of employees in the Stanford Research Park. The working group was convened by Stanford in 2015 in response to Research Park employers identifying traffic congestion as the top priority issues that adversely affects their ability to recruit and retain talented employees. The group consists of 18 key employers, ranging in size from less than 150 employees to over 3,500 employees and representing a variety of business sectors including high tech, pharmaceutical, mobility and professional services. I am consistently impressed by the members' willingness to work together, share information and promote new programs. With their support and efforts, we have made VTA Eco Passes available to over 14,000 employees in the Research Park, launched an informative transportation website and a personalized trip-planning tool, enhanced and modernized our guaranteed ride home program, provided ten free safe cycling and repair clinics at worksites throughout the Research Park, celebrated and rewarded over 1,100 cyclists on Bike to Work Day, promoted and subsidized an on-demand carpool app that has attracted over 1,500 users, and will soon launch a long-distance shuttle to the west side of San Francisco to provide a much needed commute option along the 280 corridor. Employer and employee response to these programs has been tremendous, and each success generates additional enthusiasm and support for new programs. I'm truly excited about the momentum we have built, but I am concerned that some of the proposed Comp Plan measures could distract from our future efforts, de-motivate our employers and even potentially defund our programs. It is important to remember that the Research Park business community shares the same key goals as the greater Palo Alto community, to effectively reduce traffic congestion and improve quality of life. For this reason, I encourage the City of Palo Alto to engage with Research Park employers and our transportation working group to ensure that the Comp Plan enables us to achieve the results we all desire. Thank you.

TRANSCRIPT

Mayor Burt: Thank you. Our next speaker is Karen Bouvier, to be followed by Linda Marie Santiago. Welcome.

Karen Bouvier: Thank you, Mayor Burt and Council Members. I'm Karen Bouvier, the Manager of Environment, Health and Safety of the Palo Alto Research Center (PARC). PARC's been in the Stanford Research Park since the early '70s. Our management, employees and clients highly value this location. PARC is dedicated to the objective of reducing car traffic in the Stanford Research Park. We've had an active green team for many years. This grassroots effort convinced our management team a decade ago that it would be wise to invest in employees' alternate transportation choices. We've had a reimbursement program covering public transit, carpooling, bicycling and walking since that time. I'm delighted to participate in the SRP TDM working group that Jamie just described. This effort has enabled PARC to offer our employees additional alternative commute options as a result of the economies of scale that we couldn't have done on our own. In reviewing the Draft EIR, we have concerns about some of the proposed traffic congestion mitigation measures. PARC's cutting-edge research programs rely on both attracting employee talent with specific expertise and on close collaboration with researchers from academia and industry. The changing nature of our projects result in a fluctuating headcount of employees, visiting researchers and onsite startup companies. The conditional use permit as proposed could limit our technical flexibility. We're also concerned that the mitigation measures Trans 1A, which would require a specific TDM plan for individual new development projects, could undermine the SRP-wide TDM programs that are providing a smaller company like PARC the benefits of scale and allowing us to drive down our trip counts. PARC looks forward to working with the SRP and the City toward our mutual goal of reducing the number of cars on our streets. The baseline commute mode information being collected will help us to set quantifiable objectives for that goal. Thank you for your time.

Mayor Burt: Thank you. Our next speaker is Linda Marie Santiago, to be followed by Bob Moss. Welcome.

Linda Marie Santiago: Good evening, City Staff and Council Members. My name is Linda Marie Santiago. I'm a Director in the Real Estate and Workplace Group for VMware. As I think all of you know, our headquarters is in Stanford Research Park, a beautiful 105 acres of it. I want to take this opportunity to communicate VMware's concerns regarding the City of Palo Alto's Draft Environmental Impact Report for the Comprehensive Plan Update. We appreciate the City's desire to ease traffic congestion; however, measures to regulate employee headcount and traffic mitigations contained in the Draft EIR coupled with the recent proposal to implement a headcount

TRANSCRIPT

tax on local businesses are unsettling. Prior to taking action that will inadvertently hinder economic stability and impede our current efforts to reduce traffic congestion, we encourage the City to further analyze the proposed mechanisms and mitigations, utilize the additional data to make informed decisions, and engage in further outreach with the business community. VMware is confident a concerted effort from interested stakeholders will produce a thoughtful plan to mitigate traffic congestion while simultaneously allowing the City, its residents and businesses to continue to thrive. As a multinational company, VMware is proud to be one of the largest tenants in the Stanford Research Park and headquartered in Palo Alto. We have historically enjoyed a mutually beneficial relationship with both the City and the Stanford Research Park. VMware cares deeply about this community, our people and our campus. We share the City's concerns regarding traffic congestion, and it impacts directly our people, many of whom live in Palo Alto, and our ability to recruit and retain top talent. We respect the fact that what we do is a model for others in SRP, that our programs meet the needs of our people and the community, and that what we do is sustainable, environmentally and financially. We have invested significant funding in such programs, given VMware's commitment to solving these issues that impact the entire City. The proposed density restrictions and traffic mitigation regulations contained in the Draft EIR have potentially adverse consequences for VMware and create uncertainties for the business community, which must remain agile in order to succeed. Maintaining a flexible workforce that is able to respond to the cyclical employment demands of product innovation is key to progress and ultimately success. There are additional measures contemplated in the Draft EIR such as requiring companies with over 50 employees to charge for parking, which also appear to have a punitive effect on businesses without evidence that such a program will produce the desired result of reduced vehicle trips to SRP. In our commitment to working with the City and Stanford to reduce congestion, it is essential to VMware that all traffic congestion management methods we fund are effective, measurable and substantiated by robust data analysis. Most importantly such methods must not impede our ability to successfully conduct business operations within Palo Alto or undermine our own robust TDM efforts to date. Thank you for your consideration.

Mayor Burt: Thank you. Our next speaker is Bob Moss, to be followed by our final speaker, Shani Kleinhaus.

Bob Moss: Thank you, Mayor Burt and Council Members. This reminds me of late Mayor Jack Sutorius' comment on how he found three things to like about the Comprehensive Plan. First, it was comprehensive. Second, it was only a plan. Third, it could be amended at any time. What we have before

TRANSCRIPT

us leaves out a lot of important factors, and I think they should be considered. For example, Scenario 6 would add 6,000 housing units. That would increase the net cost to the City about \$17 million a year, because every housing unit costs between \$2,700 and \$2,800 a year more for services than it pays in taxes. This is not new; this was true 45 years ago when I helped to incorporate Rancho Palos Verde. We did a study on the validity of the property tax supporting the government, and we found it would not. We made it because we had several business districts in that area, and that made it possible to incorporate the city. One of the things that you should be thinking of, that was kind of interesting, is if we're going to put housing in the Stanford Research Park, would Stanford agree. Are you aware of the fact that part of the Stanford Research Park was zoned for housing more than 30 years ago? The area was basically along Arastradero Road and then went up toward the Foothills. Stanford said, "We will not at any time, under any circumstances, allow housing in that area." After seven years of prohibiting any development there, the City gave up and rezoned it for industrial. In exchange, Stanford helped to fund the low-income housing project on Alma. If you're going to be talking about where we're going to— one other thing that's very important. I think we know it, but it doesn't focus on it. Changing the zoning and the land use does not build anything. It makes it possible it could be built, but it doesn't do anything. I'll give you an example. When the area along El Camino was rezoned CN and CS, those zones allowed residential on the upper floor. We thought there was going to be a lot of residential development along El Camino because now it's allowed. I can think of five or six properties between Adobe Creek and Page Mill Road that have housing on the upper floors. All the rest are low-density commercial. The housing has not been built. As I say, zoning doesn't create anything. One final thing.

Mayor Burt: Thank you.

Mr. Moss: There is an election tomorrow. I urge you all to vote early, vote often and vote democratic.

Mayor Burt: The next speaker is Shani Kleinhaus, to be followed by our final speaker, Rita Vrhel. Welcome.

Shani Kleinhaus: Good evening again. Shani Kleinhaus. I'm a resident, and I'm on the CAC; although, I don't speak for the CAC for the Comp Plan. It's not surprising to me that there are just a few comments from residents in the package that you have and that not very many residents wish to speak. It's a difficult process to follow. We have the Comp Plan that has not finished its work. We have an EIR that has changed its scenarios. Those scenarios don't exactly compare to the previous scenarios. I would just step

TRANSCRIPT

back and say let's create one good EIR and release it later as a revised EIR and have the public comment on that. Perhaps, during that time, the CAC will have done more work, and you will have a preferred alternative and not just throw it all out there, and we'll figure it out later. Scenarios 5 and 6 both propose adoption of the Sustainability and Climate Action Plan (S/CAP) goal of 80 percent reduction in greenhouse gas emissions by 2030. I don't know why the other alternatives and scenarios do not include that; they should. What troubles me a little bit is that it calls for an alignment of the Comprehensive Plan Update with the S/CAP principles. Now, I'm not opposed to that necessarily, but I don't want to see that the S/CAP becomes a mitigation measure, because that actually becomes much more important than a lot of other plans legally, than a lot of other plans that we have like the Urban Forest Master Plan or the Parks Master Plan or the Bicycle Plan or a lot of other things. I was under the impression that the S/CAP is the umbrella, and the S/CAP should fall under that, not drive it. I guess that's what I want to say. This is the most important document in our City's life, and there's not a lot of people involved. The CAC is confused, and this is premature. Thank you.

Mayor Burt: Thank you. Our final speaker is Rita Vrhel. Welcome.

Rita Vrhel: Thank you. I'd like to second the comments that were just made as a resident. It has been confusing. I just think there's a couple of factors to include or to consider. I'm sorry if they sound a little bit naive. Again, everyone can't work or live in Palo Alto. It's simply an impossibility. I think that, again, I'd like to see some quantitative analysis or data from not only Stanford Research transportation mitigation programs but from all the businesses which have come into Palo Alto in the last five years and have been speaking of these measures. I think that Stanford—it sounded from the speakers that were from Stanford Research Park that they would like unlimited headcount and development opportunities. I don't think that is possible in Palo Alto. I really have the belief that if they had a tenant that left, they probably have a waiting list for tenants who would quickly fill those buildings. I think that compromise needs to be the point of start among all people. I would also support limited growth and a compromise in this issue of housing and jobs in Palo Alto. I remember I was living here when Burger King came into the plaza Downtown. It was really interesting, because Palo Alto put in some very strict rules. I think it was the first business that had to have employees go out and clean up the plaza every couple of hours to make sure that trash around, the trash that is usually generated by a fast food environment. I think in the years that I've been here since 1983, I've always felt that if Palo Alto had zoning requirements and asked businesses to do certain things, there would be no shortage of businesses. I think that

TRANSCRIPT

there does need to be a limit as to how many people can work in any building within Palo Alto. Thank you.

Public Hearing closed at 9:18 P.M.

Mayor Burt: Thank you. We'll now return to the Council for questions and comments. Council Member Holman.

Council Member Holman: I was wondering if I might set a framework for tonight's discussion. To do that I might actually make a Motion with the Mayor's forbearance. It seems to me appropriate that tonight we would make any comments as the Staff has requested on Scenarios 5 and 6, or Alternatives 5 and 6 as I refer to them, that we comment as anyone wants to on the DEIR that is before us, but we also extend the comment period for the current DEIR and keep it open so that at the same time we will be commenting on Scenarios 1 through 6. I haven't made a motion yet, so I'm going to continue to speak to why that is. As commented previously and as some members of the public have comments, this has always seemed like an unusual process to me, that we're doing the DEIR prior to the Comprehensive Plan being complete. It's not really clear to me that we have a good grasp on why we are doing it this way. I think segmenting off Alternatives 5 and 6 makes it even more complicated, more complex, especially as we've talked about maybe—I don't understand (inaudible) we're picking and choosing one thing from one scenario and applying it to another. Judy Kleinberg is still here as well. Judy even mentioned—pardon me for calling you Judy. Ms. Kleinberg said earlier that it was too bad that "5" and "6" are not analyzed prior to the DEIR comments closing. I think that's absolutely right. I agree 100 percent with that. It's also relevant, I believe, that we take this into consideration in light of previously Item 18 that became Item 14a earlier, having to do with Governor's legislation. We need to get the EIR correct. We need to be very careful about that. I don't think taking more time when there's more work to be done anyway with Alternatives 5 and 6. We may be relying on our EIR for things which otherwise we will have no control, provided that the Governor's legislation goes through or some version of that goes through. Again, with the Mayor's forbearance, I would move that we make comments on Alternatives 5 and 6 and recommendations and suggestions on Alternatives 5 and 6, that we go ahead and comment on topics in the current DEIR as so desired this evening, but that we also continue the Comp Plan DEIR comment period until such time as Alternatives 5 and 6 can be considered in the same timeframe and in context with the current DEIR.

TRANSCRIPT

Vice Mayor Scharff: Could I just clarify your Motion? Are you saying we wouldn't be able to comment on the fiscalization of land use study or do you ...

Council Member Holman: No, I'm not saying that at all.

Vice Mayor Scharff: What your Motion would do is it would allow us to comment on everything we were planning on commenting on tonight, but it would keep the EIR comment period open to when we finish Scenarios 5 and 6 and let us do it holistically. I'll second that.

Council Member Holman: Correct.

Vice Mayor Scharff: I'll second that.

MOTION: Council Member Holman moved, seconded by Vice Mayor Scharff to reopen the public comment period for the Comprehensive Plan Draft Environmental Impact Report (DEIR) to run concurrently with the public comment period for Scenarios 5 and 6.

Mayor Burt: I think we don't need to have a Motion that we would be allowed to comment on "5" and "6." That's ...

Council Member Holman: I just wanted to be clear that I wasn't trying to foreclose that. That's the only reason I included that.

Ms. Gitelman: Mayor Burt, could I just offer some perspective and a possible alternative? Preparing a Final EIR is always part recordkeeping and part analysis. We have to keep track of all the comments we receive and ensure we respond to them. I wonder if Council Member Holman would be satisfied if we received direction from you this evening and agreed to, when we have the comment period on Scenarios 5 and 6, reopen the comment period on these other scenarios. It's just going to be logistically difficult for us to keep track of every comment between now and then. It becomes a paperwork problem for us. We could certainly make that commitment and receive comments at that time on all of the scenarios.

Council Member Holman: I'm doing the devil's advocate thing in my head here. Excuse me just for a second. A question then. Would comments received between now and—I think you said fall would be when "5" and "6" would be complete. Would comments received between—thank you for your comment. Would comments received between now and then on the current and existing DEIR not help inform what the CAC and the Council would be considering or in what context the Council might be considering the Comprehensive Plan itself?

TRANSCRIPT

Ms. Gitelman: I think the Council and the public are going to have ample opportunities to inform what the CAC is doing. We do have this parallel planning process going forward. I'm just thinking ahead to when we try and put together a Final EIR. We want to obviously bring the Council a document that's legally adequate and that's managed to repeat and respond to all of the substantive comments. That just becomes a huge challenge with an extended comment period. It would be much better to close it and then reopen it when we have a draft, if that's the Council's desire. Any comments that the Council or the public has between now and then on the shape of the Comp Plan could be provided to the CAC in one of our regular discussions on the Comp Plan itself.

Council Member Holman: I would be okay with that if Vice Mayor Scharff would agree to that. Is that agreeable?

Vice Mayor Scharff: It's agreeable. I was actually just looking at the Motion. Wouldn't it just be clearer to say to continue the public comment period for the DEIR be extended to such time as public comment—shall be reopened when public comments be received on Scenarios 5 and 6? Should we use the word reopened? Is that correct if that's what we're going to do?

Council Member Holman: Yeah. I think that captures it.

Vice Mayor Scharff: The first part of it, do we need that? Isn't that what we're doing?

Council Member Holman: I'm sorry; I haven't had a chance to read what's up here yet. Making comments on Comprehensive Plan Scenarios 5 and 6 is maybe not quite the right language, because we're not commenting on it. For lack of better words at this moment, "and make comments as so desired on topics in the Comprehensive Plan Draft EIR in the current timeframe." It gets wordy, but ...

Mayor Burt: It is wordy. Let's work on that. We have a sense of the intention here. While we hear from colleagues, why don't we work on making this a little more streamlined? Vice Mayor Scharff, did you want to speak to your second? I'm sorry.

Council Member Holman: I think we need the words reopened here. We didn't get ...

Mayor Burt: Why don't you guys work on refining the Motion?

Vice Mayor Scharff: Let me just ...

TRANSCRIPT

Mayor Burt: It won't change the intent from what you've stated.

Vice Mayor Scharff: Let me just speak to it.

Mayor Burt: Yeah.

Vice Mayor Scharff: At last, my sense of this is the intention of this is to allow everyone to have a 60-day period and revisit all of this when we have it all in context. That's really all I think we're trying to achieve on this.

Mayor Burt: Council Member Schmid.

Council Member Schmid: A clarification for the Planning Director. My understanding of the closure and the comments made is Staff and the consultants who go off and answer the comments, give their considered opinion and fill in gaps and come back with that. Are we postponing the answers by reopening in six months or will we get the answers to the comments that have come in?

Ms. Gitelman: Thank you for that question, Council Member Schmid. It gives me an opportunity to clarify a couple of things. We had always thought that when we got your direction to analyze a fifth and sixth scenario, that after the close of this comment period, we would do that. We would circulate that analysis for public comment, and then we would prepare a Final EIR that responded to the comments on this draft and on that supplement at that time.

Council Member Schmid: Comments we make tonight, we will get a response 12 months from now.

Ms. Gitelman: In the Final EIR which is, as the slide indicated, May of 2017 is the current schedule. I'd like to qualify that however. Many of the comments we've received are things that, I think, we can address in the description and analysis of the new scenarios. While we won't be doing what you see in a Final EIR, which often is summary of comment and then response, we will have an opportunity because we're doing that supplemental analysis to take all of these comments into consideration. I think many of them, I hope, we will be able to address in our discussion and analysis in the supplement addressing Scenarios 5 and 6.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I'll probably want to make more comments later, but I want a general idea of where we are on our whole timeline with the Comp Plan at this point. Put it right out there in public. Where are we?

TRANSCRIPT

Ms. Gitelman: Thank you ...

Council Member Kniss: At one point, weren't we going to finish in 2015?

Ms. Gitelman: We've been working on this for many years.

Council Member Kniss: Am I correct? I think I remember that correctly.

Ms. Gitelman: Yeah. We've had many schedules. The current schedule shows us finishing around May of 2017. That presumes that the CAC will be able to get a draft of the elements to the Council for their review towards the end of this year. The Council would use the first half of 2017 to do its review while we finish the Final EIR. I'll be honest with you that the CAC process is going a little slower recently, and that's okay. They're working on the hardest elements, transportation and land use. Until we actually roll up our sleeves and get into this analysis of Scenarios 5 and 6, I won't know for sure. I don't think of any of us know for sure exactly what kind of complexities we're going to encounter and how long that will take, which is all a way of saying by the time you get back from your break in August, I hope we will be bringing forward the Transportation Element from the CAC for your review and an updated schedule that takes into consideration all of the factors that I just mentioned.

Council Member Kniss: If we were to state it fairly, we would say the goal is sometime in 2017, mid to the end of the year.

Ms. Gitelman: The current goal is mid ...

Council Member Kniss: That would be helpful.

Ms. Gitelman: ... mid-2017. That's the current goal.

Council Member Kniss: I might have some more comments, but I wanted to put that on the record, Pat. Thank you.

Mayor Burt: I just want to address our process for this item tonight. Since we have a motion that is framing the comment periods, we will still have the issue of our comments tonight. Molly, if we were to vote on this Motion now, we're not ending the item. We can continue and go forward with the comments. Correct?

Cara Silver, Senior Assistant City Attorney: No, you can certainly provide additional comments after the Motion is voted on.

Mayor Burt: The comments would be on the scenarios, and the Motion is on our procedures going forward.

TRANSCRIPT

Ms. Silver: Yes. We still want to solicit comments on the current scenarios that we have published in the EIR.

Mayor Burt: Just wanted to make sure. Council Member DuBois.

Council Member DuBois: To clarify, I'm just speaking to the Motion and would like to continue this conversation. If we reopen comments, how long would the comment period be?

Ms. Gitelman: I think our current schedule assumes again a 60-day comment period.

Council Member DuBois: Thank you for the Motion. This really addresses, I think, one of my major concerns. I think I mentioned it before. I think this idea of multiple scenarios and mixing and matching is very confusing for the public to comment. Adding two more scenarios and treating those in a supplement, I think, was going to be even more confusing. It's better that we're doing them altogether. I think even better would be to have a preferred scenario by the time we get to that final comment period. If anybody else wants to propose that as an amendment, I'm happy with this motion. Huh?

Mayor Burt: Propose what as an amendment?

Council Member DuBois: Having actually a preferred alternative when we get to public comment. I think this is a big improvement, so I support the motion.

MOTION RESTATED: Council Member Holman moved, seconded by Vice Mayor Scharff to reopen the public comment period for the Comprehensive Plan Draft Environmental Impact Report (DEIR) for Scenarios 1-4, to run concurrently with the public comment period for Scenarios 5 and 6.

Mayor Burt: I see no more lights, so we can vote just on this Motion, and then we can go into our actual discussion of scenarios. That passes—Vice Mayor Schmid, are you voting? Did you vote? I mean Council Member Schmid. Just not working. Is it a yes? No. That passes on an 8-1 vote with Council Member Schmid voting no.

MOTION PASSED: 8-1 Schmid no

Mayor Burt: Now, we can go back to our actual comments on scenarios. Council Member DuBois.

Council Member DuBois: A quick question. When we get to the feedback on Scenarios 5 and 6, I'd actually went back and looked at our May list. The

TRANSCRIPT

tables are different. I was just curious. Performance-based zoning was removed in the latest one. Why was that?

Ms. Gitelman: Council Member DuBois, in response to the Council's discussion on May 16th, we made some adjustments to the tables to try and clarify the elements of these things. My impression at the 16th was none of you were all that enthralled by the performance-based terminology. It was a little too broad. We've tried to be more specific about the zoning measures that would be included in the scenarios. Not to say we couldn't put that back in if it appealed to you.

Council Member DuBois: I just wanted to make sure it wasn't just replacing it with different language but meaning the same thing. There's this thing that says mitigation and sustainability measures adopted to minimize impacts. Is that meant to be different than performance-based zoning?

Ms. Gitelman: Yeah, that's a different set of—we tried to pull the highlights and policies from the S/CAP that would be included as mitigation measures or policies in the new scenarios. I think our assumption is that both of these scenarios are designed to test the mitigation and sustainability measures and, in that sense, kind of this approach to focusing on performance. That terminology didn't resonate with the Council, and so we dropped it out here. We could easily put it back.

Council Member DuBois: To further my comments, I'd like to be really clear about if we're using it or not. I'd actually suggest we vary that between "5" and "6."

Ms. Gitelman: That we vary it between "5" and "6," is that what you said?

Council Member DuBois: Yeah. I'll explain that when we get there. Maybe it applies to "6" but not "5."

Ms. Gitelman: Thank you.

Council Member DuBois: The other one that disappeared was the CC(2) adjustments. I was just curious why that ... Near California Avenue (Cal. Ave.)

Ms. Gitelman: Sorry if we dropped that one. We were thinking that—I see. In that Table 3, we have a row, allowable commercial densities would be reduced and replaced with residential densities. We just didn't make it specific.

TRANSCRIPT

Council Member DuBois: I'm looking at Packet Page 554, but I'm comparing it to Packet Page 430 from our May 16th meeting. I'm sorry.

Ms. Gitelman: We included a kind of broader statement about commercial densities being converted to residential densities. It just wasn't specific to the CC(2) or any other district. Again, we had to take your direction and kind of evolve this to the next level.

Council Member DuBois: That's helpful. I had three kind of areas of concern. One was the process, which we addressed. Another one's kind of the reliance on highly effective TDMs, and we've talked about that. Performance-based zoning was another one, and then concerns about the fiscal analysis. I had planned basically—we have until Wednesday, but I guess we're—will we leave it open until Wednesday and then close it?

Ms. Gitelman: Yeah. The idea is that the written comment period will close on close of business on Wednesday.

Council Member DuBois: Again, given the hour, I'll probably submit more detailed things in writing. Just to highlight. I'm concerned about the reliance on the TDM goals. I think we should look at the Stanford TDM as an example of what's possible given kind of best conditions. To assume we could do better or even as well Downtown seems like a pretty aggressive assumption. You look at the history of Stanford and no new net trips. It took them 20 years to get to where they are. Again, I would just kind of compare what they were able to achieve with our assumptions. Again, on the performance-based zoning, I appreciate you kind of softening that. It was also kind of concerns about this kind of unproven idea. I think one thing we had discussed before was could we have something in the Comp Plan that would trigger if those things don't work. I would like to say I was a little surprised by the business community pushing back. I'm not really seeing a benefit to the City's ability to determine density of office use. That seems like a pretty basic function for a city, not terribly unusual. It would be nice to be able to work with the business community in a productive way to really determine what densities are good for employees and good for the City. The same thing. We're one of the few cities in California without a business license. It's not a radical idea. It won't be the end of Palo Alto if we have one. On the fiscal analysis, I read that report quite a while ago, I guess, when it came out. I really found it pretty troubling. The analysis was done at the scenario level. We've been told that we're going to mix and match these scenarios. That report basically assumed we're going to do Scenario 1 or Scenario 2, and it analyzed the fiscal impacts. I think it would have been much more useful if we had some indication of more at program level, like how valuable are the sustainability functions, how valuable are the

TRANSCRIPT

various components that we're likely to mix and match together. I would suspect that we would find that a combination of this aspect from Scenario 2 and this from Scenario 4 might actually look much better fiscally than— basically there appear to be no difference between the scenarios fiscally. Another concern I had was that there was no change to rates, either residential rates or commercial rates. We had a scenario where we were proposing slower commercial growth, but it didn't impact the commercial rental rates. The same thing happened with housing. If we built a lot of housing, no impact on housing prices. It basically said we could cover increases in services with little additional operational cost, but every budget season we see demand for more services and a requirement for more Staff. That didn't really seem to match up with reality. No additional capital improvements were needed in any of the scenarios. Again, I would have expected Scenario 4 to show a need for additional infrastructure. I think the most shocking thing in that report was the claim that a new resident is worth more to the City than a new employee, which was a total flip of everything we've seen before. In the past, we've done these analyses, and an employee costs the City less than services and was worth more. I'm trying to figure out why that analysis showed that. It may be because business revenue to the City is dropping relative to revenue generated by residents. Something that Council Member Schmid has brought up repeatedly. Again, it perhaps highlights the need to replace a loss in business sales tax with some other form of revenue. Again, if you guys have any insight into why that flip occurred. That was a pretty dramatic result.

Ms. Gitelman: Maybe Ben can help us out here. I'd just say that my take-away from the Fiscal Study really was that the numbers we're talking were really small. It was on the positive side. The impacts of the growth projected in the scenarios were not going to be negative is how I would characterize the conclusion, because we're talking about such small positive numbers. Let me see if Ben can help us on the question of residents versus employees.

Benjamin Sigman, Economic and Planning Systems (EPS): Good evening, Mayor Burt, Council Members. My name's Ben Sigman, Economic and Planning Systems or EPS, the firm that conducted the Fiscal Study. In the study, we do go through great lengths more so than prior work done here and in many places. We've done these Fiscal Studies to isolate the costs and revenues attributable to residents as compared with workers in the City. When you really pick that apart, which I think we did fairly successfully here, we realized that the revenue-generating potential of residents, largely due to the real estate home values and the density of the homes, creates a huge sort of revenue center for the City. Being a mature City, the cost of service at the margin isn't particularly high. There is an opportunity to gain a fiscal

TRANSCRIPT

surplus from new residents. A lot of the studies you may have seen that look at fiscal impacts are done on an average for the whole city. Total residents in the City, total costs attributable to the residents doesn't look as good. In Palo Alto again, where the government services are very mature, you can add population without a lot of cost. When you add population here, it comes with a lot of tax revenue.

Council Member DuBois: Thank you. I did see the discussion of the Finance Committee in terms of, again, what we see in reality in terms of costs going up as population goes up doesn't necessarily match what you're saying there.

Mr. Sigman: I understand. We try to be as scientific as possible. We're holding a lot of variables constant. We're really trying to focus on what happens to the budget as you run it today if we change land use and nothing else. That's part of the way we simplified it to get a good answer for you. I just also want to point out that we will be carrying on with the City to conduct work looking at the cost of some of the infrastructure included in some of the scenarios and the potential fiscal effects of those. There's a capital investment piece of the analysis that will be coming to you. The piece of work that you have in hand is an operational view. We don't think that the Scenarios 1-4 have a dramatic effect on the City from an operational standpoint. Along with those, we do envision some pretty significant infrastructure investments. The fiscal ramifications of those, I think, we'll be looking at in the future.

Council Member DuBois: Thanks. Just to wrap up. One of the things you asked us was for a confirmation on Scenarios 5 and 6. I guess I'd like to make a Motion at some point, but I'll just say my comments now and see maybe if we can come back. Again, I think the goal is to test a range. I'd suggest we differentiate Scenario 5 and 6. On Scenario 5 specifically, I would want to add back some of the things from Scenario 2, which would be the CUP for employment densities, the County expressway implementation, and the CC(2) reductions near Cal. Ave. I think that would differentiate "5" from "6." Otherwise, I think you guys pretty much nailed it in terms of things that would be included in each scenario. Thank you.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. First of all, do we have the Motion that we did on "5" and "6"? I'd like to see that at some point. Maybe someone can look for it while I talk, and we get someone else, besides you Hillary, looking for it, unless you have it. My recollection on those Motions and performance-based zoning discussion may have been a little different. I just

TRANSCRIPT

wanted to see what it said. I guess I'll start with the fiscalization of land use. I also was a little surprised by the outcome on that. When I looked at the numbers, it looked to me that what drives a lot of this is the way you allocate the police services. I think you allocated 70 percent to business and 30 percent. I think that skews the results in a way that makes the study, frankly, not work. What you basically say is that the Downtown creates a lot of the calls, especially on weekends in that. That's related to commercial activity; therefore, if we add commercial activity, we are putting that not for residents. We're putting that towards employment. I think what we're really talking about is retail in the Downtown as opposed to office workers, given the ... I think by lumping that altogether and given the huge impact, 70 percent, given the pensions of police officers and all of that. I really ask myself, if we got rid of our Downtown and it didn't exist, could we really get rid of 70 percent of our police officers. Intuitively that just didn't strike me as right, to be honest. When I asked little questions about this Fiscal Study, intuitively it didn't really make sense to me. When you look at most cities, take San Jose for instance. They're always bemoaning they don't have more jobs and that they have too many residences. They're bemoaning that because they don't want to have the residents. They want the cash and the money and all of that that goes with that. What your study is saying is the opposite, that we should go out—if we want to have lots of money in our City, we should build as much housing as possible and minimize jobs. Intuitively, that's wrong. It just clearly is. When you start to break this stuff down—I can give you another example. What seemed to drive a lot of the resident stuff for me in your study was that housing rates turn over much faster and drive property taxes; whereas, commercial turns over a lot slower. Is that correct? That struck me as ...

Mr. Sigman: That factor's included. I would ...

Vice Mayor Scharff: That seemed to be a fairly large factor in that.

Mr. Sigman: I don't think it's a significant driver of the ...

Vice Mayor Scharff: You didn't think it was a significant driver?

Mr. Sigman: I don't think that is, no.

Vice Mayor Scharff: You don't think the fact that commercial—okay. Council Member Schmid, I guess you should probably stop talking about that.

Mr. Sigman: Actually I should add when I met with the Finance Committee, this was obviously an issue that we spoke about at length. One of the things that we suggested we would do, and we'll do, is a sensitivity analysis around those turnover rates. We do indicate that the commercial doesn't turn over

TRANSCRIPT

to the same degree, at the same rate that the residential does. I think that there were arguments made for even lower turnover on the commercial. We're going to test that and see the effect that it has. If I may about the police services. I just want to note that we did work extensively with the Police Department to produce that cost allocation. It doesn't reflect my firm's opinion of what's going on. It's our coordination with the Police Department, their assessment of calls for service or incident-type data by the locations that it occurs. We agreed after the Finance Committee to go back and speak with the Fire Department a little bit more. I think it may be based on your comments, the Police Department as well.

Vice Mayor Scharff: I'm trying to figure out what I'm supposed to use this fiscalization of land use study for. What I would assume I'd use it for was in saying to myself, if we lower job growth, is that going to have an effect on our budget and we have more residents. What came out of that was that if we have more residents, we'll have more money in the budget. If we lower job growth, we'll have nominally. Yes, it's not a huge number; it's \$67 million. First of all, that just didn't seem like the right conclusion to draw out of all that. It seemed like the numbers were wrong, and I thought it had to do a lot with the Police Department. I think it has to do with the way you allocate retail and not breakdown ... Obviously, the more retail we have and more regional center, you draw people from out of the City, the more money you make. That's one of our drivers. If we do rental housing for instance, that turns over, I would assume, much more like a commercial building. If you own an apartment complex, you're going to not sell it based on Proposition (Prop) 13, similar to owning an office building. That's just intuitive; I may be wrong on that. That seems different than a condo project; whereas, individuals would have condos. I think it's more complicated than that. When I looked at the rest of the stuff, most of the City services that we spend are in response to residents, not in (inaudible). Public Works was another one. We took the Public Works budget—this didn't make any sense to me—and we said businesses drive 56 percent of the Public Works projects because it's trip generation on roads and its 40 percent residents. The Public Works budget is much more than just the roads that we're doing. It just didn't seem the right way to allocate the Public Works budget. I am just wondering what useful information came out of that Fiscal Study that would inform me on the Comp Plan. I don't really think there was any, that I can point to, that was useful in saying what we should do. It struck me that the drivers of this stuff are you want to have more Transient Occupancy Tax (TOT). If you want more money, you want more TOT, more auto dealerships, things that drive sales tax and you want to turn over your existing property as much as possible. You did point out—that was one useful thing—that the amount we actually build doesn't create that much new property taxes compared to the turnover from Prop 13. Was

TRANSCRIPT

there something else I should have taken out of that study? I know you seemed anxious to say something.

Mr. Sigman: I would just offer that my firm conducts these Fiscal Studies throughout California for 30 years. This is a very detailed one. I think we're providing you a lot of granularity around the uses and the uses by employment versus residential occupancy. What we're finding here is that you can grow without severely damaging your General Fund. You can grow employment without damaging your General Fund, and you can grow residents without damaging your General Fund. I think that's the takeaway.

Vice Mayor Scharff: Moving on to the comments on the scenarios. I also actually, when I listened to the business community come up and speak, had similar concerns. I think we could really damage the business environment by creating uncertainty. Business hates uncertainty more than anything else. The notion of a conditional use permit is a bad way to go. If we want to limit employment density, we need to somehow say it's no more than four per 1,000 or something like that, so businesses know what it is. I'm not saying that's the right solution, but I'm saying—I think it becomes particularly damaging when you're going between R&D and office use. What struck me is when I went up to Tesla, and we were all happy that Tesla opened up. I remember how difficult it was to get them open and all of that. There are parts of time they need to do R&D; they need to switch back and forth. Any sort of innovative business up there like Tesla, because I haven't visited other ones, but I'm hearing from the business community I think it applies to many more companies than Tesla. They need to have the flexibility to do some R&D, to have more lab space. Then, if they have more lab space, to then say not that that they're giving up office space if they want to move it from lab to office. I think that flexibility of going between R&D and office is really important. I'm also concerned about creating uncertainty in the process. I think the creation of uncertainty in our Comp Plan will drive a real negative impact on business. I'm concerned that the EIR seems to have no analysis of that, of the uncertainty factor of that. I'd even say on the office cap it's really interesting. We put in a beauty contest-type concept into the office cap. People are like, "I'm not necessarily wanting to spend the time, the money to go through this process without knowing I get there." If you had a first-in-first-out approach, then people can say, "I'm in the queue. I know where I'm going to be and, therefore, I will get it or I will not get it." I think the more uncertainty we create in this, the more damage we're going to do to our business environment. I am concerned about that. I think we should listen to our business community, especially when it's well thought out like I thought the people from the Research Park when they came and spoke on this, actually spoke quite articulately. I thought a lot of their letters were articulate. I would support

TRANSCRIPT

that. I was also—let's see. What else was I going to say about this? Did you find what the original motion was that's up on the board? That's what I remembered it as. It says including a performance-based approach with policies and mitigation members. The language actually says performance based, and that was the direction from Council, and that's the way I remembered it. It was really confusing to me when you said you dropped that because you got different direction from Council.

Ms. Gitelman: Thank you for clarifying that, Vice Mayor Scharff. We did assume that there would be a mitigation regime that would be attached to these two new scenarios. Really the intention of these new scenarios was in part to test the efficacy of the mitigation regime. I apologize that we dropped the performance-based lingo out of here. That's clearly the intention; both of these would test the mitigation approach that we've articulated in the EIR and any changes that the Council would like us to incorporate.

Vice Mayor Scharff: That was my only confusion. I thought in response to Council Member DuBois' question you said it was a different tool set, the mitigation measures, as opposed to a performance-based approach. I thought you said there was a difference. I just heard you say maybe there isn't a difference. I'm confused.

Ms. Gitelman: We understood the Council to be interested in seeing how these two scenarios would perform with a suite of mitigation and performance measures. I'm using those terms pretty interchangeably.

Mayor Burt: Council Member Kniss.

Council Member Kniss: Let me ask a couple of questions that reference the Minutes that are in our packet. I'm looking at the Minutes that came from the start of the meeting that you had with the Finance Committee. Are you Mister—is it Sigman? Am I pronouncing it right? Looking at the Packet Pages that are 393 and 394, you reference—let me get closer to the mike. You have referenced on this—it's important to note we looked back 15 years at some of the trends, so we're not operating in sort of a bubble. Do you recall what the slide was? What you might have looked at.

Mr. Sigman: I have the report in front of me. The graphic is also included in the report. It's a historic ...

Council Member Kniss: Is the graphic in here some place that I haven't found?

Mr. Sigman: No, it's in the actual fiscal analysis dated January 15th.

TRANSCRIPT

Council Member Kniss: Which I don't happen to have in front of me. What page is it on?

Mr. Sigman: Page 12, Figure 7.

Council Member Kniss: While I'm looking for that—could you find that? Would you be my secretary? As you look back at that with the reminder that this Plan that we're doing tonight is going to go through 2038, the last Plan that was done was decided on in 1998. Now, it's going to be almost 20 years later before we finally get this accomplished. I would think that as you look back over that 15 years, that would have given you some very good insight. That is what you're saying this is, correct?

Mr. Sigman: Correct.

Council Member Kniss: That's the expenditure trend, which started in ...

Mr. Sigman: We're looking back from 2000.

Council Member Kniss: It looks like—2000. You took it out about 15 years, as you said you'd gone back. Starting in 2000, it being at 90. Now having gone up considerably. You have it crossing. Say a little more about this chart, would you?

Mr. Sigman: I'm sorry? I didn't understand your question.

Council Member Kniss: Just expand on the information that's in that chart.

Mr. Sigman: You're looking at your General Fund expenditures graphed in two ways. The lighter gray that comes up sharply is nominal dollars. Those are the dollars that occurred in the year referenced. The dark gray line on top is the same trend but adjusted to be constant 2014 dollars. That's as if it were all in today's money. What you can see is that when we convert it all to today's money, it's a much flatter line. In real dollars, in constant dollars, the budget trend is much flatter than in nominal dollars.

Council Member Kniss: Therefore ...

Mr. Sigman: It backs the idea that the municipal government here in the General Fund is fairly stable. It's fairly flat in constant dollars. There was a steep period in the early 2000s, but after that a relatively stable General Fund.

Council Member Kniss: Therefore, did you look at what the trends were economically as you did this? Did it follow any of those trend lines such as—

TRANSCRIPT

in '01 and '02, I would think that, because that was a recession time, that would have altered the amount that we spent here in this budget.

Mr. Sigman: We corresponded with a number of your department representatives to assess the degree to which their operations had changed during these particular years to see if we could draw conclusions about staffing in the different City departments and the effect on their budget more so than macro-economic trends.

Council Member Kniss: Is what you're saying, without putting words in your mouth, that the trend—this also shows that it actually comes together—would indicate that, if we continue on the path we're on, we stay in pretty good stead financially. Am I reading that into this? I know you went through this with the Finance Committee at length.

Mr. Sigman: Yes. I think that what we're saying is that your budget is fairly stable. I can't ignore the fact that there is difficulty in the current budgeting cycle; there's a challenging budget at hand this year. Looking back more than a decade, we see relatively strong fiscal stability in the City.

Council Member Kniss: Help me make some sense out of this. Between ...

Mayor Burt: Tell us where you're going. What does this have to do with the scenarios?

Council Member Kniss: Here's what it has to do with it. We grew from 2,000 to 2015 or thereabouts, almost 10,000 people. This doesn't seem to reflect that. When we're talking about the number of people and the number of jobs that we're going to be looking at ...

Mayor Burt: Is this adjusted for population and jobs or is it just absolute dollars?

Mr. Sigman: This is just dollars. This is straight out of your Comprehensive Annual Financial Reporting.

Council Member Kniss: It would say to me that regardless of the number of people that you add, the dollars stay pretty constant. Would that say if we had ...

Mr. Sigman: They're going up a modest amount ...

Council Member Kniss: Suppose we add another 10,000 people.

Mr. Sigman: Yes. There's a modest trend upward. I think our report projects a modest trend upward.

TRANSCRIPT

Council Member Kniss: That's where I'm going with this. A modest trend upward. I'm not suggesting we add 10,000 people; that certainly isn't my point. I don't know how you can predict the future without having known what's gone on in the past. This indicates what has happened over that past 15 years with great changes, changes in population, changes in job growth and so forth, from which I think you can make a number of deductions.

Mayor Burt: I'd like to jump in here at a moderately high level on mitigations and impacts. The comments that we heard from both the Chamber and most of all from the Stanford Research Park representatives around, one, the problems with having mitigations and limitations be project based as opposed to something that's broader and how that lack of flexibility at a more granular level is problematic in their eyes, and a challenge to us to look at what we're really concerned about, in particular with the Research Park, but to a great degree throughout the community which is trip generation. I'm particularly interested in what is essentially a performance-based standard, but it's performance based at a higher level. That is trip caps, which is what we have for Stanford University. Along those lines is what Mountain View is looking at for their whole North Bayshore area. I'm much more intrigued by having trip caps as the most direct way to look at the real problems. Something that would be potentially both more flexible and more aggressive in mitigations than other alternatives. In the end, if we look at, say, Stanford Research Park as a whole or what we call East Bayshore, I guess Mountain View calls it North Bayshore, those areas that are discrete enough in terms of entry points that we potentially could be able to monitor and quantify, and then tie what goes forward based upon not only a cap but potentially a reduction. We have our other areas of town where we actually now have a way to have trip caps, and that is through our Residential Permit Parking. We can't parking overflow; therefore, you can't have more cars because they have no place to park. In our Downtown area we've already established that we're going to ratchet back the number of commercial permits in the neighborhoods each year, so we basically have a program there that, unless we build a bunch of parking capacity in Downtown, we're going to see fewer trips as a result of fewer parking spaces. We have the question is that just wishful thinking, that we could move in this direction. I think we are now for the first time in at least a half century entering an area of really major transformations in transportation. Just a whole series, a suite, of new technologies and integrations of technologies that really make possible some things that previously we could hope for, we could talk about, but they weren't as real as what we're seeing right now. I'm very interested in looking at, not carte blanche if we put a trip cap, but certainly that being perhaps our most important measure that we would have and to look at it in sub-regions. The Research Park, the East Bayshore indirectly through the University Avenue, Downtown and once

TRANSCRIPT

we're going to have RPP adjacent to Cal. Ave., then we'll have it in that greater area. Really all we'd—most of the City that we'd have left that could be impacted from commercial development would be along El Camino. That may be more challenging, and maybe there's certain areas that we still have to have more site-specific controls. For the most part, I think we could be moving in a direction of really significant, quantifiable, not only trip caps but I'd want to see trip reduction. If we allowed a little more leeway, say, in the Stanford Research Park, I'd want to see actually not maintaining gridlock that we have today, but reducing it. I think that's what we really ought to be looking at. I wanted to jump in because I want to hear my colleagues' thoughts on that concept. I think it's a pretty fundamental one and potentially one that could have a real favorable impact on the community and, frankly, on the business community, because the congestion is as problematic to them as it is to our residents. There, I think, are new technology solutions, new monitoring solutions. Hillary, what is the company that we're engaged with for Safe Routes to School that has the advanced monitoring technologies?

Ms. Gitelman: VIMOC is the name of the firm.

Mayor Burt: Even on the ability to monitor, we have new tools that we never had before. I think this is something that we should be including in our analysis under Scenarios 5 and 6 perhaps and really considering as a preferred scenario as well. Now, we may see the need for a hybrid of sorts, because it may not address all the areas of our community. It may very well address the biggest trip-generation areas. Council Member Schmid.

Council Member Schmid: Let me start with process. A couple of quotes from the Planning Commission meetings from the PlaceWorks representative at the end of the meeting. Joanna Jensen said three things. "I definitely heard from some of you, maybe all of you, that the scenarios don't really seem to represent a range. The goal of the scenarios is to present a low and a high." Second quote. "Every community we look at is different." Third quote at the end of the meeting. "Preferred scenarios and mitigation measures effectively reduce impacts or do we need to have additional measures." That's sort of the issue we're grappling at tonight, embedded in these three assessments. Also, I go back to Section 6 in the DEIR; alternatives it says. In there, they quote the CEQA Guidelines that said CEQA should consider a range of potential, reasonable alternatives that will foster informed decision-making and public participation. It goes on, though, in that first section to say we can't look at a no growth alternative because growth would only continue somewhere else and some impacts may actually be worse than in Palo Alto. They rejected no growth. It seems to me every single one of our scenarios now has a minimum average of almost

TRANSCRIPT

twice our long-term, nonresidential growth rate. That doesn't seem to capture the notion of low to high. Maybe my first general question is shouldn't we be addressing a low and a high somewhere. Let me give six specific examples. First is the jobs/housing balance. Palo Alto isn't like other communities. You say every community is different. We are really different. We have three jobs to every employed residence. There's no other city of over 50,000 people in the United States that has that. If you look around the Bay Area, Silicon Valley, we have rates that are dramatically higher than every other community including San Francisco. The jobs/housing imbalance is something we have to deal with in our scenarios. How can we address it? How can we look for mitigations of that issue? Let's look at the key mitigation issues or problem areas. Traffic. Let me just focus on Trans 1. Trans 1 looks at intersections. There are five key intersections you look at. I'm sorry. There are 11 or 12, but there are five that will be operating, are now operating at F levels. All four scenarios have at least three intersections. Those intersections leave out at least six intersections that were included in the 1998 Comp Plan. Other intersections on El Camino and Sand Hill that we have noted in approving local projects in the last few months that will be operating at F sections. The conclusion is that even the mitigations, including TDMs, grade separations, regional solutions, would not eliminate the projected impacts of five of the six intersections we've been talking about. Traffic remains a critical, significant and unavoidable issue. Why not look at slower, nonresidential growth? Question number one. Look then at TDM. TDM is identified as maybe the most effective means, mitigation that we have in our toolbox. If you look at the TDMs that work, there seem to be two around here that do. One is the Stanford Medical Center. Why does that work? Stanford is going to be fined \$177,000 for each year it doesn't meet the goal. They have committed \$125 million in things like Go Passes and shuttles and Zipcars and emergency drivers, a whole host of things. \$2.5 million a year to deal with 11,000 workers. They control each worker. They have a payroll with all the SUMC workers on it. Those are conditions that don't exist anywhere else in our town, that type of control, that commitment to spending. They have an annual report where they do a survey. It's interesting they've been working on this now for four or five years. They just came out last year and said, "We had to relook at our surveys and actually our weightings weren't done correctly. We have to adjust our numbers 15-20 percent down." Stanford is having trouble getting an appropriate measurement to make it work. Another area where TDM seems to work is north of 101 in Mountain View. What do they have? They have two big employers, but the key thing is there are only three routes in. As the Mayor pointed out, they have placed a cap on the number of cars that they want entering. They can measure it, and they do measure it very effectively on an ongoing basis. It's hard to do that in Palo Alto. We don't have a big business section with only three roads

TRANSCRIPT

or at least we have not been measuring effectively. That certainly is a mitigation, Trans 1, that we should look at effectively and importantly. There's been a little talk about money. Where do we get money to do these things? They want the General Fund to help support our TDM. The issue with money in Palo Alto is we are very successful with nonresidential, with jobs. We have that 3:1 ratio, higher than anyone else in the country. Our budget should be bursting with money. A funny thing about our budget and the budget of all local governments is property taxes fund an important part, 43 percent, in Palo Alto. Our School District, it's over 80 percent. Our community college district, it's over 80 percent. The County tax revenue, it's over 80 percent. Special districts, it's over 90 percent. Property tax. Is this influx of businesses helping us? No. If you look over the last 12 years, every year despite the rapid growth in business, three times the rate of employed residents. The share of property tax paid by nonresidents is dropping by one percentage point a year. It's now making up 25 percent of our property tax, the property tax of the schools, of the County, community colleges and other special districts. That's an issue. Why not cut back then the growth on nonresidential if it is not paying its fair share? There's another issue out there which might be the most important long-term issue. The point was made by someone that the Comprehensive Plan might be the most important document for our future. It's our chance to talk about our longer-term future. Look under schools, demographics in schools, Pop 4 or PS 1, PS 2. There you look at what is expected from this growth in population in the City, and the school yields that will come will be half of what they have been in the past. If you look at Palo Alto today, every housing unit provides 0.34 students to the school. The projection of this 10 percent increase in population that we have is going to increase the school population by 0.1, less than half—0.18, I'm sorry, just about half. That's a startling change in the community. Sort of an announcement, we're going to be a different community in the future. Each of the four scenarios outlined here, saying our housing growth will be for young workers and aging seniors. That's why the yield is low. We're creating a different type of community. Is there any community like this? Not our neighbors. If you look at all of Santa Clara County, the yield is about 0.34. If you look at all of San Mateo County, the yield is about 0.34. San Francisco is the only exception. It is down there with a yield of about 0.14. We are trying to make ourselves into a business-centric city with a commute population instead of a seedbed of Silicon Valley. We have mature workers between the ages of 30 and 65 establishing families and living as a community. That is a profound change, and it should be noted in Pop 4, PS 1, PS 2. Finally, if we're looking at longer-term things, look at water. Utility 1, Utility 2. All our scenarios are pointing to fairly rapid growth between 10 and 20 percent in both population and workers, jobs. Our water picture says water will grow about 2.3 percent over that time period. Now, that's a little scary if

TRANSCRIPT

you have that discrepancy of 10-20 percent growth in new people and new jobs, but a two percent growth in expected water use. In this last year, we had the lowest level of per capita use, gallons per day, that we've had in the last 50 years. Does this mean that we want to decrease by 20 percent the use of water per capita in our community? Maybe, but let's have that as one of the impacts of your rapid growth scenarios.

Mayor Burt: Are we wrapping up here?

Council Member Schmid: Yes. I just want to say that a key issue here is rates of growth. A goal of the scenarios in the CEQA definition is to have a high and a low. We certainly should include a low or at least talk about the impacts that we are creating without mitigations.

Mayor Burt: Calling on a colleague. I just want to respond to one concern by Council Member Schmid that I keep hearing as a refrain by different members of the community, and that's concern on water. Water is certainly a very important issue for us going forward, but data that we have shows that we have reduced our water use by approximately 40 percent over the last 20 years with a 10 percent increase in population growth.

Council Member Schmid: (inaudible)

Mayor Burt: I reference the trend line, because it is a trend line. That is an indication of the future. That's why it's there, and that's why that data is valuable.

Council Member Schmid: Remember also the trend line of nonresidential growth over the last 30 years has been one-half of what each of these scenarios have. That might be connected.

Mayor Burt: We have had significant residential growth and commercial growth in that period of time and huge reduction in water. Anything other than that is a misrepresentation of the facts.

Council Member Schmid: I think one of the CEQA goals is not to compare with the past but to talk about the future. We have cut back, and we want to cut back some more.

Mayor Burt: Council Member Schmid, you just got done citing a whole bunch of past patterns projecting toward the future over the last half hour. I think you want to cherry-pick it. Council Member Wolbach.

Council Member Wolbach: Thank you. A couple of comments about some of these specifics. First, I actually want to address a couple of high level issues

TRANSCRIPT

that I think are relevant for the Draft EIR. First, Council Member DuBois actually pointed out that—he made a claim that adding—pointed out that adding housing in Palo Alto, even the scenarios that add more housing, won't necessarily reduce the rental rates for housing in Palo Alto. That's true kind of, in the same way that reducing our greenhouse gas emissions won't necessarily reduce global climate change and the impacts of sea level rise on Palo Alto. Like climate change, it's a problem that's a collective action problem. It's bigger than us. The housing crisis is a regional thing. We were talking about this earlier tonight for an issue that we're going to reopen for more public comment after this. The idea that we shouldn't try and do our part to address an issue that's larger than us, the idea that that means we shouldn't try just because it's a bigger picture issue is one that we rejected with climate change. I hope it's one we can reject when it comes to housing. There is a crisis of a lack of housing supply at market rate and certainly at affordable rates. That is regional. Palo Alto has a moral and also a legal obligation to do our part to address that problem. It's really a straw man argument. I want to be very clear in rejecting it. This straw man argument that those of us who are advocating for the higher housing scenarios think that doing so on its own will solve the whole problem, we don't make that argument. There's also a related straw man argument that those of us advocating for the higher housing scenarios believe that if there is enough housing in Palo Alto, every employee who works in Palo Alto will live in Palo Alto. Also a straw man. I don't think anyone else makes that argument. If there is more housing in the region, especially located near transit nodes, such as Caltrain stations up and down the Peninsula, it does make it easier for people to live in the area. As all academic research shows—whether you want to reject the science or not, all the academic research shows that if you do add supply in the region, it will address the housing cost or at least keep it from escalating and getting worse and worse. This goes back to the jobs/housing imbalance. I think it's really interesting that at least a couple of my colleagues and some members of the public used to talk a lot about the jobs/housing imbalance and really focus on that. I commend Council Member Schmid for continuing to focus on it. Some others used to focus on it, until they realized that addressing the jobs/housing imbalance could not just be done by trying to limit jobs. It would mean you'd actually have to allow a little bit more housing or maybe a substantial amount of housing. When those colleagues of mine and members of the public realized that addressing the jobs/housing imbalance means you're actually going to have to add a lot of housing, they stopped talking about jobs/housing imbalance. I think it's worth pointing out the change in discussion that we've heard. There's also been a longstanding discussion about unavoidable impacts with housing development. I've heard Council Member Filseth, for instance, dating back to December of 2013 if not sooner, talking about the unavoidable impacts, saying that we could choose

TRANSCRIPT

whether we want to grow our population or not grow our population, saying that if you do ...

Council Member Holman: Mayor Burt? Mayor Burt? I apologize, and I apologize for interrupting. I do apologize, Council Member Wolbach, for interrupting. We are not advancing our item tonight. We are making comments that are our personal perspective and policy. We are at 10:30 P.M. We have another item yet in front of us. I don't know if the best way to address this is—with due respect to Council Member Wolbach who I interrupted—to try to move us forward, if we should continue our comments on Scenarios 5 and 6 to a future date or how we want to address this. We have a number of people here who have been waiting for the next item.

Mayor Burt: I hear you and okay. Let me just say that I agree with you. I think colleagues have not been focused in their comments around ways that we progress on these comments on scenarios. They've been far too much in terms of longwinded, philosophical comments with some areas of value to the scenarios, but we need to filter out the rest. Our alternatives are that we continue this item or that we have focused comments, because we have another important item before us tonight.

Vice Mayor Scharff: Why don't we do the other item and come back to this (inaudible)?

Mayor Burt: We actually have the final conclusion of actually former Item 18.

Vice Mayor Scharff: (inaudible) voted on it.

Mayor Burt: We did vote on it. That's right. We decided it. I forgot how we ended up. Why don't we do that? We'll suspend this item. We have consultants here. I think if we're going to move on to the next item, we need to determine when we can reschedule this.

Council Member Kniss: (inaudible) for continuing it or any (crosstalk).

Council Member Holman: Yes.

James Keene, City Manager: Wait. You're talking about sort of suspending it with continuing it at some future meeting, not tonight. There's no way you can do it tonight.

Mayor Burt: When I first said suspend, I was thinking about later tonight. Now, it's continuing.

TRANSCRIPT

Council Member Wolbach: Mayor Burt, were we planning on making more motions? I was just offering comments, and I was very close to wrapping up. I appreciate your patience especially after the last couple of lengthy comments. I was pretty close to wrapping mine up. I don't know if we were planning on making any more motions or if we were just finishing up comments to provide for Staff and we could finish this item.

Council Member DuBois: I had a short Motion which I outlined before that I was hoping to get out.

Council Member Holman: Some of us haven't commented at all yet.

Vice Mayor Scharff: I move we continue it.

Council Member Berman: Second.

Council Member Holman: Second.

MOTION: Council Member Scharff moved, seconded by Council Member Holman to continue this Agenda Item.

Mayor Burt: From a Staff standpoint, if we do continue it, it'd be continued 'til when, though?

Ms. Gitelman: Thank you, Mayor Burt. I'll go back to Council Member Kniss' observation. We've already continued what was originally a 60-day comment period quite a bit past that. I would say that every day we continue it from here on is a direct impact on schedule. I'm not saying we can't continue it, but I just want everybody to be aware that it ends up impacting the schedule. We can't begin our analysis of Scenarios 5 and 6 until we conclude this hearing.

Mayor Burt: If we could wrap this up in the next less than 15 minutes, then maybe we don't continue it. I can't hear you. You need to use your microphone if you want to speak.

Council Member Filseth: Sorry. If you were going to let the consultants go, I actually had two technical questions about the DEIR that I wanted to ask them.

Mayor Burt: I'm going to allow Council Member Wolbach to wrap up, and then we'll hear briefly from Council Members Filseth and Holman. Council Member Holman, do you think you'll be moderately brief?

MOTION WITHDRAWN BY THE MAKER

TRANSCRIPT

Council Member Holman: I can be brief, but I don't think what I have to say is going to be conclusive. I think people will want to have comments to my comments. I could be wrong.

Mayor Burt: Let me give it a shot. Let's refocus here. Council Member Wolbach.

Council Member Wolbach: Allow me to finish please, and I appreciate the concern that Council Member ...

Mayor Burt: Just continue please.

Council Member Wolbach: To finish the point I was making, we've heard from Council Member Filseth and others for a long time about the unavoidable impacts such as impacts on schools. We've heard about this tonight; that's why I'm discussing it. The unavoidable impacts on schools, parks, water, traffic, parking, the aesthetic character of the community, crime, etc., that are unavoidably supposedly accompanying any substantial future housing growth. It was a surprise to me when I heard from Council Member Filseth when we sat down for coffee before we started serving on Council together, and he admitted to me that actually he agrees these are solvable problems. They're actually not unavoidable problems as they've always been described as.

Mayor Burt: Just focus on your comments.

Council Member Wolbach: These are my comments. My point is ...

Mayor Burt: You're now ...

Council Member Wolbach: My point is ...

Mayor Burt: I'm going to end this item if we can't focus on comments on the scenarios, not coffee with Council Member Filseth a year ago, any of those things. I'm just telling you we're going to do that.

Council Member Wolbach: I'll be done in two minutes or less. The point is as we work through these scenarios, there is widespread recognition that the impacts of housing growth are solvable problems. They're not unavoidable. When it comes to the specifics, quickly. Attachment F talks about loosening the height limit for Scenario 6. Although I've been surprised by the number of people in the community who are starting to advocate for changing the height limit, I might be comfortable with saying that we'd explore changing the height limit. Right now, it's identified as something that would happen as part of Scenario 6 and perhaps others. I don't think that the community

TRANSCRIPT

is interested and ready to do that. I have heard people in the community say that they'd be more interested in exploring it if it relates to affordable housing for seniors, veterans, disabled, etc. Again, this is on Packet Page 553 in the chart there, Table 3. I don't think that should be a necessary part of Scenario 6. Also on what Mayor Burt was talking about regarding trip caps, I think that's very worth exploration. Those are my comments. Thank you.

Mayor Burt: Council Member Filseth.

Council Member Filseth: Thank you. I hope this is the right forum for this. I actually had two technical questions on this. One actually is on water. If you look on Page 4.14-23 of the DEIR, Table 4.14-2 looks at water demand for the four scenarios. It looks to me like projected water demand is basically identical across all four scenarios even though population growth is significantly different across those. Am I reading that right? If so, why is that?

Ms. Jansen: I would be happy to spend more time looking at this. Just as an initial reaction, it's true that the numbers across the—I think what you're looking at is maybe the top row of Table 4.14-2 in terms of residential across the scenarios. Those differences are kind of within 100,000 gallons per day of each other. What you've got to bear in mind is that this is incorporating all of the water use in the City. The increment of difference, which is really only a few thousand units, between the scenarios when folded into the total and then multiplied by 73.1 gallons per day, this is what the math comes out to.

Council Member Filseth: Essentially what we're saying is that it's not sensitive to population growth, residential water consumption.

Ms. Jansen: I think you could—it's a difference of 73.1 gallons per day per—that's service population, both residents and employees. I think ...

Council Member Filseth: I'm just looking at the residential line.

Ms. Jansen: Yeah. Another interpretation, I think, could be that just the difference is the range in housing units among the four scenarios that are looked at in the Draft EIR does not have an enormous impact on residential water consumption.

Council Member Filseth: Although, one is 15 percent higher. Even within it, it's not sensitive at that level is what you're saying.

TRANSCRIPT

Ms. Gitelman: I think Joanna's right. It's because we are including all of the existing housing and existing population in this number. The delta is just so small when you compare it to the total.

Council Member Filseth: I'm sort of including the existing one too. Scenario 2 grows population like a few percent over 15 years, and Scenario 4 grows it 15 1/2 percent over 15 years. If, in fact, water consumption is different—I mean, it's good news. It says that water consumption in this town isn't terribly sensitive to population growth. I just want to make sure that's the proper assumption here. The second one I wanted to ask has to do with schools. If you look on page—I mean, basically they're all similar. If you look on, for example, Page 4.12-4, essentially all four scenarios say that we're going to be approximately at capacity for elementary schools and high schools and over capacity for middle schools, but they all come to the conclusion that there's no significant impact. Part of the disclaimer for that has to do with SB 50, which was a deal cut back in the late '90s that sort of redefined what impact was. My question is if it weren't for SB 50, would the conclusion still be no impact.

Ms. Jansen: The specific CEQA threshold that we're trying to answer here is not would schools in Palo Alto be impacted, but would there be the potential to have physical environmental impacts from the construction of new school facilities. That's the set of thresholds that you're looking at in a public services analysis typically.

Council Member Filseth: You're assuming that new schools would be constructed.

Ms. Jansen: If you look at the threshold as it's articulated on Page 4.12-9, that is the threshold that we're trying to answer. It would depend on a conclusion about whether or not new schools needed to be constructed and then thinking about where those schools would be located, etc., and how many new schools there would need to be. Typically at this programmatic level of analysis, as you can see in other sections, the conclusion is that at this level, given that no specific school sites are being discussed, there's not really enough information to conclude whether or not there would be an environmental impact. The threshold under CEQA is relatively narrowly focused here.

Council Member Filseth: Got it. You're looking at environmental impacts from the actual physical construction of new schools.

Ms. Jansen: Exactly.

Council Member Filseth: I understand. Thanks very much.

TRANSCRIPT

Mayor Burt: Council Member Holman.

Council Member Holman: I will be very brief. I go back to a comment that Council Member DuBois made earlier. I'm hoping that we can bring back Scenarios 5 and 6 for additional comments at Council in the nearer future than longer term future. Scenarios 5 and 6 do not appear to be very differentiated. If we're going to look at a range of options and identify ultimately a preferred scenario, we need to be clearer in differentiating Scenarios 5 and 6, or I call them Alternative 5 and 6. A couple of comments I'll make here on Table 5 on Packet Page 555. How convenient. It does seem, as a member of the public commented, while this is a sustainability measure for the EIR scenarios, it seems like the S/CAP is driving this while the S/CAP itself is not yet defined, and a lot of the measures in the S/CAP that we have seen are not tested. While hopeful, we don't know yet the outcomes. Fourth box down under mobility, it says parking charge program for existing workplaces with over 50 employees. That's part of the S/CAP strategy. There's no reference there of what that can do. As we have seen in other situations, it would also call for potentially a Citywide Residential Preferential Parking (RPP), because it displaces parkers into other areas. I have several other comments that are similar to that, just having to do with there's not much differentiation between "5" and "6." There also doesn't seem to be much differentiation between commercial or among commercial uses. Commercial also includes retail. I don't think we're looking at converting retail to housing. I don't think this is what the Council intended. In five of the six scenarios, it says remove constraints on addition of accessory dwelling units. I don't think that was intended for all five scenarios. I could go on; I won't. I hope that we can come back with comments and suggestions for how to differentiate Scenarios 5 and 6, because right now they seem to be very much aligned. It reduces our ability to compare one approach versus another.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I'll make an attempt at a Motion, which I emailed David. This is what I said earlier. For the purposes of greater contrast among the scenarios, for Scenario 5 we would under these tables add the conditional use permit or another method to regulate employment densities. We'd add the County expressway implementation and the CC(2) Floor to Area Ratio (FAR) reductions. What I'm essentially doing, just to explain, is really aligning "5" more with Scenario 2 and making it more of a contrast to Scenario 6. That's on the tables from Page 553, 554, 555, which really define the scenarios. Is there a second?

Mayor Burt: I will second it.

TRANSCRIPT

MOTION: Council Member DuBois moved, seconded by Mayor Burt to add the following assumptions to Scenario 5 for purposes of greater contrast among scenarios:

- A. Conditional Use Permit (CUP) or another method to regulate employment densities; and
- B. County Expressway Plan 2040 implementation; and
- C. Community Commercial (2) sub-district (CC2) Floor Area Ratio (FAR) reductions near California Avenue.

Council Member DuBois: I don't think I need to speak to it very much. Again, I was just looking at kind of the definitions of the scenarios. I think those were places where "5" and "6" could be separated a little bit.

Mayor Burt: I'm just going to leave it at that. Council Member Holman.

Council Member Holman: I would strongly recommend that—while I appreciate the Motion, this Motion itself could generate a lot of comment. I appreciate the aspects of it, but I don't think at quarter of 11:00 P.M. when we have another item pressing on us that we ought to undertake a Motion at this hour on this. I strongly suggest and will move that the Scenario 5 and 6 will return to Council at the soonest possible date.

Vice Mayor Scharff: I'll second that.

SUBSTITUTE MOTION: Council Member Holman moved, seconded by Vice Mayor Scharff to continue this Agenda Item to the soonest possible date.

Mayor Burt: I'm okay with that too.

Council Member DuBois: I'll withdraw the Motion. I think basically we're talking about not getting back to this until after the summer break. I think we're going to be impacting the schedule fairly significantly.

Mr. Keene: At the risk of talking out of my element here, whatever. We sort of have two things going on. We have four scenarios that have been the subject of the Draft EIR. The comment period is going to close on June 8. Hopefully, whatever you do today could put that piece of this to bed.

Vice Mayor Scharff: No. It reopens under our previous Motion.

Mr. Keene: You could close now, and you can then deal with directions or whatever comments related to Scenarios 5 and 6 separately in a sense.

TRANSCRIPT

Council Member DuBois: Which I think we're doing. The question is if we don't do it tonight, we probably don't do it 'til August which would impact the schedule.

Vice Mayor Scharff: I call the question. Let's vote.

CALL THE QUESTION: Vice Mayor Scharff moved, seconded by Mayor Burt to call the question.

Mayor Burt: We have to first vote on calling the question. That passes 8-1 with Council Member Schmid abstaining.

CALL THE QUESTION PASSED: 8-1 Schmid no

Mayor Burt: Now vote on the Substitute Motion. That passes 9-0. That concludes this item. Thank you all.

SUSTITUTE MOTION PASSED: 9-017. PUBLIC HEARING: Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and Approval of a Site and Design Application to Demolish the Existing Approximately 18,000 Square Foot Building and Construct a new Approximately 62,000 Square Foot Building for an Automobile Dealership Located at 1700 Embarcadero Road. The Application Includes Design Enhancement Exception Request to Allow Deviation from the 10 Foot Build-to-Line From Embarcadero Road and Bayshore Road. There is Also a Request to Apply the Automobile Dealership (AD) Zoning Overlay. Environmental Assessment: An Initial Study and Mitigated Negative Declaration was Circulated. Zoning District: CS (D) Service Commercial and Site Design Review Combining District. The Planning and Transportation Commission Recommended Approval.

Mayor Burt: Our next item is a Public Hearing on a Mitigated Negative Declaration and mitigation monitoring and reporting program and approval of a site and design application to demolish an existing building and erect a new 62,000-square-foot building at 1700 Embarcadero Road. The application includes a Design Enhancement Exception and also a request to apply the auto dealership zoning overlay. There was an Initial Study and Mitigated Negative Declaration that was circulated. The existing district is the CS(D). Jonathan.

Jonathan Lait, Planning and Community Environment Assistant Director: Thank you, Mayor. I'm going to introduce Sheldon Ah Sing; he's a contract planner with M Group. He'll make the presentation this evening.

TRANSCRIPT

Sheldon Ah Sing, Contract Planner: Thank you and good evening. The Mayor did a great introduction, so I'll skip this slide, because I think you've covered that. Just the location of the property; it's located at the intersection of Embarcadero Road and Bayshore Road. The site is located within the Baylands Master Plan and subject to the Baylands Design Guidelines. It is the service commercial property with a site and design combining zoning district. It's the only CS zoning district in the vicinity there. The other districts in the area include the research, office and limited manufacturing zone as well as the two adjacent dealerships are zoned PC. The site does include an 80-foot utility easement that has some restrictions. That's along Bayshore Road, so there's some limited development that could be done there in that area. That also includes planting limitations. Some of the heights of surrounding buildings. The PC zones, the height limit there. The Audi is 27 feet, and the Honda dealership is at 24 feet. The other industrial properties are two stories, but they kind of go between 24 and 35 feet height. This property allows up to 50 feet. The project was the subject of a number of public hearings including a Planning and Transportation Commission meeting as well as four Architectural Review Board meetings. Those are formal meetings, and there were a couple of other preliminary meetings before the Board. Some of the key issues there included some height, how to deal with the corner intersection, some plantings along with lighting, again a consistency with the Baylands Master Plan, aesthetics and compatibility with the surrounding as well as the project was subject to a Mitigated Negative Declaration. The plan is a bit of a unique type of automobile dealership in that it does have integrated sales, service, inventory and customer parking in one building. They really have a larger kind of footprint of a building, but a smaller footprint devoted to onsite parking. Some of the neighboring—your typical dealerships have a smaller building with sales and maybe a single-story service, and then they have a lot of parking devoted to inventory. The automobile dealership combining district allows for a bonus of 0.2 FAR for showrooms beyond the base FAR. For this project, they're taking advantage of that, about 16,000 square feet versus the 20,000 that they would be allowed for. The four-story building has large setbacks. Part of it is that they are asking for a deviation from the build-to setback, which is what you get typically along El Camino Real. In this case, it's probably not as appropriate. Along with that, you have that utility easement, that 80-foot utility easement. They can't really get that close to the roadway anyway. These elevations kind of depict the building proposed and the surrounding. The building is horizontally designed. Again, you have the 50-foot building that's proposed. Adjacent to it with the Audi, it's at 27 feet. The other buildings in the area are between 35 and 30 feet in height. The project does use muted colors as well as these are colors that are appropriate for the Mercedes-Benz corporate design. The project does include the one specific that is included in the Baylands Design Guidelines.

TRANSCRIPT

As mentioned, the height is consistent with the CS district. The signs are designed to be below the roof; those are consistent with the Baylands Guidelines. This is another view of some of the other elevations of the site. The landscaping is also appropriate for the surroundings and the environment as well. The applicant did provide through the process some detailed building perspectives. The massing of the building is helped by the additional setbacks being proposed as well as some of the existing built features, such as the transmission tower that's at the corner. It tends to take away from the building, but it's something that's just there. That tower is about 90 feet in height. Some of the plantings that they would be able to do. There was a lot of specific discussion there. In dealing with Pacific Gas and Electric (PG&E), near the tower they can actually do a little taller plantings, because the power lines there are higher from the ground than at say in-between the property, where that's the lowest part underneath the transmission lines to the floor. These are some of the building perspectives from Embarcadero Road as well as Bayshore. You can see the Audi building there. This is more of a rendering, not the actual building that's now in place. It does represent what it would look like. What's also important is the views from the Baylands. This photograph is taken from the trail that's in the Baylands, probably about 600 feet away from the site. You can see that the existing trees—there's also a property in between the Baylands Preserve and the subject property—would obscure the new building. The rooftop lighting would also not be visible from this distance. Through the Mitigated Negative Declaration process, there were significant impacts identified to biological resources as well as transportation. A mitigation is proposed for nesting birds and sensitive habitat from the onsite lighting. The lighting would be reduced between the hours of 10:00 P.M. and 7:00 A.M. That's consistent with the adjacent Audi dealership. Also, a mitigation for impact to the Embarcadero/Bayshore intersection by reconfiguring the lanes and changing the signal timing there. With that, Staff recommends that the Council adopt the Mitigated Negative Declaration and mitigation monitoring and reporting program, introduce an ordinance adding the automobile dealership combining district to the site, as well as approving the site and design architectural review and approving the Design Enhancement Exceptions. That concludes my presentation. Be happy to answer any questions you may have. Thank you.

Mr. Lait: Mayor, if I may, I just want to note that Alex Lew, Vice Chair of the ARB, is also in the audience this evening.

Mayor Burt: I want to return to the Council for technical questions. Vice Mayor Scharff.

TRANSCRIPT

Vice Mayor Scharff: Jeff Levinsky sent us in a bunch of questions. I wanted Staff to address them. I don't know if you saw it. Maybe, Jeff, do you have an extra copy to give Staff?

Council Member Berman: We didn't have it at places either.

Vice Mayor Scharff: I did have his email at place. I can give you my copy.

Mayor Burt: While Jonathan is looking that over, maybe we'll ...

Vice Mayor Scharff: Move on to other technical questions.

Mayor Burt: Yeah. Council Member Wolbach. I have the same concerns, because those questions reflected some questions that I already had, but they looked more researched than I had done. Council Member Wolbach.

Council Member Wolbach: Also relating to a letter that we got from the public. We got a letter from the Audubon Society regarding a couple of concerns of potential negative impacts on bird safety and health. The first really just to lighting on the roof of the building and a hope for reduced amount of lighting and changed style of lighting. The other relates to glass and bird-safe design. I was just wondering if Staff wanted to weigh in on either of those. I guess the technical question is what do we have to do tonight as a Council to provide direction for those concerns to be addressed in the project.

Mr. Ah Sing: Thank you. The plans do have pretty detailed schematics about the lighting. The applicant is very flexible with the lighting controls. The lights could go out at really any time. The condition of approval and mitigation is at 10:00 P.M., but they could set that timer to go off much sooner than that. With the bird film on the glazing, there's a condition that's an optional condition, but the applicant has been advised and they are amenable to adding that glazing to the building. They're here to address those issues.

Council Member Wolbach: Just to clarify as a quick follow-up question. Would it be possible for us this evening to make that optional into a requirement for the glazing?

Mr. Ah Sing: Yes.

Council Member Wolbach: Thank you.

Mayor Burt: Are you ready to address those questions?

TRANSCRIPT

Mr. Lait: I think Sheldon should spend a few minutes looking at it. They're all questions related to floor area, so we can take a look at those.

Mayor Burt: I can say one of them is whether interior vehicle parking that's not for customers or employees is supposed to be exempt from FAR. That wasn't my memory. When I see his reference to our Muni Code, it confirms what my recollection was. Is that the case?

Vice Mayor Scharff: I was sort of hoping to ...

Mayor Burt: I'm trying to help speed it along.

Mr. Lait: This is going to take us a few minutes to review it.

Mayor Burt: If it's not, then Council Member Holman.

Council Member Holman: I have the same question about the FAR issues. When I was reviewing the plans, I had those same questions. Lighting impacts, yes, there are sheets in the plans, but it's very hard—I've looked at a lot of plans over the years, but I cannot tell the impact of lighting from these plans. There's even kind of a psychedelic kind of drawing, but it doesn't tell me what the scatter is of the lighting, nor does it tell me what the intensity of the lighting is. The only reference to intensity that I found, that I can understand as a layperson, is that it's less than what a typical car dealership would have. Can Staff tell us how we can understand the lighting impacts?

Mr. Lait: I'll just buy a little air time here while Sheldon is taking a look at the list of questions related to the floor area. I do know that the Architectural Review Board did spend a considerable amount of time looking at the lighting plan at the last meeting. In fact, it was one of the three things that they focused on in detail. I might suggest—I don't have the plan in front of me, but we can ask perhaps Vice Chair Lew, who did look at those details, to respond to that. I could also—Sheldon could probably also respond to it to, except I've got him tied up now looking at these questions that we haven't seen until just moments ago.

Council Member Holman: I actually would like to hear from, through the Mayor, Vice Chair Lew and also give him the opportunity to make any other comments that he might like to make. It's also incumbent on the Council to have that information so we can evaluate it in addition to the ARB.

James Keene, City Manager: If I just might add, just real quick. I know we've had four or five public hearings on this item. First we've seen of this. I just would put this out there. We've been here since 5:00 P.M. tonight.

TRANSCRIPT

We could have even gotten this to our Staff here sooner, so we could be a little bit better prepared for the Council. I'm just sort of saying there's a lot of folks who deal with us routinely. I think we should have a little bit better partnership between the Council, the Staff and you all to make sure at 11:00 P.M. we're not scrambling trying to respond to your questions.

Mayor Burt: The questions that ...

Mr. Keene: No, I'm not faulting your questions. I'm just saying the material that the Staff is looking at right now, they just got.

Mayor Burt: I will say that I'm concerned that this is material that's basically in the Municipal Code and that I don't quite yet understand why it wasn't part of the review process. I'll wait to hear the response.

Mr. Keene: I'm just saying—I know, but the earlier we get this, the better prepared we can be for the public as a whole.

Mayor Burt: You wanted to hear from ...

Council Member Holman: I did, please.

Mayor Burt: About what again?

Council Member Holman: I'm sorry?

Mayor Burt: What did you want to hear from ...

Council Member Holman: About lighting and any other comments he'd care to make about the project.

Alexander Lew, Architectural Review Board Vice Chair: Alexander Lew, the Vice Chair of the Architectural Review Board. On the lighting, my understanding—I just did a quick double check on the lighting—is that there isn't spillover to neighboring properties. The rooftop lighting has always been a concern of the ARB. There are two pole-mounted fixtures on the roof, but they're only 8 1/2 feet high. Typically a light fixture up on the rooftop deck is going to be 15 feet or more, maybe up to 30 feet high. Those are really relatively low compared to a typical parking garage. Around the perimeter of the rooftop parking, there are additional fixtures, but they're all under 45 inches high, so that's fairly low. They're wall-mounted fixtures. They're not going to be casting up lights or you're not going to see them from the ground, from grade.

Council Member Holman: Say that last piece again please.

TRANSCRIPT

Mr. Lew: The wall-mounted fixtures, almost all of them are situated low, say like on the parapet, shining down onto the parking deck. You're not going to see them if you're around any of the neighboring streets. You're not going to be able to look up and see a pole-mounted fixture, as you would normally on a roof deck.

Council Member Holman: Thank you for that. Is there any other comments you wanted to make about the project review or project concerns?

Mr. Lew: One more comment on the lighting. If you look at lighting levels for automobile dealers, I've heard that it can be up to 30 foot candles. Typically just for emergency lighting as required for buildings, we're looking at usually one foot candle. They're proposal, I think, in the front was the maximum of 10 foot candles. It's a lot less than the typical car dealer, which is going to be in the 20-30 foot candles. They have lots of lighting controls around the back. It's not like they're illuminating an entire site all at a high level.

Council Member Holman: That's helpful. Thank you. It was kind of hard to read.

Mr. Lew: I've never seen some of those ...

Council Member Holman: It's a complicated lighting sheets.

Mr. Lew: I've never seen lighting sheets quite like that before.

Council Member Holman: I hadn't either.

Mr. Lew: it was unusual. The Board did take four meetings to come to consensus. I think the vote was 5-0, but I would say that there is still concern amongst at least one or two of the Board Members that the building is a larger scale than the neighbors. I think there's a sort of recognition that there are setbacks, easements, and that the previous CS rezoning for the hotel would have allowed a 50-foot high building. The neighboring ROLM district has a lower, 35-foot height limit. They also do have the automobile overlay, which would bump it up to 50 feet theoretically.

Council Member Holman: Thank you very much. Thank you for hanging in and coming tonight.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Two of my four questions have been asked, including the one on FAR. I had a question about the signage. It looked like

TRANSCRIPT

some of it was 34 feet long. I was just curious if that meets our Sign Ordinance. There seemed to be a lot of signage.

Mr. Lait: The signs were a part of the package. I don't recall any sign accommodations or adjustments being made. Any signs that doesn't comply with the Sign Code would have to go back and get approval for an adjustment.

Council Member DuBois: Is that a separate process we're not necessarily ...

Mr. Lait: There's an ARB process to go back and get approval for signs that don't meet the sign standard.

Council Member DuBois: I'm sorry. The signs that are in these plans are not considered?

Mr. Lait: While he's looking up the details, I'm just (inaudible) some.

Council Member DuBois: The other question, an easier one. The Staff Report says they modified the plans to stay at 50 feet. The drawings we got show it going up to 56 feet still. Are these just old drawings or does the elevator shaft still going up to 56 feet?

Mr. Lait: No, I think there is a—it's not a car elevator. What is the structure above the 50-foot?

Mr. Ah Sing: That's part of the equipment. There's exceptions in the Code to allow for the equipment portion of the elevator to go beyond the height limit.

Council Member DuBois: Was it even higher before and then reduced? The Staff Report referred to it being reduced around the elevator.

Mr. Ah Sing: Yes. You actually had access that went to the roof deck for vehicles. There was the combination of the cab plus the equipment. They brought that down. They're using a ramping system to get the cars to the roof.

Council Member DuBois: I'm sorry. Were you looking up the sign stuff?

Mr. Ah Sing: The signs in our calculations met the requirements. Anything that didn't meet the requirements would have to—if there was a deviation requested, then they'd have to go through a separate process.

Council Member DuBois: Thank you.

TRANSCRIPT

Mayor Burt: The City Attorney wanted to remind me that we should be making disclosures on any ex parte communication on a quasi-judicial item. If anybody has a disclosure to make. Council Member Holman.

Council Member Holman: I did speak with a couple of members of the public on this project.

Mayor Burt: I spoke briefly with a representative of the applicant and didn't receive any information that's not in the packet. I don't know if the Staff's still trying to digest this parking issue. Council Member Kniss.

Council Member Kniss: Just to be sure we heard clearly on your answer to Council Member DuBois' question about the 50-foot limit. You are indicating that the only thing that goes above the 50-foot limit is actually the elevator shaft mechanism.

Mr. Ah Sing: Yes.

Council Member Kniss: Is that what you said?

Mr. Ah Sing: Yes.

Council Member Kniss: There is another suggestion made here. I don't recall us doing it in the City at all. Maybe somebody can remind me we have done it. It's under the letter from Shani Kleinhaus, which indicates that there is a lights out program similar to San Francisco, Baltimore, Detroit and so forth. Is that something we have done before or have considered? It's on her letter which came today actually.

Mr. Lait: I think I got that letter. I'm not aware of a program like that in Palo Alto. I think the lighting is something that can be conditioned to meet whatever standard the Council is interested in. It will be on a dimmable switch. There is access to the roof. There is a certain amount of lighting that's needed for safety and security reasons. They are permitted to operate until 10:00 P.M. at least by the Code. If we're cutting the light out at dusk, that could impact operations.

Council Member Kniss: Even as it says dusk to dawn, it also says 10:00 P.M. to 6:00 A.M., 11:00 P.M. to 5:00 A.M., 11:00 P.M. to dawn. It's really not dusk to dawn. It really must just be a metaphor for turning the lights down when it is closing time. I think this one would say turning the lights off, but I would think—maybe you could find out a little more about it. You could probably turn them down substantially so that it doesn't interfere with any of the bird-friendly kinds of provisions we have made. I'm not sure how

TRANSCRIPT

many birds are actually flying during that midnight hour. Maybe, Shani, you could saying something.

Shani Kleinhaus: (inaudible)

Council Member Kniss: The migration. I think she said it. She's talking about migration.

Mr. Lait: I think when the applicant has a chance to speak, you'll hear that that's probably not an issue for them to dim the lights.

Council Member Kniss: That's one I'd like to see us follow up on. With that, I'll wait to hear about the FAR, Mr. Mayor.

Mayor Burt: Is the Staff ready to respond in any way?

Mr. Lait: It sounds like we've got some partial information. You want to go ahead and speak to what you know?

Mr. Ah Sing: (inaudible) Number 3, that was one of the kind of low-hanging fruit that we could take. I think there the commenter is speaking to that on the first floor there is a drive. This is people coming in probably from Bayshore Road. They would park there, and then talk to a service attendant inside the building. A service person would take that car into the building and elevator up to the third floor for service. I think we had looked at that as just your customer parking area; therefore, it was excluded from the FAR requirements.

Council Member Burt: Can you address the literal wording in the Municipal Code that's cited there?

Mr. Lait: It talks about in nonresidential, multifamily exclusions for all these zones, gross floor area shall not include the following: roofed arcades, plazas, walkways, porches, breezeways, porticos, similar features, not substantially enclosed by exterior walls and courts at or near street level.

Mayor Burt: No. We can jump forward to what Mr. Levinsky quoted. It says that Muni Code Section 18.040.030(A)(7) includes as FAR permanently roofed but either partially enclosed or unenclosed building features used for sales, service, display, storage or similar uses.

Mr. Lait: I'll speak to that. The other section I was speaking to was in "B." There's another section that's not included in the letter, that speaks about areas that are excluded. Just to conclude that half sentence that I was in the middle of, it says when accessible to the general public and not devoted to sales, service, display, storage or similar uses. When we looked at the

TRANSCRIPT

application and the plans that are before you tonight—the Council may have a different perspective on this—this is an area where people are dropping off their cars, and the cars are getting whisked away to the upper levels. The service operation is taking place inside the building. You get out of your car; you go into the building; you sit down at the desk; you have your exchange with the sales person; and you take the shuttle or however you're getting to whatever your place is. We did not consider this area, which is not substantially enclosed by exterior walls, to be considered a sales or service area. You're dropping off your car, and you're going in to take care of your sales activity. Again the Council may have a different perspective.

Vice Mayor Scharff: There's an exclusion, right?

Mr. Lait: That's the part I was reading, the exclusion for that area.

Vice Mayor Scharff: Mr. Levinsky left out the part about the exclusion.

Mr. Lait: I just don't see it in the letter.

Vice Mayor Scharff: Did you get a chance to look at—Number 3 takes care of that. What about Number 1? Did you get a chance to look at that?

Mr. Ah Sing: I'm just checking with the applicant. As I mentioned in my presentation, the 0.2 FAR represents 20,000 square feet. My understanding was that the applicant was using 16,000 square feet. Is this letter is true—we can verify those things—that 4,000 square feet would be covered under that 20,000.

Vice Mayor Scharff: He only used 16,000 out of the 4,000, so the rest of it is there. (crosstalk)

Mr. Ah Sing: Right. That would be covered there. The other issue—jumping around. Number 4 would be inaccessible loading area. There are two loading berths that are identified on the project site plan. The other loading berth is kind of close to the intersection of Embarcadero Road and Bayshore Road. There's sufficient room there to put a loading berth if the other one isn't deemed to be adequate circulation. You could have those two be side by side. That's actually close to the delivery of the vehicles. There's a bay of doors along Embarcadero Road, where the merchandise would be loaded anyway. That's a potential spot for that.

Vice Mayor Scharff: It's a potential what?

Mr. Ah Sing: That's a potential spot for that other loading berth. You could have side-by-side loading berths.

TRANSCRIPT

Mayor Burt: (inaudible)

Vice Mayor Scharff: They could relocate it if that's a problem.

Mr. Ah Sing: That's true, yes.

Vice Mayor Scharff: You didn't view it as a problem in terms of the access?

Mr. Ah Sing: Our transportation team had looked at that. There's potential that it could be a spot that may not be as accessible.

Mr. Lait: There's different kinds of loading activities that take place. The large car carriers is one, but there's also a parts department here. Those parts deliveries take place in all kinds of different-size vehicles. The Transportation Department's review seemed that it was consistent with the site orientation and site circulation.

Vice Mayor Scharff: What you're saying is, "We did look at it, and we found it to be adequate."

Mr. Lait: Yes.

Vice Mayor Scharff: I guess the only other question on this—because "5" is more of a comment than a concern, more of a comment than would be Number 2, the car storage issue.

Mr. Lait: Correct.

Vice Mayor Scharff: On the car storage issue, you're going to get back to us on that. You're going to take a look at it or do you need more time?

Mr. Ah Sing: A little more time on that, if I can.

Vice Mayor Scharff: That's fine.

Mr. Ah Sing: Thank you.

Vice Mayor Scharff: Maybe we can move on to regular questions if no one else has technical questions.

Council Member Kniss: (inaudible)

Mayor Burt: (inaudible)

Council Member Kniss: Could I just finish my (crosstalk) ...

Mayor Burt: Yes, go ahead.

TRANSCRIPT

Council Member Kniss: ... ask now that we're back to it.

Mayor Burt: You need your mike.

Council Member Kniss: Thank you. Under 50-foot high building is too large for the Baylands, I think you read off at the very beginning the height of a number of the other buildings. I was out there today, and it looks to me as though several of them are 30 feet or higher.

Mr. Ah Sing: The highest building out there probably wouldn't be more than 35 feet, which the zoning for the ROLM allows up to 35 feet. Some of the other buildings in the area are between 25 and 30 feet in height.

Council Member Kniss: What height is the Audi building, which is right next door?

Mr. Ah Sing: That's 27 1/2 feet.

Council Member Kniss: The one that's mostly glass?

Mr. Ah Sing: Yes.

Council Member Kniss: This is bigger than the surrounding buildings. Thanks.

Mayor Burt: Let's move on to hearing from members of the public. Our first speaker is Hamilton Hitchings, to be followed by Shani Kleinhaus. Welcome.

Public Hearing opened at 11:25 P.M.

Hamilton Hitchings: Thanks for hanging in there. I'm Hamilton Hitchings. I'm a member of the CAC; these are my own comments. I happen to live nearby. I'm on the other side of 101 from this. I do pass it on a regular basis. I feel putting a dealership in this particular location is compatible with the nearby businesses and helpful to City tax revenue. Request for further setbacks should be looked upon favorably and supported. However, I feel that 50 feet is too tall for the surrounding area and for the Baylands. I'd like to see it conform to a 35-foot height limit and also ensure that the windows are bird safe. The last question I have is how does this project impact our goal for 80/30? I don't have an answer. Stepping back, I want to thank the City Council for recently improving, not approving but improving, a number of projects, specifically in four key areas of resident concern, traffic, parking, housing and aesthetics. For projects such as Olive Garden replacement, Shady Lane and 425 Page Mill. However, why is the City Council doing all the heavy lifting? Because the Architectural Review Board and the Planning and Transportation Commission (PTC) are not. Please help balance these

TRANSCRIPT

committees with members who can effectively address these four areas along with other resident concerns. Thanks a lot.

Mayor Burt: Thank you. Shani Kleinhaus to be followed by Jeff Levinsky.

Shani Kleinhaus: Thank you. I'll speak for Audubon first, and then I want to say something as a resident. For Audubon, I thank you for paying attention to our letter. I thank you for considering the lighting issues. The birds do fly over the building, and they do fly at night. Migratory birds fly at night, and that's when millions of birds fly over that area. That's for Audubon. Thank you for actually requiring that they address the lighting and the glass building issues. As a resident, I would very much like you to limit the height to 35 feet in that area. That is the right thing to do. The hotel was an exception. Now we have a car dealership. Aesthetically, I find it a little offensive, and I'm also worried about what comes next. The next building will be an all-glass building that will be 50 feet or more. There already may be a building like that there. I think that when we're looking at 80 percent reduction in greenhouse gas emissions, this doesn't seem to be compatible with that goal, especially with elevators taking cars up and down and all that. It doesn't seem to be a very sustainable type of building. I say that as a resident. Thank you.

Mayor Burt: Thank you. Jeff Levinsky to be followed by Herb Borock.

Jeff Levinsky: Good evening, Mayor Burt and Council Members. Thank you for giving attention to the letter that we sent in. I'm just going to try to use the moments I have to clarify some issues that came up about that already. On item Number 1, although it is correct that they're not using all of the showroom exemption, the problem is that the areas that they're using the showroom exemption for, many of them don't deserve it, don't allow for it. We quote the law here, all other uses associated with the automobile dealership including sales office and sales of related merchandise are not eligible. The impact of that is if they're not eligible for the showroom exemption, they then have to fit in the 0.4 FAR for the regular building itself, and they don't. That building only has like 500 square feet left. If you take our table of almost 4,000 square feet, and you move that over from the 0.2 FAR over to the 0.4 FAR part, it's over the FAR. Some of these areas are almost amusing that they tried to pass them off as showroom here. The boutique is explicitly—Mercedes-Benz sells things like dishes for your pet, and they sell sippy cups. It's kind of amazing. That related merchandise is explicitly by the Municipal Code not allowed for the showroom exemption. It has to count in the regular 0.4 FAR, and that's what would put it over. You can go through on—we listed them there explicitly. I think Mayor Burt has already brought up the issue about the car storage should not be exempt

TRANSCRIPT

from FAR. Let me explain to help out the issue on Number 3 about the service drive. Mr. Lait is exactly right that there is an exemption in the Code if the area isn't being used for things like service, if it's just general covered area. We quoted the rule that if it is being used for service, then it counts as FAR. That's the problem, because that area would again put the building over its allowed total FAR. There's a phrase in the law that says if it's not being used exclusively, it doesn't count. There's another phrase that we quote, if it is being used exclusively, it does count. We just quoted the one that says it does count as, I think, sufficient for this. I didn't hear all of the comments about the loading area, but I just don't see how the car wash works if somebody's parked in the loading area there. I don't think the circulation there is right. We mentioned the 50-foot height limit with other people as being more than—by the way, one last comment until the buzzer gets me. You might ask why is a building that's 0.6 FAR so tall. It's a four-story building. How do you get such a big building? The answer is you don't count it all in FAR.

Mayor Burt: Herb Borock to be followed by Bill Garrett.

Herb Borock: Mayor Burt and Council Members. The action before you is whether to adopt a Mitigated Negative Declaration and to approve a site and design application. To me, the two key pieces of information that should be available to the public to be able to participate in this evening's discussion of the item are the Mitigated Negative Declaration and the plans. You received a copy of the Mitigated Negative Declaration in this week's packet that you received, I guess, on Thursday. The Clerk has provided, as is the custom and requirement or law, copies of what you receive, because that's required under the Government Code so the public can be seeing the same things that you see. In that packet compilation that you received for this meeting with the packet for next week's meeting, it's missing the Mitigated Negative Declaration. I inquired as to why that was the case, and it was because Staff only provided nine copies. They didn't provide a copy for the public to have at the meeting. There's certainly no copies of the plans for the public to see to be able to participate. In the absence of those things, I think the appropriate thing to do would be to continue this to a meeting when the law is obeyed and there is at least a copy for reference. Not one that the public can take away, but at least a copy for reference for anyone who wants to participate to be able to review the Mitigated Negative Declaration and the plans that you have before you. In the absence of having that information and not being able to effectively participate on the item specifics, I would refer you back to, I believe it was last week's meeting when you were discussing sea level rise. This idea that this part of town, which would be subjected to sea level rise inundation and would be affecting properties, is a place to have fiscalization of land use and justifying a project on the basis of

TRANSCRIPT

how much money it brings in when those types of projects would then be coming and expecting it would be the City rather than the applicant in this case to mitigate against sea level rise just doesn't make any sense. That's an overall thing. That may be years away. As far as following the process to allow the public to participate in a meeting to see the same pieces of information that you see on a timely basis, which means during the meeting. I think that requires a continuance. Thank you.

Mayor Burt: Our next speaker is Bill Garrett, to be followed by our final speaker, Stephanie Munoz.

Bill Garrett: Thank you, Mr. Mayor and Council Members. My name is Bill Garrett. I'm a partner with Hanna and Van Atta here in town. We represent the applicant, Fletcher Jones. I just want to point out that having literally just received Mr. Levinsky's several questions and issues at roughly 11:00 P.M. this evening, I heard every point except really one refuted in the span of about a 5 or 10 or 15-minute review by the Planning Director, Planning Manager and by Sheldon. I think that's significant. I'd like to defer and hear from them as to the FAR issue that they're currently working on and studying at the moment. I want to point out that the applicant has worked extremely hard here to accommodate its prospective business in the town of Palo Alto and provide the City of Palo Alto with \$1 million roughly in sales taxes per year. It's significant that this site, the old Ming's Restaurant site, is smaller than, I think, every other dealership within the Fletcher Jones dealership group by a factor of four or five. They've worked very hard to not go out vertically on the property, because the property has certain limitations. Instead, to go up as far as they can horizontally, and they've reduced it over the course of four or five ARB meetings. I would like to suggest that in this instance we trust Staff, we do what's right for the community of Palo Alto, and approve this project with all of the various approvals that are before you tonight.

Mayor Burt: The next speaker is Stephanie Munoz. We have a late card; I'm going to allow it to be used by Kirsten Cessna.

Stephanie Munoz: Good evening, Mayor Burt and Council Members. I'm really surprised that there has been less interest by the press and by the community about this project, which seems to me to be outstandingly anomalous in the use, the appearance and the historical preservation of everything that I have ever heard this Council talk up and everything that the other committees in the town have done to make Palo Alto into a certain kind of city. Ming's has been an iconic business, one of the oldest businesses in town. The Ming's that's now being torn down is the new Ming's. The old Ming's was up on El Camino, and it wasn't a particularly

TRANSCRIPT

distinguished building. The new Ming's is and, I think, was in a way symbolic of might we say racial harmony. The Chinese were brought to the United States as coolies. The word is still in the language. It's not a pejorative term, but it means a person who is an exploited workforce, the working class of the working class. Because of the food of that particular culture, which was so appealing and so magnificent, the whole race of Chinese has gone from being exploited to being aristocrats, to being like Larry Chu [phonetic]. That beautiful building, that roof is one of the outstanding architectural monuments in Palo Alto, indeed the whole Peninsula. It's just beautiful, and it's really a shame to get rid of it. The other thing is where are the houses. Where's the housing? Just a couple of weeks ago, we were here for hours and hours. It seemed to me we were almost getting to the point where somebody said if we're going to go up and we're going to raze the whole town, let it at least be for housing. I thought I heard Karen Holman almost say that but didn't quite. Here there's a building and there's no housing. All this extra space is essentially being used for a warehouse, like a service station. Just the most mundane, common, impossible. Thanks.

Mayor Burt: Thank you. Our next speaker is Kirsten Cessna, final speaker.

Kirsten Cessna: Good evening, Mayor Burt and City Council Members. Thank you so much for listening to me tonight. I'm Kirsten Cessna with Gensler; we're the architects on this project. I just wanted to try and help clarify some of the process that we've gone through with the City. We've been working with the Planning Department and have worked with the ARB on this project, specifically at their guidance on understanding the FAR and where it's allowed and where it's not. Some of the items that have been brought up today, I just want to help clarify. The new car delivery, that is really more of a showroom space. It's where vehicles can be displayed and then can be released to the customers. Also, the finance area that is noted on the plans in your packets as part of the showroom FAR is actually lounge space. The circulation areas noted are also lounge areas and then just circulation through that showroom. We just want to emphasize the challenges that the ARB has presented to us and their guidance throughout this process in understanding the City's FAR requirement and the Planning Department's guidance as well. We really looked to them for their guidance in understanding the FAR and applying it appropriately. We then just look to you all to continue that guidance. Appreciate your time. Thank you.

Public Hearing closed at 11:42 P.M.

Mayor Burt: Thank you. We'll return to the Council. Staff, in addition to the open question on the parking, can you readdress this issue on the

TRANSCRIPT

showroom and whatever amount of it may not be showroom and whether it should be counted against the 0.4 FAR as opposed to the question of whether it is exceeding the 0.2 for a showroom, which is what you had answered?

Mr. Lait: We just heard a moment ago that the floor plan is mislabeled here. I don't know if you've got the plans in front of you or not, but there's an area that is ...

Mayor Burt: Which page?

Mr. Lait: This is Page PR00.11. I'll draw your attention first to the legend in the upper left. The lighter shade area is assignable floor area, and then the darker shade is the showroom area. As you look toward the right side, there's an area marked finance, which appears to be misplaced and ought to be in the rooms to the north of that. The lounge is right immediately adjacent to the showroom area. There's a boutique. Again, that looks like a lounge area. I'm not sure what exactly is involved in there. These plans have evolved over the 9 or 10 months that we've been processing them. I have not seen this particular layout. I would say if it was a finance area, then that should be counted as floor area. If there's elements related to the sales office or the sale of related merchandise, I agree with the commenter that that ought to be counted as floor area. I don't think that the plans—this section of the Code also includes a reference that Director has the—there's some latitude there in how this space is evaluated. There's some flexibility in how the Council wants to look at this. If we want to take a hard-line look and carve out these areas, we certainly can. There was no Director modification granted as part of our review of the project. I do think there's some mislabeled plans here. I do think if this does go forward, there should be a condition imposed that ensures that the area that's dedicated to showroom is actually showroom area as defined in the Code. I don't think the applicant—they can respond—would have a problem complying with the requirements of that provisions. That's number one. Number two, the commenter speaks to the issue of some area not counting toward the plans. If you go to the next page, you'll see that—it's PR00.12, the next page of your plans. You'll see a large portion of that area is white, meaning it's not assignable floor area. This is the area where if you were to take your car to be serviced, they would park your car in this portion of the building. This is an extension of customer parking as we see it. Now, the Council may see it differently. You take your car to get serviced; that car goes to a parking space. That's the space inside the building where that car is going. That's repeated again on the following page, where a portion of that next floor plan is shown as white. This is again where service vehicles would be parked. There's a portion of that same floor plan that's shaded. This is area that is

TRANSCRIPT

counted toward floor area and serves as the service bays and other features like that. That's the rationale behind that. Certainly welcome the Council's perspective on that. Item Number 3 on the letter, not counting the covered service drive as floor area. We spoke about this. I would reiterate, because it's awkwardly written in the Code. The Section (A)(7) that is referenced here says that you do have to count it toward floor area if this space is being used for sales, service, display, storage or similar uses. It is not counted if it is not doing those things. What we have reported is that we don't consider that to be qualifying under any of those standards. We see this like a temporary parking space. Again, Council can...

Mayor Burt: Jonathan, can you look at page PR00.01? There's the parking summary. The middle block has a series of areas that refer to automobile storage on the ground floor, the second floor, the third floor and the fourth floor. When our Code says it's supposed to be included in the FAR if it is—where am I? Refers to required parking of employees and visiting customers. I don't know if that's in quotations or not. I can't tell.

Mr. Lait: I could say that on that site plan that you're looking at, if you see the colored version of the plan and there's some bluish spaces, those are display vehicles. That's storage. That's outside, so we're not counting that area. Elsewhere in the building if there is storage area, that would have to count toward FAR except for on the roof, which is not enclosed. We would not count the storage area on the roof.

Mayor Burt: But the interior storage, did we count that against FAR? It says on the ground floor, the second, all it says is all not applicable.

Mr. Lait: On the ground floor, it's on the exterior perimeter of the site.

Mayor Burt: Are you sure?

Mr. Lait: The first line is site, vehicle display, five spaces. Where's that? As far as parking requirements, you're looking at the parking requirement or the parking ...

Mayor Burt: Parking summary. The middle block on that Page 1.

Mr. Ah Sing: The parking summary is where the applicant is describing what their parking requirement is per site, ground floor, second floor, third floor and so forth. That's what they're trying to describe in that table, less the parking required. What's provided is on a different table below.

Mayor Burt: The customer—the question, I guess, is when we say that the exemption for the FAR for parking for employees and visiting customers, I

TRANSCRIPT

don't know if the visiting customers is literally from our Code or if that's Mr. Levinsky's.

Mr. Lait: Where are you in the letter, if I can get that clarification?

Mayor Burt: At the bottom of the second page, under "2.3."

Mr. Lait: That section reads as it's quoted here. Parking facilities accessory to a permitted or conditional use and located on the same site. That's the exemption. You don't count those areas toward floor area.

Mayor Burt: That's basically employee and visiting customers, right?

Mr. Lait: No. In the letter, the last half of that sentence is not in the Code.

Mayor Burt: What does the Code say?

Mr. Lait: There's Subsection B, and this is (B)(1) that reads after it. "B" says nonresidential, multifamily exclusions for all zones, zoning districts other than a few that are not applicable here. Gross floor area shall not include the following. One, parking facilities accessory to a permitted or conditional use and located on the same floor. Two, it goes on to talk about roofed arcades, which is the one that we went through earlier. There's nothing in here about visitor or employee parking that I'm seeing.

Mayor Burt: That's the Code section he cites?

Mr. Lait: That's the same Code section. I'm looking at 18.04.030. I think it's definition 65(B)(1). Is that what he's got?

Mayor Burt: Yeah.

Mr. Lait: That's from the Municipal Code.

Mayor Burt: I've never encountered that we exempted parking that was for vehicular storage or parking that is for service from FAR.

Mr. Lait: What we have here is we're counting the service bay area, but what is not counted is the cars waiting to be serviced.

Mayor Burt: What about cars that are storage for sale, not on the showroom floor?

Mr. Lait: Those do count toward floor area.

Mayor Burt: They are?

TRANSCRIPT

Mr. Lait: Yes. Except if it's on the roof, where some of it is, we would not count the roof area.

Mayor Burt: Service bays you're not counting. You're saying that's exempted floor area?

Mr. Lait: Service bays do count. The bays count toward floor area, but the parking—I bring my car there; I leave my car; the porter takes the car to a parking space which is essentially is me driving there and parking the car. We're not counting that toward floor area.

Mayor Burt: I see. How much square footage is in that category?

Mr. Lait: We'll take a look and get that for you. For visual reference, you can see it on PR00.11.

Mayor Burt: Point which one?

Mr. Lait: Point 11, sheet 11. Actually it's Sheet 12.

Mayor Burt: That's a different ...

Mr. Lait: Sheet 12 will show you visually.

Mayor Burt: Eleven is the ground floor, right?

Mr. Lait: Yeah. If go to the next page, on 12, you'll see a substantial portion of the building is not counted toward floor area there.

Mayor Burt: You're saying that's customer/employee parking. That's basically—I don't know if that's ...

Mr. Lait: Our Code doesn't distinguish between employee—it's a blended parking standard for the site. It's anticipated that that includes some element of customer parking, some element of employee parking.

Mayor Burt: How many spaces are we talking about as customer parking? Is 14, is that—that's the rooftop. One of the baffling things to me about this project was we have a maximum of 0.6 FAR. That's if all of this showroom exemption is actually showroom exemption. Yet, we're a 50-foot building. That's a 0.6 FAR needing a 50-foot building basically for floors. How does that add up? A lot of it seems to be about this parking. Basically, we've somehow interpreted—I just have a question whether some of this is new car storage. There was a reference by the—I don't know if it was in the Planning Commission discussions or Staff Report. Maybe it was the Planning Commission discussion about the dealer saying it would be a hardship to be

TRANSCRIPT

storing their inventory of cars offsite over in Fremont. They were storing them onsite. Where is the storage? Is it just the rooftop? Is that what they're saying? The new car storage.

Mr. Ah Sing: Those plans haven't really been vetted out completely, but the applicant can describe a little further what their operations will be like. What they've submitted to us is that the rooftop and some onsite at the ground level would be for their inventory.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Actually I'll hold off on my questions for now.

Mayor Burt: Council Member Holman.

Council Member Holman: I appreciate the line of questioning from Council Member Burt. I also have the same question, same query and same concerns. A question for Staff is—I guess this goes to findings. I'm sitting here having a confluence of feelings about this. As anybody knows that watches my comments over the years, it's like I'm really wanting Code compliance, and I do want Code compliance. I will not deviate from that this evening. At the same time, I think what one of the struggles is this evening is that we have an artifact of zoning, CS, that in my opinion never should have happened for a hotel that didn't happen. Even that zoning should never have happened. Again in my opinion, this is spot zoning. It should have been a PC for the hotel, and then we would have greater control for this project as the automobile dealerships are also PCs. I'm having empathy for the applicant on this, which will not cause me to not carry out my responsibilities as a Council Member. I'm having empathy for that. I'm having a hard time understanding how the findings can be made that this building is compatible and satisfies the context-based design criteria when there are statements in the Staff Report that—and statements made tonight about how the tallest building is 35 feet and the building next door is 27 or 27 1/2 feet. If you look at the context and the plans, I just don't understand—I mean, we've had conversation many times at the Council level that zoning isn't up to, not an assured or guaranteed right. I guess even though CS allows up to 50 feet, why are we granting 50 feet—I guess because somehow or other it was determined that it was satisfying the findings. I'm finding that as not being the case. Help me understand how the Staff and other bodies got to this satisfying the findings of context-based design.

Mr. Lait: Thank you, Council Member Holman. The findings, Staff has those laid out in the Record of Land Use Action, which I think is Attachment A to the Staff Report. There's a number of things that come into play here. One

TRANSCRIPT

is we're trying to—there's some other dealerships in the area. From a land use perspective, it seems like a reasonable site for an additional dealership. I think if you were to ask the applicant the—I think that the site as it is now is—I think their preference would be for even a larger site. I think there are some constraints with this location even with the additional ...

Council Member Holman: I'm going to interrupt just for a second here. I don't disagree, because there are other auto dealerships in this immediate vicinity, that it's a bad location for a dealership. Do I think dealerships really belong on East Bayshore? No, but there are some so this would be consistent with that. I'm not talking uses; I'm using building compatibility satisfying the context-based design criteria.

Mr. Lait: Right. To continue, I think that when we're looking at those findings or those criteria, this particular site—I mean, I think you said it. This is an anomaly in terms of the zoning. It allows for a greater height than the adjacent properties. It will be the tallest building out there, in that area. I think that the applicant and the Architectural Review Board spent a fair amount of time on this as well. This went to an unprecedented four meetings with the Architectural Review Board. The Council knows that it's a three-rule standard that we have, but the Architectural Review Board wanted to take another meeting with that. There have been efforts to try to accomplish what the applicant is attempting to do here, but also do it in a way that is appropriate and compatible with the neighborhood. There is the—I don't know—80, 90-foot tall transmission wires that run across the property and along the street. The applicant's proposing some trees within that area. The Architectural Review Board talked a lot about landscaping, the materials that were selected. This is a challenge when you have an auto dealership with a manufacturer with a very specific branding standard. How that fits in with the Baylands was a difficult challenge point. The Design Enhancement Exception, pushing the building back away from the street so it doesn't dominate Embarcadero and Bayshore, we recognize that this is a scenic route. The Embarcadero area is as an entrance to the Baylands. I think it's how the building was sited, the materials that were used, the landscaping that's being proposed, these are all factors that went into assessing compatibility with the neighborhood. Again, I would refer you to the Record of Land Use Action for the draft context-based design standards.

Council Member Holman: Yes, I have read through those and referenced them. I just wasn't sold. We can have a difference of opinion about that. I think what we're addressing here yet again is—I'll try not to take too long at this, but maybe help get us to some conclusion. I think what we're addressing here yet again—we'll put the FAR issues aside. I think what we're addressing here yet again is the issue that we have confronted many

TRANSCRIPT

times on this dais. The ARB struggled with this as well. FAR is an up to, not a guaranteed max. What often is used as a justification for 50 feet or a maximum FAR is because if the property next door with the same zoning were to redevelop, it could redevelop to that height and that FAR. I don't buy that either, because—I won't go into that. In this situation, we don't have even close to that situation. I'm finding it a very hard sell. Quickly I'll go through some of the things that are not addressed in the Record of Land Use Action, unless I totally overlooked them. You mentioned the scenic corridor, that isn't mentioned at all. It isn't even mentioned in the Staff Report. I didn't get through all of the ARB Minutes, so maybe it was there. The Baylands master plan list in terms of landscape design is not mentioned here at all. In the Record of Land Use Action, the consistency with the Baylands Master Plan is not mentioned. Hang on a second. This is Number 7 actually on Packet Page 575. Large sites of one acre shall be designed so that street, block and building patterns are consistent with those of the surrounding neighborhood. This finding can be made in the affirmative in that the design of the facade, landscape design is consistent with the surrounding development. It's not. It's just not. It's not compatible. The conditions of approval—going through without numbering all of these. On Number 5 on 575 talks about the planning arborist, again no reference to the Baylands master plan list. Same thing on the next page, landscape, urban forest and Director of Planning find—but what about the rest of it? Number 13 on 577 talks about all exterior lighting shall be shielded, directed downward and designed to minimize light spillage beyond the property line. Board Member Lew is here saying that there would not be spillage beyond the property line. Yet, this seems to allow for spillage beyond the property line. I was concerned when I read this too, because "15" on the top of Page 578 is a mitigation measure for the transportation. Don't know how other Council Members will feel about this. There are mitigation measures at the intersection of East Bayshore and Embarcadero Road. We all know there are problems there. I'm not necessarily confident that what's being proposed here is the best solution there or if it's considered in the larger context of what other impacts it might actually create going north on East Bayshore. Also, there's nothing that indicates what the fair share of the applicant is. We're just kind of like agreeing to something without knowing what we're agreeing to. It seems like for us to make responsible and informed decisions—I do apologize. I'm sure it must feel not so good sitting there. That's not the intention. It is just really to try to get some things on the table that I think aren't addressed and need to be addressed in this and future projects. You've heard those comments before. There's also about dewatering on Packet Page 581. There seem to be inconsistent comments here about dewatering plans and not requiring one, but then getting permits. I just find that there are so many issues with this project, that I think we ought to send it back to the drawing board, quite seriously. Again,

TRANSCRIPT

that's not even addressing the FAR issues, which I still have a concern with. I think Mayor Burt is hitting the nail on the head. I look at how many parking places are not counted here. Usually when people get their cars serviced, they make an appointment, and they go pick it up. Some people leave their car there all day. There are a lot of parking places here dedicated to what now is being said are service parking places for the service on the third floor. I will stop there. As you can hear, I have myriad concerns about this project.

Mayor Burt: Council Member DuBois.

Council Member DuBois: First of all, I think some people in the public mentioned housing. I don't think this is the place for housing. We did talk about sea level rise. There's no residential facilities out there. It looks like the first floor's raised up 10 feet to be above floodplain. Is that contributing—I mean, basically it's three floors with a roof to get to 50 feet. Part of it is that elevated ground floor?

Mr. Ah Sing: The height is taken from the finished floor. The site's being raised up. The grade is being raised up.

Council Member DuBois: I would be in favor of requiring a bird-safe building. It sounded like that was possible. Rather than making it optional, to make that mandatory. I'd support that change. I think you guys know I'm not necessarily the most pro development member on Council, but I actually find this building a reasonable use in a reasonable location. I know it's near the Baylands, but I find it's shielded by the buildings next to it and the trees. I wouldn't support this building if it was further into the Baylands, if it was down Bayshore or down Embarcadero. In this case, I find a lot of things to like about the project. I think, Jonathan, you summarized a lot of them. They are asking for extra setback. They are keeping the trees along the back property line, the muted colors. I really appreciate the evolution of the design. The fact that it's not an all glass building helps quite a bit as well. I would support it with the change of requiring a bird-safe design instead of making that optional. Motion. I would approve the Staff recommendation with that change ...

Vice Mayor Scharff: Second.

Council Member DuBois: ... to a bird-safe building design be made mandatory.

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

TRANSCRIPT

- A. Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and
- B. Adopt an Ordinance adding the Automobile Dealership (AD) combining district to the subject property; and
- C. Approve an application for a Site and Design and Architectural Review for the construction of a new automobile dealership; and
- D. Approve an application for a Design Enhancement Exception for deviation from the 'build-to' setback along Embarcadero and Bayshore Roads; and
- E. Require the building be bird safe.

Council Member Kniss: (inaudible)

Mayor Burt: Did you want to speak further to your Motion? Vice Mayor Scharff, your second?

Vice Mayor Scharff: I did want to speak to it. I actually thought the Staff Report was really good. I was listening to Council Member Holman's comments. As she was making the comments, I was looking in the Staff Report for answers. I first of all noticed that on Page 7, Packet Page 564, we talked about the Baylands Site Assessment and Design Guidelines, how they met that. The Baylands General Design Principles, I won't go through it all. It then talked about the scenic corridor. Below that it talked about views from the scenic corridor. We also talked about if—where did I see it? Somewhere in the Staff Report, it talks about how by pushing the building back from Embarcadero, we mitigate the height. Somewhere else it says if you look at it from somewhere—I guess it was down the (inaudible). When it talked about the ARB stuff, I actually thought it was much more articulate than what I'm saying at midnight. I thought the Staff Report really identified the height issue and talked about how it's been mitigated according to that. That was really good. I think the other thing is it's—the ARB did a good job by going through it by four. I think the building got better and better. I'm not going to repeat the comments of Council Member DuBois, but I agree with what he said on that. I also think that it's next to the Honda and Audi dealership. When you create these auto rows, you strengthen all the dealerships in town. If we don't approve this, we weaken the dealerships in town. If you lose one, you're likely—you'll be down to one dealership. You'd probably lose all of them. Auto dealerships pay \$1 million a year for each of them. I don't know what the other two are, but if it just roughly was, that's a significant amount of money coming into the City. I think it's important to think about this in a holistic way and say to ourselves

TRANSCRIPT

on balance there's some good things and some bad things with every development project. On balance, I think this one meets the requirements of something that we should approve.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I think this has actually been a good discussion tonight, an extensive discussion. The only concern I have about this and given that the zoning was changed before—even though I know, Karen, you've spoken of it as spot zoning. This applicant went into this site with the full awareness of it having a 50-foot height limit. I know that had been decided some time ago for a different purpose. It was there and it did exist. I'm pleased to hear the special compensation or the special types of interest that were taken in the birds and in the lighting and so forth. I really find that very appealing. The setbacks, terrific. I was out there today and spent some time there. I thought I'm not quite sure what the Ming's setback is, but that's also pretty substantial. Color, good color for the Baylands. I appreciate that it was made to look as though it would hopefully blend. The ARB certainly did yeoman's work four times, long notes. You guys did a very good job. Thank you. I think you must have put hours and hours into that. Lastly and probably the most important is that we do need appropriate places for our commercial buildings. I can't think of a better place for a commercial building, given that we certainly wouldn't put housing there. I can't imagine putting any kind of other type of intensive use that would involve needing transportation or would have safety issues and so forth. For that reason, I'm in favor of the motion. Thanks.

Mayor Burt: Council Member Holman.

Council Member Holman: Yes. I'll be upfront here. I won't be supporting the motion, but I do wonder if—you know what? I'm going to hold off. I'm going to see if it's going to pass or not, then I may offer some amendments.

Mayor Burt: Council Member Filseth.

Council Member Filseth: I concur with what's been said about the use of this space. It's a good place to put an auto dealership. I actually think an auto dealership is one of the few actually really good uses for this space. As it's been said before, I don't think it's a good space for housing. Olive Garden's a better space for housing. All of that makes a lot of sense to me. I think what we're looking at then is not the use but the building. The thing I'm grappling with is did it meet Code as defined. I think a couple of people said why can it be 50 feet. With this FAR and that lot space, why can it be 50 feet? The answer is, I think, the FAR is sort of designed to sort of say you can't put a building this big on a piece of land that big. That's basically what

TRANSCRIPT

the FAR is for. That one, I grapple with. As far as the parking is concerned, I grant that it's sort of hard to tell exactly from the Code, but customer parking is—I think of it as I go to the grocery store. I park my car in the parking lot. I go inside and I buy some groceries and I come home. As opposed to I take my car there and they take it inside. It's customer parking until they start working on it. Once they start working on it, it's actually service and so forth. That seems very hard for me. That's what I'm struggling with. I like the use. I like the appropriateness. I'm concerned about the building.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I'd like to offer a friendly amendment. "E," I'd like to recommend that we change that to "require that the building be bird safe in its structure and that the applicant work with Staff and the Audubon Society to minimize lighting impacts on wildlife." Yeah, lighting impacts on wildlife.

Council Member DuBois: I'm actually going to say no to that, because I did have the question about lighting. I thought our ARB Commissioner addressed those, that a lot of the light would not be visible. Some of it was only 40 inches above the ground.

Council Member Wolbach: Just to clarify, the recommendation was lighting impacts on wildlife.

Council Member DuBois: Again, I would decline. If you want to make it a separate Motion, you can.

Council Member Wolbach: I'll make it a separate Motion.

Council Member Berman: I'll second.

AMENDMENT: Council Member Wolbach moved, seconded by Council Member Berman to replace Part E of the Motion with, "require that the building be bird safe in structure and that the Applicant work with Staff and the Audubon Society on lighting impacts on wildlife."

Council Member Wolbach: Just to speak to it briefly. I appreciate what Council Member DuBois just mentioned about lighting, provisions that have already been made. My emphasis here is less about the impacts of lighting on the aesthetics and more about the potential for negative impacts on wildlife. I think that there are best practices available. Through consultation with Staff and the Audubon Society, I think that the project can accommodate those probably pretty easily.

TRANSCRIPT

Mayor Burt: Council Member Berman.

Council Member Berman: Just briefly, I think this is in a wildlife-sensitive area. I don't understand the intricacies of the aviary patterns above that area, but I think it's not a hardship for the applicant to work with the Audubon Society just to make sure. We're not being prescriptive about what the solution is. We're saying work with them to address and mitigate any concerns that might exist. I think this is an environmentally sensitive thing to do given the general area of the project.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: (inaudible) impacts as practical.

Council Member Wolbach: How about to implement best practices as appropriate for the site?

Vice Mayor Scharff: I just want to make sure it's not a hardship on the applicant. You said it's not. To me that usually means if it's practical or not.

Council Member Wolbach: That's fine. Will that gain your support for this amendment?

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Amendment, "as practical."

Vice Mayor Scharff: Yeah. That's normally my MO. Do I ever vote against anything I ...

Council Member Wolbach: You're good about that. That's fine. That would be then require that the building be bird safe in structure, yada, yada, yada, wildlife as practical.

AMENDMENT RESTATED: Council Member Wolbach moved, seconded by Council Member Berman to replace Part E of the Motion with, "require that the building be bird safe in structure and that the Applicant work with Staff and the Audubon Society on lighting impacts on wildlife as practical."

Mayor Burt: Let's vote on the Amendment. That passes unanimously.

AMENDMENT PASSED: 9-0

Mayor Burt: Returning to the original Motion, I'll comment on it. First I think that automotive use here is entirely appropriate and may be a best use. I think that the architectural design has been drastically improved. It has actually a lot of really exceptional design features, whether those

TRANSCRIPT

features are all compatible for the Baylands is something I'm less comfortable with. I think the architectural quality is excellent. Those aren't my issues. We basically have a building that is a 50-foot building on a 0.6 FAR. It makes this a completely anomalous building in the Baylands. For whatever reason, the Planning Commission thought that was a nonissue, and Staff doesn't seem to have been very concerned about it. I can't find that it meets the design finding, number one, of being harmonious and compatible on Policy L-8 on the Comp Plan nor in Section 7 on the findings around the massing. I think there's been a misinterpretation and miscalculation of the Code as far as what constitutes a permissible parking exemption. I just think it's wrong. It's not consistent, I believe, with our past interpretations for auto dealerships. The Staff had actually tentatively acknowledged that the showroom seems to have been miscalculated, and nobody seems to be concerned about that. Another thing that didn't come up by Staff or the Planning Commission or tonight is that the traffic mitigation is to improve the intersection rather than to focus on a TDM program. Here, we've got another development with discretionary approval, and there's no TDM that's part of that. That ought to be our first choice to reduce the car trips, and second choice to expand the intersection. It's also not clear to me what our cost would be at the intersection. The Staff Report said that, I think, the developer would pay for the improvement and then charge back the City on everything that wasn't its proportionate share. I have no idea how many dollars those are. This whole notion that if we don't approve this 50-foot tall auto dealership when we have auto dealerships surrounding it at half that size, somehow this would be the reincarnation of the domino effect on auto dealerships, I think, is not a strong argument. We've had those auto dealerships thriving out there despite a whole bunch of claims for 15 years that they were on the cusp of demise. Instead, they wanted to expand there. I have no idea what the actual FAR is here and what this really would be if it was properly counted. I think this is a correct use, a well-designed building, and not properly calculated on its size and significantly taller and more massive than it should be for this location. I think we're just not doing our homework on looking at our Zoning Codes and the compatibility with the surroundings. It's a 50-foot building; there's no 50-foot buildings around it, and there's no necessity for this to be 50 feet. I see two more lights, but that would initiate a whole other round, so I hesitate to do that at this hour. What I'd like to do is go ahead and have us vote on the board. That fails on a three in favor and Council Members Schmid, Burt, Kniss, Filseth and Holman opposed and Wolbach abstaining.

MOTION AS AMENDED FAILED: 3-5-1 Berman, DuBois, Scharff yes, Wolbach abstaining

Mayor Burt: I thought you had already made your comments.

TRANSCRIPT

Council Member Wolbach: (inaudible)

Mayor Burt: You had previous comments.

Council Member Wolbach: (inaudible)

Mayor Burt: I don't know what you're saying. The project fails, and that concludes this item.

Council Member Holman: Mayor Burt?

Mayor Burt: Yes.

Council Member Holman: Maybe it's a question for City Attorney. The motion to approve the project failed, but it wasn't a denial of the project. I'm just wondering—I look to the City Attorney for this ...

Mayor Burt: Good question.

Council Member Holman: ... if there could be a motion to return this to the ARB with direction to fix the ailments of the project.

Cara Silver, Senior Assistant City Attorney: I think you have two options at this point. You can either choose to deny the project and state your reasons why you're denying the project or you can direct to send it back to the ARB as you had suggested.

Mayor Burt: I will move that it is returned to the ARB with guidance to more carefully calculate the permissible FAR and to adjust the building height and mass to be more in alignment with the finding requirements on compatibility.

Council Member Holman: I second that.

Mayor Burt: Second by Council Member Holman.

MOTION: Mayor Burt moved, seconded by Council Member Holman to refer this project to the Architectural Review Board (ARB) with guidance to:

- A. More carefully calculate the permissible Floor Area Ratio (FAR); and
- B. Adjust the building's height and mass to be more consistent with Compatibility Findings.

Mayor Burt: I don't need to speak further to the Motion.

TRANSCRIPT

Council Member Holman: I just have a small number of amendments to add please. That the project should include bird safe design.

Mayor Burt: Sounds good.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "incorporate bird safe design." (New Part C)

Council Member Holman: While agreed and certainly previously noted that the Baylands General Design Principles and the scenic corridor are mentioned in the Staff Report, they're not referenced in the findings or the Record of Land Use Action. That's where it matters. When this goes back to the ARB—this is just guidance, not motion. When this goes back to the ARB, that those things be carefully considered as well as the Baylands master plant list when it comes to landscaping. Maybe I should put that in the motion.

Mayor Burt: I should have added—go ahead. I should have added a request to evaluate a TDM program.

Council Member Holman: I probably should add to the Motion that the Baylands master plant list be considered in the landscape plan, that the Baylands General Design Principles be considered in the project design and included in the Record of Land Use Action as well as the impacts on the Embarcadero Road scenic corridor.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "consider the Baylands Master Plant List in the landscape design." (New Part D)

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "include the Baylands General Design Principles in the project design and Record Of Land Use Action (ROLUA)." (New Part E)

Mayor Burt: I'd like to add the consideration of a TDM program.

Council Member Holman: That's good with me.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "include consideration of a Transportation Demand Management (TDM) program." (New Part F)

TRANSCRIPT

Council Member Holman: One thing we didn't—if there are intersection improvements, that the cost implications be brought forward including the fair share of the applicant.

Mayor Burt: Okay.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "include cost implications including fair share costs to Applicant of intersection improvements." (New Part G)

Council Member Holman: Thank you to the applicant for bearing with us. I'm sorry this is a long, windy road hear.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I would just ask that the words "and lighting" be added after "bird-safe design." It might be redundant, but I just want to be very explicit. It'd just say "bird-safe design and lighting."

Mayor Burt: That's acceptable to me.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part C, "and lighting."

Mayor Burt: Council Member Kniss.

Council Member Kniss: Because I did end up voting no, I think it's worth an explanation to the applicant, which is important. I am very persuaded by the height. I think, Pat, you did a good convincing job of height being not very compatible with the buildings that are close by. I think it's got to be difficult for the applicant to relook at this again. I think long term it will make a big difference.

Mayor Burt: Thank you. That completes that item.

Male: (inaudible)

MOTION RESTATED: Mayor Burt moved, seconded by Council Member Holman to refer this project to the Architectural Review Board (ARB) with guidance to:

- A. More carefully calculate the permissible Floor Area Ratio (FAR); and
- B. Adjust the building's height and mass to be more consistent with Compatibility Findings; and

TRANSCRIPT

- C. Incorporate bird safe design and lighting; and
- D. Consider the Baylands Master Plant List in the landscape design; and
- E. Include the Baylands General Design Principals in the project design and Record Of Land Use Action (ROLUA); and
- F. Include consideration of a Transportation Demand Management (TDM) program; and
- G. Include cost implications including fair share costs to Applicant of intersection improvements.

Mayor Burt: I'm sorry. Please vote on ... It's getting late. That passes on an 8-1 vote with Vice Mayor Scharff voting no. Thank you. Where are we?

MOTION AS AMENDED PASSED: 8-1 Scharff no

Inter-Governmental Legislative Affairs

~~18. Authorization for the Mayor to Sign a Letter Regarding the Governor's By Right Housing Proposal.~~

Council Member Questions, Comments and Announcements

Mayor Burt: We are now on Council Member Questions, Comments and Announcements. Council Member Holman.

Council Member Holman: Just one quick comment to Staff. I agree and I think we all empathize that in a perfect world we'd be able to get our questions and comments to Staff in an earlier fashion. Because the packet this week was quite enormous, including a last-minute item that came to us, it just isn't always feasible. We do intend to work with Staff, but it just sometimes—we can't quite get there.

Mayor Burt: I just want to say that I attended and was on a panel at the Silicon Valley Energy Summit on Friday at Stanford around really our sustainability and climate action efforts along with representatives from San Francisco and a State legislator, I think, from Fremont. Again, Palo Alto's efforts are really exemplary and models that other cities really turn to. On Saturday, I attended the mobility hackathon up at SAP, which was really an incredible event that was led by Jonathan Reichental. What I would say is that there's a lot more that's going on between Jonathan and Josh Mello in transportation on very innovative, new transportation technologies than we're fully aware of. They're doing some really incredible stuff. I look

TRANSCRIPT

forward to the Council getting fully briefed on those by Staff. Council Member Wolbach.

Council Member Wolbach: You actually just said the thing I was going to mention. I was also at the event on Saturday.

Mayor Burt: Council Member Kniss.

Council Member Kniss: As I mentioned previously, I was at the tax and revenue committee meeting that was held last Thursday in Sacramento, which is part of the League of California Voters. I'm sorry. The League of Cities.

Mayor Burt: On that note, the meeting's adjourned.

Adjournment: The meeting was adjourned at 12:35 A.M.