



# CITY OF PALO ALTO CITY COUNCIL ACTION MINUTES

Special Meeting  
April 17, 2017

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

Present: DuBois, Filseth arrived at 5:05 P.M., Fine, Holman, Kniss, Kou, Scharff, Tanaka, Wolbach

Absent:

## Closed Session

### A. 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.

**MOTION:** Council Member Fine moved, seconded by Council Member Wolbach to go into Closed Session.

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

Council went into Closed Session at 5:01 P.M.

Council returned from Closed Session at 6:46 P.M.

Mayor Scharff announced no reportable action.

## Agenda Changes, Additions and Deletions

Mayor Scharff announced that due to the number of speakers interested in addressing the Council regarding Agenda Item Number 4- FIRST READING: Adoption of an Ordinance Amending Chapter 18 (Zoning) to Implement a new State Law Related to Accessory Dwelling Units... this Item will be pulled to be heard as Agenda Item Number 8A.

Mayor Scharff announced Agenda Item Numbers 11- Discuss the Draft 2017-2020 Sustainability Implementation Plan (SIP)... and 12- Annual Earth Day

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and Sustainability and Climate Action Plan (S/CAP)... will be continued to a date uncertain.

Mayor Scharff announced Council will hear Agenda Item Number 10- Approval of a Construction Contract With C. Overaa & Co... before Agenda Item Number 9- Review the Valley Transportation Authority (VTA) Next Network Initiative...

## Minutes Approval

1. Approval of Action Minutes for the April 3, 2017 Council Meeting.

**MOTION:** Vice Mayor Kniss moved, seconded by Council Member Kou to approve the Action Minutes for the April 3, 2017 Council Meeting.

**MOTION PASSED:** 9-0

## Consent Calendar

Council Members DuBois, Holman, and Kou registered no votes on Agenda Item Number 6- SECOND READING: Adoption of an Ordinance of the Council of the City of Palo Alto Updating the City's Below Market Rate (BMR)...

**MOTION:** Vice Mayor Kniss moved, seconded by Mayor Scharff to approve Agenda Item Numbers 2-3, 5-8.

2. Approval of Amendment Number One to Contract Number S16163411A With Tou Bar Equipment Company, Inc., for an Additional \$70,000 for a Not-to-Exceed Amount of \$325,000 to Provide Maintenance Services at the Former Los Altos Treatment Plant Over the Term of Three Years.
3. Resolution 9673 Entitled, "Resolution of the Council of the City of Palo Alto Declaring the Results of the Mail Ballot Election in Connection With the City's Proposed Storm Water Management Fee."
4. ~~FIRST READING: Adoption of an Ordinance Amending Chapter 18 (Zoning) to Implement a new State Law Related to Accessory Dwelling Units and Junior Dwelling Units and to Reorganize and Update the City's Existing Regulations. The Ordinance is Exempt From the California Environmental Quality Act (CEQA) per Public Resource Code Section 21080.17 and CEQA Guideline Sections 15061(b), 15301, 15303 and 15305 and was Recommended for Approval by the Planning and Transportation Commission on November 30, 2016. (FIRST READING: March 6, 2017 PASSED: 6-2-1 DuBois, Holman no, Kou abstain).~~

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5. Adoption of an Ordinance Amending Chapter 2.11 of Title 2 of the Palo Alto Municipal Code to Reauthorize Public, Education, and Government (PEG) Access Fees That Will Apply to AT&T as it Provides Service Under its State Video Franchise.
6. Ordinance 5408 Entitled, "Ordinance of the Council of the City of Palo Alto Updating the City's Below Market Rate (BMR) Housing Program as Recommended by the Finance Committee: (1) Repealing Municipal Code Section 16.47 (Non-residential Projects) and 18.14 (Residential Projects) (FIRST READING: March 27, 2017 PASSED: 5-4 DuBois Filseth, Holman and Kou no);" and Ordinance 5409 Entitled, "Ordinance of the Council of the City of Palo Alto Adding a new Section 16.65 (Citywide Affordable Housing In-lieu Fees for Residential, Nonresidential, and Mixed Use Developments). The Proposed Ordinances are Exempt From the California Environmental Quality Act (CEQA) per Sections 15378(b)(4), 15305 and 15601(b)(3) of the State CEQA Guidelines (FIRST READING: March 27, 2017 PASSED: 5-4 DuBois, Filseth, Holman, Kou no)."
7. Policy and Services Committee Recommendation to Accept the Auditor's Office Quarterly Report as of December 31, 2016.
8. Policy and Services Committee Recommendation to Accept the Community Services Department: Fee Schedule Audit.

**MOTION FOR AGENDA ITEM NUMBERS 2-3, 5, 7-8 PASSED: 9-0**

**MOTION FOR AGENDA ITEM NUMBER 6 PASSED: 6-3 DuBois, Holman, Kou no**

## Action Items

- 8A. (Former Agenda Item Number 4) FIRST READING: Adoption of an Ordinance Amending Chapter 18 (Zoning) to Implement a new State Law Related to Accessory Dwelling Units and Junior Dwelling Units and to Reorganize and Update the City's Existing Regulations. The Ordinance is Exempt From the California Environmental Quality Act (CEQA) per Public Resource Code Section 21080.17 and CEQA Guideline Sections 15061(b), 15301, 15303 and 15305 and was Recommended for Approval by the Planning and Transportation Commission on November 30, 2016. (FIRST READING: March 7, 2017 PASSED: 6-2-1 DuBois, Holman no, Kou abstain).

Council took a break from 9:54 P.M. to 10:06 P.M.

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**MOTION:** Council Member DuBois moved, seconded by Council Member Holman to:

- A. Adopt an Ordinance amending Palo Alto Municipal Code provisions regarding Accessory Dwelling Units as recommended by Staff on March 7, 2017; and
- B. Refer Council directed amendments to the Planning and Transportation Commission and Staff for analysis and return to Council as soon as possible; and
- C. Find the Ordinance exempt from review under the California Environmental Quality Act.

**SUBSTITUTE MOTION:** Mayor Scharff moved, seconded by Vice Mayor Kniss to:

- A. Adopt an Ordinance amending Palo Alto Municipal Code provisions regarding Accessory Dwelling Units (ADUs); and
- B. Find the Ordinance exempt from review under the California Environmental Quality Act.

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Substitute Motion, "direct Staff to report back to Council on a quarterly basis." (New Part B)

**AMENDMENT TO THE SUBSTITUTE MOTION:** Council Member DuBois moved, seconded by Council Member Kou to add to the Motion, "limit ADUs to lot sizes of 6,000 square feet or more."

**AMENDMENT TO THE SUBSTITUTE MOTION RESTATED AND INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Substitute Motion, "limit ADUs to lot sizes of 5,000 square feet or more." (New Part A.i.)

**AMENDMENT TO THE SUBSTITUTE MOTION:** Council Member DuBois moved, seconded by Council Member Holman to add to the Motion, "restore Ordinance language pertaining to doorway orientation."

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "limit parking permits in Residential Preferential Parking (RPP) districts by lot." (New Part A.ii.)

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**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "allow two story ADUs in the Residential Estate (R-E) District using existing." (New Part A.iii.)

**AMENDMENT2 TO THE SUBSTITUTE MOTION:** Council Member DuBois moved, seconded by Vice Mayor Kniss to add to the Motion, "direct Staff to return with potential Eichler design guidelines relating to ADUs."

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Substitute Motion, "clarify that the additional Floor Area Ratio (FAR) should be used within the ADU, not the primary dwelling unit." (New Part A.iv.)

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion Part A.ii., "direct Staff to explore options to" before "limit parking permits."

**AMENDMENT TO THE SUBSTITUTE MOTION RESTATED:** Council Member DuBois moved, seconded by Council Member Holman to add to the Motion, "restore Ordinance language pertaining to doorway orientation." (New Part A.v.)

**AMENDMENT TO THE SUBSTITUTE MOTION PASSED:** 6-3 Fine, Tanaka, Wolbach no

**INCORPORATED INTO AMENDMENT2 TO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to Amendment2 to the Substitute Motion, "including lower height limits" after "relating to ADUs."

**AMENDMENT2 TO THE SUBSTITUTE MOTION AS AMENDED RESTATED:** Council Member DuBois moved, seconded by Vice Mayor Kniss to add to the Motion, "direct Staff to return with potential Eichler design guidelines relating to ADUs, including lower height limits." (New Part A.vi.)

**AMENDMENT2 TO THE SUBSTITUTE MOTION AS AMENDED PASSED:** 9-0

**AMENDMENT TO THE SUBSTITUTE MOTION:** Council Member Kou moved, seconded by Council Member Filseth to add to the Motion, "restore parking restrictions to the March 7, 2017 Staff recommendation."

**AMENDMENT TO THE SUBSTITUTE MOTION FAILED:** 4-5 DuBois, Filseth, Holman, Kou yes

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**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Substitute Motion, "remove Lot Coverage requirements for new ADUs on properties that are no smaller than 10 percent smaller than standard lot sizes including those which are standard or larger." (New Part A.vii.)

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the end of Motion Part A.i., "ADU conversions and Junior Accessory Dwelling Units (JADUs) would be exempt from this requirement."

**AMENDMENT TO THE SUBSTITUTE MOTION:** Council Member Filseth moved, seconded by Council Member Holman to add to the Substitute Motion, "add to Municipal Code Section 18.42.040(a)8.(iv), 'Design: The detached accessory dwelling unit shall be similar to the main residence with respect to style, roof pitch, color and materials.'"

**AMENDMENT TO THE SUBSTITUTE MOTION FAILED:** 4-5 DuBois, Filseth, Holman, Kou yes

**AMENDMENT TO THE SUBSTITUTE MOTION:** Council Member Fine moved, seconded by Council Member XX to add to the Substitute Motion, "replace in Municipal Code Section 18.42.040(a)8.(iv), 'daylight planes beginning at a height of eight feet (8\'' with 'daylight planes beginning at a height of ten feet (10\''."

**AMENDMENT TO THE SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND**

**AMENDMENT TO THE SUBSTITUTE MOTION:** Council Member Fine moved, seconded by Council Member XX to add to the Substitute Motion, "update Municipal Code Section 18.42.040(a)8.(vi) to allow windows within six feet of a property line that do not face a side property."

**AMENDMENT TO THE SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND**

**AMENDMENT:** Council Member Fine moved, seconded by Council Member XX to add to the Motion, "update Municipal Code Section 18.42.040(a)7.iv. to allow 2-story ADUs if attached."

**AMENDMENT TO THE SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND**

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**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Substitute Motion, "direct the Planning and Transportation Commission to conduct a Study Session within six months of the implementation of this Ordinance to analyze the results of this Ordinance." (New Part C)

**SUBSTITUTE MOTION AS AMENDED RESTATED:** Mayor Scharff moved, seconded by Vice Mayor Kniss to:

- A. Adopt an Ordinance amending Palo Alto Municipal Code provisions regarding Accessory Dwelling Units (ADUs) including the following changes; and
  - i. Limit ADUs to lot sizes of 5,000 square feet or more; ADU conversions and Junior Accessory Dwelling Units (JADUs) would be exempt from this requirement; and
  - ii. Direct Staff to explore options to limit parking permits in Residential Preferential Parking (RPP) districts by lot; and
  - iii. Allow two story ADUs in the Residential Estate (R-E) District using existing setbacks; and
  - iv. Clarify that the additional Floor Area Ratio (FAR) should be used within the ADU, not the primary dwelling unit; and
  - v. Restore Ordinance language pertaining to doorway orientation; and
  - vi. Direct Staff to return with potential Eichler design guidelines relating to ADUs, including lower height limits; and
  - vii. Remove Lot Coverage requirements for new ADUs on properties that are no smaller than 10 percent smaller than standard lot sizes including those which are standard or larger; and
- B. Direct Staff to report back to Council on a quarterly basis; and
- C. Direct the Planning and Transportation Commission to conduct a Study Session within six months of the implementation of this Ordinance to analyze the results of this Ordinance; and
- D. Find the Ordinance exempt from review under the California Environmental Quality Act.

**SUBSTITUTE MOTION AS AMENDED PASSED:** 7-2 Holman, Kou no

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At this time Council heard Agenda Item Number 10.

10. Approval of a Construction Contract With C. Overaa & Co. in the Total Amount of \$22,867,900 and a Construction Management Contract With Tanner Pacific in the Total Amount of \$1,980,000 for the Sludge Dewatering and Loadout Facility Project (WQ-14001) at the Regional Water Quality Control Plant, and Resolution 9675 Entitled, "Resolution of the Council of the City of Palo Alto: 1) Authorizing an Installment Sale Agreement With the California State Water Resources Control Board for Financing the Design and Construction of the Sludge Dewatering and Loadout Facility; and 2) Authorizing the Amendment of two Related Financing Agreements With the California State Water Resources Control Board."

**MOTION:** Mayor Scharff moved, seconded by Vice Mayor Kniss to:

- A. Approve and authorize the City Manager or his designee to execute a contract with C. Overaa & Co. in an amount not to exceed \$20,789,000 for construction of the Sludge Dewatering and Loadout Facility at the Regional Water Quality Control Plant funded in Capital Improvement Program project WQ-14001; and
- B. Approve and authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with C. Overaa & Co. for related additional, but unforeseen work, which may develop during the project, the total value of which shall not exceed \$2,078,900; and
- C. Approve and authorize the City Manager or his designee to execute the contract with Tanner Pacific in an amount not to exceed \$1,980,000 for construction management services, including \$1,800,000 for basic services and \$180,000 for potential additional services for the Sludge Dewatering and Loadout Facility at the Regional Water Quality Control Plant funded in Capital Improvement Program project WQ-14001; and
- D. Adopt a Resolution authorizing an Installment Sale Agreement in an amount not to exceed \$30,000,000 with the California State Water Resources Control Board for financing the design and construction of the Sludge Dewatering and Loadout Facility, and authorizing the amendment of two related financing agreements with the California State Water Resources Control Board.

**MOTION PASSED:** 9-0



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9. Review the Valley Transportation Authority (VTA) Next Network Initiative Final Plan and the Draft Palo Alto Transit Vision Plan and Direct Staff to Pursue Funding From VTA to Backfill Service Reductions With Local Shuttle Service.

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

- A. Direct Staff to pursue Valley Transportation Authority (VTA) funding to backfill planned reductions in bus service with local shuttle service; and
- B. Continue discussion of the Palo Alto Free Shuttle to a date uncertain.

**MOTION PASSED:** 9-0

- ~~11. Discuss the Draft 2017-2020 Sustainability Implementation Plan (SIP) and Direct Staff on Next Steps.~~
- ~~12. Annual Earth Day and Sustainability and Climate Action Plan (S/CAP) Update.~~

## Inter-Governmental Legislative Affairs

None.

## Council Member Questions, Comments and Announcements

None.

Adjournment: The meeting was adjourned at 12:59 A.M.