The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:06 P.M.

Present: Cormack, DuBois, Filseth, Fine, Kniss, Kou, Tanaka

Absent:

Agenda Changes, Additions and Deletions

None.

City Manager Comments

Ed Shikada, City Manager announced the 38th Annual Chili Cook-off would return to Mitchell Park on July 4, 2019. City Hall's exterior was going to be illuminated with red, white and blue lighting in recognition of Independence Day beginning July 1 through July 4, 2019. Open House at the Municipal Services Center was planned for July 5, 2019. The Twilight Concert Series would kick off on June 29, 2019. The Magical Bridge Family Concert Series was scheduled on Friday nights through August, 2019. The Children's Theatre was going present Beat Bugs for three weeks beginning July 17, 2019. The Silicon Valley Safety and Preparedness Fair occurred at Stanford Shopping Center on July 27, 2019. Agenda Item Number 30, the contract amendment with AECOM, was going to return to the Council in August, 2019 for discussion.

Council Member Kou asked if Agenda Item Number 30 was continued.

Mr. Shikada replied no. Staff needed to do some follow-up work regarding dates once the Council approved the contract.

Oral Communications

Sven Theisen noted global heating and climate crisis were the new terms for climate change. Over the next several months, the Council faced decisions around reach Codes. The Council needed move away from the use of fossil fuels through the elimination of natural gas in homes and the implementation of rebate programs for conversion from natural gas to electric appliances.
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Minutes Approval

1. Approval of Action Minutes for the June 3 and June 10, 2019 Council Meetings.

MOTION: Council Member Cormack moved, seconded by Vice Mayor Fine to approve the Action Minutes for the June 3 and June 10, 2019 Council Meetings.

MOTION PASSED: 7-0

Consent Calendar

Council Member Kou registered a no vote on Agenda Item Number 30.

Council Member Tanaka registered no votes on Agenda Item Numbers 5, 18, 30.

Council Member Cormack registered no votes on Agenda Item Numbers 28 and 30.

Mark Weiss, speaking regarding Agenda Item Number 18 requested an explanation for changing the number of art pieces from four to three.

Justin Gorman, speaking regarding Agenda Item Number 25 supported a 25-cent charge for reusable cups. The City needed to require businesses to promote incentives and discounts for reusable takeaway containers. The California Health Code allowed the use of reusable cups, and the language should be included in the Ordinance.

Gloria Garcia, speaking regarding Agenda Item Number 25 advocated for a 25-cent charge for disposable cups, a ban on chemicals used in disposable foodware and on the use of disposable foodware for onsite dining in the Ordinance.

Hillary Glann, speaking regarding Agenda Item Number 25 remarked that the Ordinance should require the use of reusable foodware because compostable foodware required more energy to produce than plastic.

Radhika Dhall, speaking regarding Agenda Item Number 25 urged the Council to include in the Ordinance no receipts except upon request, a 25-cent charge for reusable cups, and a ban on plastic bags.

Roland LeBrun, speaking regarding Agenda Item Number 30 expressed concern regarding the misinformation AECOM was providing the Council,
particularly regarding tunnel diameter and the distance between tunnel bores.

Karen Holman, speaking regarding Agenda Item Number 12 expressed concerns about lighting in the Baylands.

Doug Kreitz, speaking regarding Agenda Item Number 12 understood night lighting was necessary for safety and security; however, lighting in and around buildings in the Baylands was creating hot spots. Signage was brightly lit, and none of the lighting was diminished during late-night hours. He requested the consultant visit the Baylands at night to evaluate the full impacts of light on habitat, migration patterns, etc.

MOTION: Council Member Tanaka moved, seconded by Council Member Kou, third by Council Member XXXX to pull Agenda Item Number 30.

MOTION FAILED DUE TO THE LACK OF A THIRD

MOTION: Mayor Filseth moved, seconded by Vice Mayor Fine to approve Agenda Item Numbers 2-30A.

2. Policy and Services Committee Recommends the City Council Accept the Status Update of the Parking Funds Audit and Approve Consolidation of Residential Preferential Parking (RPP) Program Funds; and Approve Fiscal Year 2019 Budget Amendments in the Residential Parking Fund and the General Fund.

3. Approval of Construction Contract Number C19174628 With AIMS Companies in the Amount of $1,732,250 for Phase 2 of the Cross Bore Verification, Inspection, and Assessment Program; and Authorization to Execute and Negotiate Related Change Orders in the Amount of $173,225, for a Total Not-to-Exceed Amount of $1,905,475.

4. Approval of Contract Number C19173720A With ARB, Inc. in the Amount of $1,886,682 for Gas Service Replacement Project Fiscal Year 2019, Capital Improvement Program Project GS-18000, and Authorization for the City Manager to Negotiate and Execute Related Change Orders Not-to-Exceed $94,334, for a Total Not-to-Exceed Amount of $1,981,016; and Approval of a Gas Capital Improvement Fund Budget Amendment.

5. Approval of Contract Number C19171363 With Professional Account Management, LLC dba Duncan Solutions, in an Amount Not-to-Exceed $627,000 Over a Five-year Term to Develop, Implement, Support and Maintain a Parking Permit and Citation Management System.
6. Approval of Professional Services Contract Number C19174525 With BKF Engineers in the Amount of $158,560 for Land Surveying Services, Including $14,400 for Additional Services, for a Total Not-to-Exceed Amount of $172,960.

7. Approval of a new Memorandum of Agreement Between the City of Palo Alto and Utilities Management Professional Association of Palo Alto (UMPAPA).

8. Approval of Amendment Number 1 to Contract Number C17162020 With West Coast Arborists Inc. for Tree Pruning and Removal Services, to Extend the Term by two Years (Through June 30, 2021) and add $2,657,084, for a new Total Not-to-Exceed Amount of $7,359,534; and Approval of a Fiscal Year 2020 Budget Amendment in the General Fund.

9. Approval of Amendment Number 2 to Contract Number C16162262 With Biggs Cardosa Associates, Inc., in the Amount of $466,569 to Provide Bidding and Construction Support Services for the Highway 101 Pedestrian/Bicycle Overpass Project (PE-11011), for a Total Not-to-Exceed Amount of $2,417,759; and Adoption of a Resolution 9848 Entitled “Resolution of the Council of the City of Palo Alto to Approve Modification of the Freeway Agreement Between the State of California and the City of Palo Alto.”

10. Approval of Contract Number C20175131 With O'Grady Paving, Inc. in the Amount of $1,836,214 to Provide Synthetic Turf Replacement and Track Installation Services for the Cubberley Track and Field Replacement Project, Capital Improvement Program Project CB-19000.

11. Adoption of the Fiscal Year 2020 Investment Policy.


13. Approval of Amendment Number 3 to Contract Number C14150694 With Mark Thomas & Company in the Amount of $100,058 for the Charleston-Arastradero Corridor Project, Capital Improvement Program Project (CIP) PE-13011.

14. Approval of an Agreement With Santa Clara Valley Water District in the Not-to-Exceed Amount of $258,450 for Concrete Channel Lining Repair Along Barron Creek.
15. Approval of Contract Number C19175329 With American Asphalt Repair and Resurfacing, Inc., in the Amount of $362,724, Plus a Five Percent Contingency for Unforeseen Expenses for Tennis Court Improvements at Rinconada Park to be Completed by August 9, 2019 (CIP PG-06001).

16. Approval of Amendment Number 2 to Contract Number C17166591 With Artist Susan Zoccola, LLC to Extend the Term to November 30, 2021 for the Design Development, Fabrication, and Installation of Artwork Associated With the Charleston-Arastradero Corridor Project.

17. Approval of two Revenue Contracts With the City of Los Altos and the Town of Los Altos Hills for the City of Palo Alto to Provide Animal Control and Shelter Services for an Additional Five-year Term.

18. Approval of a Contract With Peter Wegner in the Amount of $716,000 for a 3-year Term for Fabrication and Installation of Public Art at the new Public Safety Building.

19. Resolution 9849 Entitled “Resolution of the Council of the City of Palo Alto Setting the Appropriations Limit (GANN Limit) for Fiscal Year 2020.”

20. Approval of Contract Number C20175327 With Saviano Company, Inc. in the Amount of $471,768, Plus a 10 Percent Contingency for Unforeseen Expenses for Pickleball Court Additions and Tennis Court Improvements at Mitchell Park (Capital Improvement Project PG-06001).


22. Policy and Services Committee Recommends the City Council Accept the Enterprise Resource Planning (ERP): Data Standardization Audit.

23. Policy and Services Committee Recommends the City Council Accept the Enterprise Resource Planning (ERP): Separation of Duties Audit.

24. Ordinance 5472 Entitled “Ordinance of the Council of the City of Palo Alto Amending Title 5 of the Palo Alto Municipal Code to Repeal Chapter 5.24 (Construction and Demolition Debris Diversion Facilities), and add a new Chapter 5.24, Entitled Deconstruction and Construction Materials Management, to Establish Regulations Related to the
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Management of Deconstruction and Construction Debris and Materials (FIRST READING: June 10, 2019 PASSED: 6-0 DuBois absent).”

25. Ordinance 5473 Entitled “Ordinance of the Council of the City of Palo Alto Amending Title 5 of the Palo Alto Municipal Code to Establish Regulations Related to Disposable Foodware Items and Other Disposable Products at Food Service Establishments (Chapter 5.30), and to Require the use of Compostable Produce Bags at Retail Service Establishments and Farmers Markets (Chapter 5.35) (FIRST READING: June 10, 2019 PASSED: 6-0 DuBois Absent).”

26. Approval of Amendment Number 1 to Contract Number C19172119 With Daryl D. Jones, Inc. dba Telecommunications Engineering Associates (TEA) for $60,000 to Provide Services to the Public Safety Building Architect and Additional Maintenance Costs for Fiscal Year 2019.

27. Approval of Amendment Number 3 to Contract Number C12142180 Between the City of Palo Alto (on Behalf of the Joint Powers Board) and Midpen Media Center for Public, Education and Government (PEG) Access Channel Support Services to Extend the Term to December 31, 2019.


29. Approval of Amendment Number 2 to Contract Number C14152828 With MV Transportation to Extend the Term for six Months for $216,185 to Operate the Palo Alto Free Shuttle Service on the Existing Crosstown Shuttle Route Until December 2019.

30. Approval of Amendment Number 1 to Contract Number C18171057 With AECOM for Continued and Expanded Services for the Connecting Palo Alto Rail Grade Separation Effort and to Increase Compensation by $1,206,126 for a Total Not-to-Exceed Amount of $2,484,786.


MOTION PASSED FOR AGENDA ITEM NUMBERS 2-4, 6-17, 19-27, 29 30A: 7-0
MOTION PASSED FOR AGENDA ITEM NUMBER 5:  6-1 Tanaka no

MOTION PASSED FOR AGENDA ITEM NUMBER 18:  6-1 Tanaka no

MOTION PASSED FOR AGENDA ITEM NUMBER 28:  6-1 Cormack no

MOTION PASSED FOR AGENDA ITEM NUMBER 30:  4-3 Cormack, Kou, Tanaka no

Council Member Kou understood the Council directed Staff to return to the Council for a discussion of the scope of the AECOM contract. She thought the Council may need to amend the contract.

Council Member Tanaka understood the committee would report to the Council, not the City Manager, in Agenda Item Number 30. With respect to Agenda Item Number 5, people told him Data Ticket was a preferred vendor, and its bid was less than Duncan's bid. The Council received probably a dozen emails from residents who opposed the amount of funds being proposed for artwork at the new Public Safety Building (PSB). Spending the proposed amount of funds for art in light of the Budget deficit was inappropriate.

Council Member Cormack did not believe the City was in the best position to create commuter wallet software as indicated in Agenda Item Number 28. There was no connection to the Transportation Management Association (TMA) and no mention of bicycling. She opposed Agenda Item Number 30 because of concerns about Task 4, community engagement.

Action Items

31.  Resolution 9850 Entitled “Resolution of the Council of the City of Palo Alto Confirming Weed Abatement Report and Ordering Cost of Abatement to be a Special Assessment on the Respective Properties Described Therein.”

Public Hearing opened and closed without public comment at 5:41 P.M.

MOTION:  Mayor Filseth moved, seconded by Council Member DuBois to adopt a Resolution confirming the report and ordering abatement costs to be a special assessment on the properties specified in the report.

Council Member Kniss noted the number of weedy lawns in the City and expressed concern regarding fire.

Mayor Filseth inquired whether Staff had noticed a proliferation of weeds.
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Moe Kumre, Santa Clara County Weed Abatement Program answered yes. Several residents mowed their lawns prior to the mandatory deadline but failed to mow their lawns regularly.

**MOTION PASSED: 7-0**

32. PUBLIC HEARING: to Hear Objections to the Levy of Proposed Assessments on the Palo Alto Downtown Business Improvement District (BID); Adoption of a Resolution 9851 Entitled “Resolution for the Council of the City of Palo Alto Confirming the Report of the Advisory Board and Levying Assessments for Fiscal Year 2020 on the Downtown Palo Alto Business Improvement District; and Adoption of a Budget Amendment in the Business Improvement District Fund.”

Brad Ehikian, Palo Alto Downtown Business Improvement District (BID) Board Member reported the annual report provided an overview of projects and outlined the budget and plans for the upcoming year.

Council Member Cormack requested the purpose of the Reserve Fund.

Mr. Ehikian explained that the BID's Board was exploring the possibility of hiring a part-time Executive Director or a consultant and of moving towards a project-based organization so that more funding could be invested in Downtown. Two potential projects were improvements to Lytton Plaza and news racks.

Vice Mayor Fine noted the BID provided many services to Downtown businesses. The proposed projects were commendable. A future Council discussion of engagement and support of the business community may be necessary.

Public Hearing opened and closed without public comment at 5:50 P.M.

**MOTION:** Vice Mayor Fine moved, seconded by Council Member Kniss to:

A. Approve the Resolution confirming the report of the Advisory Board and levying an assessment for Fiscal Year 2020 on the Downtown Palo Alto Business Improvement District; and

B. Amend the Fiscal Year 2020 Budget Appropriation Ordinance for the Business Improvement District (BID) Fund by:

   i. Decreasing the revenue estimate by $52,500; and

   ii. Decreasing the expense appropriation by $60,500; and
iii. Increase the ending fund balance by $8,000.

Council Member Kou requested clarification of the expenditure of funds for nominations.

Mr. Ehikian advised that the nominations had to be published in newspapers.

Council Member Kou requested an explanation of outreach and communication.

Mr. Ehikian explained that the BID utilized social media and e-flyers. Unfortunately, social media was suffering due to the lack of an Executive Director. The BID chose to focus on special projects until the leadership question was resolved.

Council Member Tanaka inquired regarding actions the Council could take to make the BID more effective.

Mr. Ehikian indicated the Board would concentrate on special projects for the coming year.

**MOTION PASSED: 7-0**

33. Ordinance Amending Chapter 5.20 (Refuse Collection) of Title 5 of the Palo Alto Municipal Code Related to the Storage, Sorting, Collection and Removal of Refuse, Including Restrictions on the Type and Color of Refuse Collection Bags and Other Modifications to Make Waste Sorting More Effective and Facilitate Monitoring; and Finding the Ordinance to be Exempt Under California Environmental Quality Act (CEQA).

Brad Eggleston, Public Works Director reported the Council was not able to consider changes to the Refuse Collection Ordinance on June 10, 2019 due to a noticing issue. The proposed changes were not substantive or significant. The most notable change was the requirement for commercial facilities to use clear bags for garbage and blue-tinted bags for recycling.

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

A. Find the Refuse Collection Ordinance is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Sections 15307 and 15308; and

B. Adopt the Refuse Collection Ordinance amending Chapter 5.20 of Title 5 of the Palo Alto Municipal Code (PAMC), related to the storage, sorting, collection and removal of refuse, including restrictions on the
type and color of refuse collection bags and other modifications to make waste sorting more effective and facilitate monitoring.

Council Member Kniss noted public comment regarding not being able to utilize a reusable cup and charging more for cups. Some of the items were able to be advanced more quickly.

Council Member DuBois inquired whether the required plastic bags were readily available.

Chuck Muir, Zero Waste Enforcement Manager advised that clear and blue-tinted bags were available online in various sizes.

Council Member DuBois asked if commercial clients were required to bag waste before placing it in bins.

Mr. Eggleston answered no.

Council Member DuBois inquired regarding public notification and education about the changes.

Mr. Muir indicated Staff would create outreach material to send to businesses, post information on the website and work with GreenWaste to distribute information.

Council Member Cormack requested the enforcement mechanism for the Ordinance.

Mr. Muir advised that enforcement would be included in the auditing process.

Council Member Cormack asked about the frequency of audits.

Mr. Muir replied once a year. As efficiency increased, audits were to be conducted more frequently.

Council Member Tanaka requested the consequences of a customer using the wrong bags.

Mr. Eggleston indicated Staff would work through a process of voluntary compliance. If customers were not using the correct colors of bags, City Staff or GreenWaste staff were able to interact with the customer to ensure the customer understood the requirements.

Council Member Tanaka asked if the Ordinance pertained to newspaper bags and, if not, why not.
Mr. Eggleston related that the Ordinance did not pertain to newspaper bags, but Staff planned on working on it.

Council Member Tanaka expressed concern that the correct bags were not available in local stores.

Mr. Eggleston reported Staff would investigate local availability of bags and share information with customers. The correct bags were not widely available, but Staff expected they would become available over time.

Council Member Tanaka proposed an Amendment to the Motion to exempt businesses with fewer than 100 employees.

Council Member DuBois remarked that businesses with fewer than 100 employees could be most of the businesses in Palo Alto.

Council Member Kniss requested Council Member Tanaka provide additional context for the proposed Amendment.

Council Member Tanaka commented that finding the correct bags would be another chore for businesses to accomplish. He had not found the correct bags at Costco or in the Uline catalog.

Council Member Kniss was not comfortable with the proposed Amendment because the point of the program was to do the best they could. Most of the businesses in the City did not have 100 employees.

Council Member DuBois added that bagging recyclables was not mandatory.

Mr. Eggleston reported Staff had not analyzed the number of businesses that would be affected by the proposed Amendment. Small to medium-sized businesses, particularly restaurants, needed the most help with sorting recycling and composting.

Mr. Muir clarified that all businesses had difficulty sorting materials.

**AMENDMENT:** Council Member Tanaka moved, seconded by Council Member XXX to exempt businesses with fewer than 100 employees.

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

Council Member Kou asked if the Ordinance would apply to residential properties as well as commercial properties.

Mr. Eggleston clarified that use of the compostable bag applied to both residential and commercial properties.
Council Member Kou asked if single-family homeowners would have to use the tinted bag.

Mr. Eggleston related that people who bagged compostable materials would need to obtain green-tinted bags. The use of plastic bags for compostable materials resulted in plastic bags entering the compost stream, which was a problem.

Council Member Kou requested clarification of the self-haul provision.

Mr. Muir explained that anyone who wished to dispose of material would have to utilize the City's contractor. The provision was intended to clean up the waste stream and to allow Staff to track waste.

Council Member Kou asked if pricing for that was competitive.

Mr. Muir understood pricing was fairly competitive, but GreenWaste's fee was slightly higher.

Council Member Kou inquired whether residential and commercial properties would be inspected.

Mr. Muir indicated mainly commercial properties would be subject to inspection. During an audit, Staff needed access to waste containers.

Council Member Kou asked if Staff provided notice to businesses.

Mr. Muir answered yes and no. The length of the notice had to be short enough to prevent businesses from cleaning up the waste and long enough to provide some notice.

Council Member Kou asked if inspectors going onto commercial properties could be considered trespass.

Mr. Eggleston reported the proposed Ordinance required businesses to provide access.

Council Member Kniss requested the progress made toward the goals for 2030.

Mr. Eggleston believed the Single-Use Foodware Ordinance and the Deconstruction Ordinance would advance the City toward its 2030 diversion goals.

Council Member Kniss requested Staff provide the Council with an Information Report regarding progress towards the Zero Waste goals.
Mr. Eggleston advised that the State provided Staff with the waste diversion percentage. If the State report was available in the next few months, he was able to provide an Information Item to the Council using that information.

**MOTION PASSED: 6-1 Tanaka no**

34. PUBLIC HEARING: Adoption of a Resolution 9852 Entitled “Resolution of the Council of the City of Palo Alto Amending Utilities Rate Schedules E-15 (Electric Service Connections), W-5 (Water Service Connections), G-5 (Gas Service Connections), S-5 (Sewer Service Connections), and C-1 (Utility Miscellaneous Charges).”

Public Hearing opened and closed without public comment at 6:15 P.M.

Council Member DuBois requested the rationale for charging a fixed fee.

Jimmy Pachikara, Acting Electrical Engineering Manager reported fixed charges were utilized for standard services such as installation and connection of electric service. Staff provided customers with estimates of fees for unusual services.

Council Member DuBois requested Staff comment regarding the large increases.

Jose Jovel, Utilities Supervisor advised that fees did not increase since 2015, but costs increased since 2015.

Council Member DuBois asked if the fees would remain constant until Staff requested another increase or if the fees increased by some amount each year.

Mr. Jovel indicated Staff would review fees in December, 2020 when labor contracts were under review.

Council Member DuBois asked if the fee increases would be smaller with more frequent increases.

Mr. Jovel replied yes.

Council Member DuBois inquired whether the Utilities Advisory Commission (UAC) reviewed the proposed rates.

Dean Batchelor, Director of Utilities answered yes.
Council Member DuBois inquired whether the UAC approved the rate increases.

Mr. Batchelor responded yes.

Council Member Cormack inquired whether changes in accounting for pensions were a component of the labor increase.

Mr. Batchelor advised that pension costs were included in fixed costs.

Council Member Cormack asked if market-based adjustments included both labor costs and pension costs.

Mr. Batchelor replied that's correct.

Council Member Cormack requested to know the standard water meter size for a residence.

Mr. Jovel related that a 1 inch meter would be sufficient for a residence with a fire sprinkler system. If the existing service handled the capacity for a fire sprinkler system, the homeowner did not have to pay an additional cost for installation of the service.

Council Member Cormack noted the City's fee was higher than other cities' fees and wished to ensure the public understood the reason for the higher fee.

Mr. Jovel reiterated that the fee was higher because of the cost recovery for installing the service.

Council Member Kou asked if the fee would decrease if costs decreased.

Mr. Jovel replied yes.

Council Member Tanaka asked if fees were increased in 2017; if fees were increased, what was the difference between the proposed fees in 2015 and the proposed fees in 2017.

Mr. Jovel clarified that the cost of Services Study conducted in 2014 and resulting increases presented to the Council in 2015 pertained to Water, Gas and Wastewater Connection Fees. In 2016, Staff recommended new electric fees.

Council Member Tanaka related that he voted on the Electric Fees, and he joined the Council in 2017. He questioned whether the fees were last increased in 2015.
Mr. Jovel corrected his previous statement saying electric fees had increased in 2017. Some fees increased in 2015 and others in 2017.

Council Member Tanaka requested to know which fees increased in 2015 and which increased in 2017.

Mr. Jovel reported the fees with the largest increases were last increased in 2015, and those fees pertained to water, wastewater, and gas connections.

Council Member Tanaka requested the annual percentage increase in fees. An increase of 58 percent divided over four years was approximately 10 percent per year, which was greater than the rate of inflation.

Mr. Jovel explained that Staff studied the length of time required to install certain types of service and found the amount of time was not accurate and should be increased. Therefore, Staff added a couple of man hours to the fee for installing those types of services in order to reach full cost recovery.

Mayor Filseth interpreted the comments as the prior fee did not achieve full cost recovery, but the increased fee achieved full cost recovery.

Council Member Tanaka recalled the reason for increasing fees in 2017 was to achieve full cost recovery. He did not understand why the current proposed increases were so high despite the 2017 fees supposedly achieving full cost recovery.

Dave Yuan, Strategic Business Manager clarified that electric costs had increased because of the recent labor contract. Some electric employees received 10-30 percent increases under the contract; additionally the Water, Wastewater, and Gas Fees had not increased since 2015.

Mayor Filseth understood labor rates increased faster than the cost of living.

**MOTION:** Mayor Filseth moved, seconded by Council Member Kniss to adopt the Resolution amending five Utilities rate schedules which set forth charges for utility connection and capacity charges and service calls: rate schedule E-15 (Electric Service Connection Charges), W-5 (Water Service Connection Charges), G-5 (Gas Service Connection Charges), S-5 (Wastewater Service Connection Charges), and C-1 (Utility Miscellaneous Charges), effective September 1, 2019.

Mayor Filseth inquired whether the Finance Committee reviewed the proposed rates.

Mr. Batchelor answered no.
Ed Shikada, City Manager added that the Finance Committee should have reviewed the proposed rates.

MOTION PASSED: 6-1 Tanaka

MOTION: Council Member DuBois moved, seconded by Council Member Kniss to discuss Agenda Item Number 36 before Agenda Item Number 35.

MOTION PASSED: 4-3 Filseth, Kou, Tanaka, no

Council took a break at 6:36 P.M. and returned at 6:52 P.M.

36. Approval of: (1) the Re-issuance of the Fiber-to-the-Node (FTTN) Request for Proposals to Begin a Multi-phase Fiber Network Expansion to Support Advanced Metering Infrastructure (AMI), Supervisory Control and Data Acquisition (SCADA) Systems, and Wireless Communication Technologies for City Staff; and (2) the Sunsetting of the Fiber and Wireless Citizen Advisory Committee (CAC) and Assignment of the Utilities Advisory Commission (UAC) to Assume the Sole Advisory Role as the Public Input Forum for Fiber and Wireless Expansion for Proposed Phases 1 and 2.

Jim Fleming, Senior Management Analyst reported in August, 2017 the Council directed Staff to engage a management consultant to develop a business case, prepare a high-level network design, evaluate financial models for alternative use cases and identify potential partners and/or service providers for a Fiber to the Node (FTTN) network for fiber and broadband expansion. In June, 2018, Staff issued a FTTN Request for Proposals (RFP) to retain a management consultant. Six firms responded to the RFP, and Staff interviewed five firms. In November, 2018, the Council encouraged Staff to align the FTTN business case with Area Median Income (AMI) implementation. In January, 2019, the Utilities Advisory Commission (UAC) supported reissuing the RFP to align the FTTN business case with AMI implementation. The City's commercial dark fiber had a high market share and brand awareness among organizations that needed the quantity and quality of bandwidth provided by direct fiber connections. Customer acquisition was particularly successful in the Stanford Research Park and the Downtown area. The network's primary purpose was to support City facilities and departments as well as critical municipal infrastructure. Connecting fiber optics to City systems enhanced essential City services. The proposed RFP to retain a consultant for expansion of the fiber network involved the implementation of a fundamental design principle to initially leverage and expand the existing fiber backbone for AMI and Supervisory Control and Data Acquisition (SCADA) systems, communication links and wireless communications for Public Safety and Utilities Staff. Subsequent
phases included a strategy for cross-utility scenarios that integrated fiber expansion with ongoing Capital Improvement Projects and supported Smart City initiatives; all while evaluating Fiber to the Premises (FTTP) opportunities. A larger and more geographically spread out fiber network incentivized Internet Service Providers (ISP) to form a public-private partnership with the City to deliver broadband and other services. Phase 1 involved preparing a high-level design and cost estimate for AMI, SCADA and wireless communication support for Public Safety and Utilities Staff. In Phase 2, the consultant prepared a detailed network design and cost estimate including bid-ready construction drawings and standards, a bid-ready package and bid evaluation assistance. Staff worked with the consultant to develop local Ordinances, policies and construction standards. In Phase 3, the consultant developed: 1) a business case and a high-level design for FTTN and/or FTTP and future services; 2) conducted a community survey to measure interest and support for FTTP, undergrounding and electrification; 3) prepared a market assessment of existing ISPs and services in Palo Alto; and 4) evaluated public-private partnership opportunities and funding models. In Phase 4, the consultant prepared a detailed engineering design and cost estimate for FTTP. Potential scenarios of Capital Improvement Projects that were integrated with future fiber expansion included electric system underground conversion, electric system aerial and underground rebuilds, fiber optic rebuilds, natural gas line replacement, electrification and electric vehicle charging infrastructure.

Dean Batchelor, Director of Utilities advised that the Citizen Advisory Committee (CAC) was formed to review the possible expansion of the fiber network to the home. The UAC had a larger and wider perspective for reviewing and planning capital projects and a broader experience with multiple utilities, other than the CAC. The UAC was able to provide a forum for wider community participation and outreach and greater oversight over the CAC. Staff believed the CAC had fulfilled its purpose. Loren Smith was a member of the CAC, was currently a member of the UAC, and had experience in the telecommunications industry. Donald Jackson, another member of the UAC, had an electrical engineering and computer science background and was familiar with fiber to the home.

Jeff Hoel assumed the cost for FTTN would be approximately $15 million. FTTN did not include installing fiber infrastructure to pass premises, which fiber to the home needed. FTTN did not provide any value to fiber to the home and placed fiber infrastructure in locations that benefitted smart meters. There was no reason to combine FTTP with undergrounding. Staff needed to design all FTTP and, if there was not sufficient funding, they needed to determine which components of FTTP to omit.
Herb Borock did not support reissuing the RFP because the two RFPs were completely different. Before the Council acted on the second RFP, Staff needed to recommend that the Council terminate the first RFP or award a contract. He understood SCADA was already utilizing the fiber network. The CAC was essentially ignored and had not fulfilled its purpose. The Council needed to terminate the CAC but should not make the UAC advisory to Staff.

William Xuan remarked that FTTP needed purpose-built infrastructure and said the UAC should not be the advisory body for FTTN or FTTP because of the many tasks for which it was already responsible. The Council needed to convert the CAC into an advisory body for the Council. A 20-year fiber project was unreasonable. The FTTN proposal did not provide the service the community wanted.

Council Member Kou requested clarification of the term collector.

Mr. Batchelor explained that collectors took readings from the water, gas, and electric meters and forward them to the billing system. Customers had access to real-time data for their water, gas, and electricity usage. A collector was a set of small antennas that was placed on a pole or streetlight. The fiber network facilitated transmission of data between the collectors and City systems.

Council Member DuBois inquired whether libraries, community centers, and Palo Alto Unified School District (PAUSD) utilized the fiber network.

Mr. Fleming answered yes.

Council Member DuBois noted responses to the first RFP ranged between $75,000 and $5.5 million, which seemed to indicate the vendors interpreted the RFP differently or did not understand the scope of services. He inquired regarding a possible reason for the wide range of responses.

Mr. Fleming related that vendors fell into two categories, consulting firms and design and build firms. He remarked that the design and build firms may not have understood the consulting services the RFP sought.

Council Member DuBois supported reissuing the RFP and looking for a firm with design and construction experience. He liked the concept of leveraging the network for multiple uses. The network design needed to anticipate FTTP, but the previous Council Motion pertained to FTTN. He requested clarification of the vision for Phases 1 and 2.
Mr. Batchelor reported AMI's use of the fiber network would push the network further into neighborhoods because AMI collectors had to be located near meters.

Council Member DuBois inquired whether people would think about FTTP during the design of Phases 1 and 2.

Mr. Batchelor indicated the network would pass homes if the City had to build overhead or underground portions of AMI in Phase 1. Phase 2 explored the number of homes the network would pass and the collection of data for AMI.

Council Member DuBois asked if the Utilities Department would bear the costs of phases for AMI and SCADA.

Mr. Batchelor advised that the Fiber Fund would not bear the full cost of building the system.

Council Member DuBois did not believe the Fiber Fund should bear the cost of electric upgrades or extra fiber for future networks. The cost of each component of capital projects should be charged to the associated department rather than each department equally sharing the costs of capital projects.

Ed Shikada, City Manager reported the Council would decide the cost allocation for the node portion of the work.

Council Member DuBois asked if FTTN would not occur until Phase 3 and he also wanted to know when Phase 3 might begin.

Mr. Fleming concurred that Phase 3 was the FTTN component of the incremental approach to fiber expansion. The estimated timeline for the business case and high-level design included providing the UAC with a final report and recommendations in the second quarter of 2020. The Council was going to review a plan for all phases in the second quarter of 2020.

Council Member DuBois wanted to accelerate the project. Developing engineering designs was a good step. Having the dark fiber network and $25 million in the Fiber Fund provided the City with an advantage over other cities. An elevated role for the UAC was important. He requested Staff's rationale for not continuing the CAC.

Mr. Fleming remarked that there were competing interests on both sides. The CAC's mission was FTTP. The City was not considering building a fiber network at the current time. The UAC's role was to oversee all projects;
therefore, the UAC needed to provide the Council with a recommendation for each phase of the project.

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

A. Approve the reissuance of a Fiber-to-the-Node (FTTN) Request for Proposals (RFP) to begin a multiphase fiber network expansion to support Advanced Metering Infrastructure (AMI), Supervisory Control and Data Acquisition (SCADA) systems, and wireless communication technologies for City operations. Additional tasks in the reissued RFP (to address AMI, SCADA, and FTTN) will include detailed engineering designs, construction cost estimates and construction bid support services, and:

   i. Direct Staff to return to Council with cost sharing plan; and

B. Approve the assignment of the Utilities Advisory Commission (UAC) to assume the sole advisory role and serve as the public input forum for fiber and wireless expansion initiatives, and the sunsetting of the Fiber and Wireless Citizen Advisory Committee (CAC).

Council Member DuBois requested Staff comment regarding the use of the Fiber Fund for FTTP in Phases 3 and 4.

Mr. Shikada believed the business case would inform a determination of cost sharing. Fiber was overkill for AMI; therefore, some incremental costs were not necessary if the network was expanded for only AMI implementation.

Mayor Filseth inquired whether the Motion was intended to prohibit the use of the Fiber Fund for FTTN.

Council Member DuBois answered no.

Council Member Kniss requested the status of the Google fiber project in Kansas City.

Mr. Fleming advised that potential customers that had not signed up for service were informed that Google Fiber would not be coming.

Council Member Kniss asked if the balance of the Fiber Fund was $25 million.

Mr. Fleming clarified that the balance was approximately $28 million.

Council Member Kniss commented that her goal was to extend fiber to the home.
Council Member Cormack inquired whether FTTN was a prerequisite for FTTP.

Mr. Batchelor replied yes.

Council Member Cormack wondered which plan the neighborhoods would favor.

Mr. Batchelor explained that the favored neighborhoods would depend on Staff's recommendation for the number of collectors and the locations of the collectors.

Council Member Cormack asked if the first four phases of the RFP were the same four phases for construction.

Mr. Fleming indicated the consultant's scope of work would focus on those four phases. With each phase, the consultant provided findings and recommendations. The first two phases focused on utility improvements. The first phase resulted in a high-level design and cost estimate. The second phase resulted in a more detailed design and cost estimate.

Mr. Shikada clarified that the slides depicted different functions of the network.

Council Member Cormack asked if the RFP contained four phases and if construction contained four phases. She thought the RFP scope of work would result in the Council receiving a plan for fiber expansion.

Mr. Fleming advised that the consultant would provide some guidance regarding the best way to roll out fiber expansion over a period of time. Many factors had to be considered in preparing a network design.

Council Member Cormack encouraged Staff to talk about the problem the project would solve. Integrating fiber with Public Safety and Utilities was a thoughtful approach. Given that approach, the UAC should consider the fiber project in the context of other projects.

Vice Mayor Fine questioned whether the purpose of the fiber project was to expand fiber services to residents and businesses or to launch a new enterprise or to complete a long-term project. He requested the rationale for the business case coming in Phase 3.

Mr. Fleming suggested the business case was intended to identify whether there was sufficient demand for alternative access to broadband to make a network financially sustainable.
Vice Mayor Fine questioned development of the business case following preparation of the high-level design and cost estimate.

Mr. Fleming reiterated that the initial approach was to align the network with AMI.

Mr. Shikada clarified that completing Phases 1 and 2 would implement AMI and build the network to the node as the base case; cost effectiveness was measured from that point forward.

Vice Mayor Fine remarked that essentially there would be three phases, SCADA and AMI, FTTN, and potentially FTTP. He requested an update regarding neighborhood inequity when Staff returned to the Council with a Cost-Sharing Plan.

Council Member Tanaka felt the community wanted faster service at better rates, and he believed that should be the goal of the project. He inquired whether Staff had compared the City's rates for fiber with other cities' rates.

Mr. Fleming indicated that comparison was part of the analysis conducted by the consultant.

Council Member Tanaka remarked that one of the goals of the project would be to create more competition and better service at a lower cost. He concurred with comments that the business case should occur early in the process.

Mr. Batchelor explained that Staff was looking for a business case that would extend FTTN to FTTP and said Phases 1 and 2 involved connecting AMI and SCADA and looking at wireless communications. In Phase 3, the business case determined the cost for developing FTTP.

Mr. Shikada added that the first step was to expand the network to the node, obtain better cost estimates, and create a design so that the incremental cost of expanding the network to the premises could be determined. Working in this manner provided a better estimate of the cost-benefit for FTTP. The cost of FTTN was shared among the utilities, and the business case investigated the cost to the fiber utility by extending the network to the home.

Council Member Tanaka requested the cost of creating the RFP and Staff's estimate of the cost to perform the scope of work contained in the RFP.
Mr. Shikada advised that the cost of creating the RFP was basically Staff time. The cost to perform the scope of work was subject to the RFP responses.

Council Member Tanaka requested Staff comment regarding the order of magnitude for the RFP's scope of work.

Mr. Shikada reiterated the range of proposals submitted for the first RFP. The Council was going to have actual numbers when it reviewed a contract for the RFP.

Mayor Filseth assumed the number of Staff hours to generate the RFP would be comparable to those for other RFPs.

Council Member Tanaka inquired regarding the current state of undergrounding.

Mr. Shikada indicated 20 percent of the City was undergrounded.

Council Member Tanaka wanted to know the plan for future undergrounding.

Mr. Shikada related that the absence of funding constrained the City's ability to underground in the next few years.

Council Member Tanaka asked if Staff planned any undergrounding projects for the next few years.

Mr. Shikada clarified that the pace of undergrounding was very slow.

Council Member Tanaka inquired regarding Staff's plans to utilize abandoned natural gas pipelines.

Mr. Batchelor noted abandoned gas lines existed across 50 percent of the City. Staff planned to talk with the consultant about using the abandoned gas lines to extend the network further into neighborhoods.

Council Member Tanaka requested the maker of the Motion's thoughts regarding moving the business case forward in the process.

Council Member DuBois believed Staff had responded to the proposition for moving the business case forward. Under Staff's proposed timeline, the business case was to have the "last mile" of expanding the fiber network. He was interested in accelerating the process, and said the proposed process provided the Council with a plan to expand fiber. The Council discussed creating a business plan for fiber to the home, but the discussion did not go well.
Mayor Filseth commented that Staff’s approach was pragmatic. Much of Staff’s efforts involved Risk Management because of the almost constant evolution of technology. Using the build-out of utility infrastructure to advance parts of FTTN was logical.

**MOTION PASSED:** 6-1 Tanaka no

35. **PUBLIC HEARING / QUASI-JUDICIAL. 1700 & 1730 Embarcadero Road [18PLN-00186]:** Request for a Zoning Map Amendment, Site and Design Review and Design Enhancement Exception to Allow the Demolition of an Existing 18,000 Square Foot Vacant Restaurant Building and a 15,700 Square Foot Audi Service Building, and Construction of two new Automobile Dealerships Totaling 84,900 Square Feet. The Zoning Map Amendment Would Change the Zoning Designation From CS(D) and PC to CS(D)(AD) for Both Parcels. Environmental Assessment: Adoption of a Mitigated Negative Declaration, Including a Mitigation Monitoring and Reporting Program. The Planning and Transportation Commission Reviewed and Made a Recommendation for Approval on March 27, 2019.

Council Member Cormack disclosed she met one of the project’s architect’s on a bird tour where she viewed a sample of bird-safe glazing. She and the architect did not discuss the project.

Council Member DuBois disclosed he discussed the project with Karen Holman and Jeff Levinsky and had visited the site.

Council Member Kniss disclosed she visited the site a couple of times and discussed the project with no one of note.

Mayor Filseth disclosed he visited the site and spoken with Karen Holman, Jeff Levinsky, and members of the Planning and Transportation Commission (PTC) and Architectural Review Board (ARB).

Vice Mayor Fine disclosed that he occasionally passed the site.

Council Member Kou disclosed she visited the site and spoke with Karen Holman and Jeff Levinsky.

Council Member Tanaka disclosed he visited the site. While he had received many calls regarding the project, he did not speak with anyone about the project.

Jonathan Lait, Director of Planning and Development Services reported the project included two properties. The proposed Mercedes dealership would
be located at the corner of East Bayshore Road and Embarcadero Road, which was 1700 Embarcadero Road. 1700 Embarcadero Road and the adjacent site were previously zoned Light Manufacturing (LM), which was approximately equivalent to Research, Office and Limited Manufacturing (ROLM) zoning. The zoning was changed to Planned Community (PC) and subsequently to Commercial Service (CS) with a Site and Design Review (D) overlay. Approximately three years ago, the City Council reviewed an application for a different Mercedes dealership at the location and commented regarding the height, floor area, the Baylands Master Plan and additional refinements. The current zoning for the property was CS(D). The Comprehensive Plan contained a Land Use Designation for the property that matched CS. An Audi dealership was located on the adjacent Embarcadero Road property, which was originally zoned LM. Audi received PC zoning for the property and subsequently an amendment to the PC zoning to apply the Automobile Dealership (AD) overlay. More recently, the Audi dealership received administrative approvals to expand the showroom. The combined properties totaled approximately 5 acres. The total gross floor area as defined by the Municipal Code was approximately 100,000 square feet. The proposed building's height was mostly 43 feet and below; however, some areas of the building for stairs and elevator equipment extended to a height of 50 feet. The applicant proposed 369 parking spaces. The applicant sought to add the AD Combining District to the corner property and to change the PC zoning to CS(D)(AD) zoning for the adjacent property. With these changes, the two properties had consistent zoning. Site and Design Review was required because of the D overlay. The project included a Design Enhancement Exception (DEE) for relief from the City's build-to line requirement. A large utility easement on the property precluded compliance with the build-to line requirement. In reviewing the project, the ARB recommended modification of building colors. The application did not include signage, and signage required a separate approval. Staff worked with a consultant to prepare a Mitigated Negative Declaration (MND) that identified a number of significant impacts. All of the impacts were able to be mitigated. The PTC reviewed the project on March 27, 2019 and commented regarding the size and mass of the building, compliance with the Baylands Master Plan, and the appropriateness of the zoning. The PTC included a number of conditions related to migrating birds and light levels in its recommendation. The ARB held three hearings on the project. In the first two hearings, ARB comments related to building mass, colors and materials, and concern about the Baylands area. In the third hearing, ARB comments related to colors and materials, street trees, the curb ramp at the corner, the green screen and perimeter landscaping. Public comments raised concerns about the determination of floor area, size and mass, the appropriate Land Use Designation, tree removal, height, noise, and compatibility with the Baylands Master Plan. An At-Places Memorandum
Clarified the floor area issue. The correct total gross floor area was closer to 103,000 square feet. The total gross floor area was less than the allowed gross floor area. The Municipal Code stipulated parking facilities that served a permitted or conditional use were exempt from floor area. Two parking facilities, one on each property, provided customer and employee parking, and the second level of each parking facility was exempt from floor area.

Mayor Filseth noted the numbers in the floor area chart did not add up correctly.

Mr. Lait clarified that the exempt floor area of 121,000 square feet was incorrect. Staff believed an area containing approximately 2,000 square feet needed to be deducted from the overall project square footage. The vaulted portion of the Mercedes dealership contained a puzzle lift for storage of new car inventory. Based on definitions provided in the Municipal Code, the areas with the lifts were not considered floors of the building.

Mayor Filseth asked if the explanation of the lift areas related to Mr. Levinsky's comments.

Mr. Lait replied yes. Staff agreed that at least one level of the lift area needed to count toward floor area. This issue was able to be addressed without substantively affecting the overall design of the building.

Council Member DuBois inquired whether this issue would increase the total gross floor area from 103,000 square feet to 105,000 square feet.

Mr. Lait answered yes. The applicant was aware of the issue. The proposed office space in the Mercedes dealership was able to be converted to a showroom space to address the floor area discrepancy. The multiuse path was an important connection for the City and served a number of users. It was to be located on both private and public property and required the removal of some mature trees. The trees were located within an easement, which limited the height of vegetation to 15 feet. The project's compliance with the Baylands Master Plan was considered throughout the review process. The project needed additional work to attain consistency with the Baylands Master Plan, and that work was identified in the conditions of approval. The Municipal Code provided a process for Site and Design Review applications. The first step in the process was PTC review. If the PTC supported the project, the ARB was to review the project and recommend further refinement. Under the Municipal Code process, the ARB had three opportunities to review a project before the project advanced for a decision. A Site and Design Review application advanced to the City Council for a decision. The ARB comments during the third hearing did not affect the size or placement of the buildings on the properties. Staff believed a Council
discussion of policy concerns around the floor area was appropriate because the buildings contained a great deal of floor area. To address the ARB's concerns, Staff imposed a number of conditions of approval such that the applicant under a separate application had to resolve the issues through an ARB recommendation. This had the ability to be appealed by the City Council. The conditions related to colors, parapet material, street tree selection, the curb ramp, the green screen and perimeter landscaping. If the Council supported the project, these conditions allowed the applicant to proceed with construction drawings while addressing the conditions of approval.

Steve Presson, Holman Automotive Company related that for the dealership to be successful, an innovative parking system was needed. The lift system allowed the storage of many vehicles in a small area.

Lyle Hutson, YSM Design advised that the automated storage system allowed vehicles to be stored indoors. He kept the building height below 50 feet. The applicant proposed a variety of trees and layers of trees. There were 61 existing trees on the property, and the applicant proposed increasing the number of trees to 126. The trees complied with PG&E canopy requirements and City shade requirements. The two-way multiuse path removed bicycles from Bayshore and Embarcadero Roads. A Sound Study found noise from the carwash with mitigation measures complied with the City's Noise Ordinance. Proposed lighting reduced glare and limited overspill into the Baylands and street areas. Circulation around the entire site was available for emergency and private vehicles. Offloading of vehicles was accomplished onsite. The applicant proposed green screens or living walls to transition from the site to the Baylands. Water was to be treated before it reached the ground. The applicant met with the Parks and Recreation Commission and the Parks Department in an effort to add trees inside the Baylands area. The Audi dealership offered bicycles in place of rental cars.

Cari Templeton, Planning and Transportation Commission indicated PTC concerns related to multiple changes in zoning, volume of the building, the suitability and compatibility of the project with the Baylands and bird migration. An advantage of the project was to increase City revenues.

Alex Lew, Architectural Review Board believed a majority of the ARB members supported the project. The ARB was hesitant to recommend approval of a project with many conditions of approval. The intent of the AD overlay was to retain existing dealerships and to attract new dealerships to Palo Alto.
Mayor Filseth requested the ARB's opinion regarding scale and mass of the building.

Mr. Lew suggested four members of the ARB supported the proposed scale and mass and one member opposed the scale and mass based on the Baylands design guidelines.

Council Member Kniss inquired whether the ARB was willing to continue working on the project.

Mr. Lew commented that the applicant was responsive to ARB comments. The project was moving in the right direction and was far better than the two prior projects proposed for the site. There were a few seemingly minor but important issues that had to be resolved.

Council Member DuBois asked if the list of remaining ARB issues was correct or if there were additional issues to be resolved.

Mr. Lew believed the list was complete.

Council Member DuBois asked if the ARB needed further review of lighting.

Mr. Lew reported the ARB was not in favor of a translucent material on the parapet as the lighting caused the parapet to glow. In this way, the lighting and the parapet material were related.

Public Hearing opened at 8:51 P.M.

Bill Ross speaking for Ian Irwin, Peter Rosenthal, Annette Ross and Ceci Kettendorf observed that the Staff Report was inconsistent and incomplete and, in some instances, did not fully inform the public regarding the proposed project. The Staff Report attachments were not labeled. Condition Numbers 12 and 31 in the Record of Land Use Action did not pertain to the topics stated in the Staff Report. The Floor Area Ratio (FAR) calculations were based on plans that were not available. The draft MND referred to a revised project description that was not available to the public. Three responsible agencies were not consulted. He suggested the draft MND be recirculated.

Robert Moss remarked that many areas of the proposal were not adequately reviewed and evaluated. The Council needed to return the project to the ARB to resolve the ARB's outstanding issues. Not counting the car storage area as part of floor area was bizarre and needed to be reconsidered. The exempt floor area had to be reconsidered because adding it to the proposed floor area resulted in more than twice the allowed floor area. The project
needed to be scaled down to be more compatible with the Baylands environment. The proposed building was not compatible with nearby buildings.

Herb Borock noted the sign program was not evaluated in the MND, but the California Environmental Quality Act (CEQA) required an environmental document to evaluate the whole project. At the final ARB hearing, the applicant agreed to a continuance of the hearing rather than the ARB taking action on the application. Staff's action to schedule the project before the City Council was a violation of Section 18.30(g) of the Municipal Code and, therefore, a violation of CEQA. The Council needed to remove the item from the Agenda.

Mary Sylvester commented that the project was overly large and out of scale with regard to surrounding buildings and the proximity to the Baylands. She urged the Council to use the Baylands Master Plan as the guiding document for the project. Staff's proposal for security lighting needed to be defined.

Becky Sanders felt Staff's review of the project and the Staff Report suffered from a staffing shortage in the Planning Department. The only advantage of this project was a likely increase in City revenues.

Hamilton Hitchings related that the project clearly identified negative impacts on the Baylands, and some of those negative impacts were not mitigated. The proposed Mercedes dealership was 51 percent larger than the prior Mercedes dealership project, which the Council rejected because of it being too large. Staff had overlooked the fact that the project should comply with the Baylands Master Plan. The project was not ready to be in front of the Council.

Elaine Meyer felt the gateway to the Baylands was not an appropriate location for such a huge commercial project. The public needed to know the actual floor area of the proposed building and the proposed building's size in comparison to nearby buildings. The Council or Staff was able to request the applicant to prepare a 3-D model of the site and install story poles at the project site.

Carol Kiparsky encouraged the Council to deny the project because of its impact on birds.

Carla Carvalho suggested the Council resolve all issues with the project before granting any zoning changes.

Karen Holman believed the appropriate Council action was to deny the project. At the June 6, 2019 hearing, the number of ARB members
supporting the project was not sufficient to approve the project. Alternatively, the Council needed to return the project to the ARB with direction for the project to comply with the Baylands Master Plan. The Record of Land Use Action contained errors. The ARB did not evaluate lighting for the project.

Beth Rosenthal objected to the project because the rules were not being followed.

Jeff Levinsky noted the applicant did not provide contextual drawings and massing information. Based on his calculations, the building was to be more than three times the mass of neighboring buildings. The ceiling height of the parking facilities was astoundingly high and not needed. The Council's Packet contained drawings that were not available to the public.

Mr. Hutson clarified that the applicant was offered a fourth hearing before the ARB and did not object to a fourth hearing. The applicant submitted a 30-page lighting plan and adjusted landscaping many times in response to comments from Staff, PTC, and ARB. The ceiling heights needed to be taller to accommodate taller Mercedes vehicles.

Public Hearing closed at 9:30 P.M.

Mayor Filseth inquired regarding the public comment that the Council Packet contained drawings that were not available to the public.

Mr. Lait understood the shading of plans to illustrate floor area had been updated following the June 6, 2019 ARB hearing and prior to the Council meeting. The plan set provided to the Council was available to the public through links on the City's website.

Vice Mayor Fine inquired whether the multiuse path could be constructed without removing trees.

Mr. Lait reported Planning and Transportation Staff and the applicant had not identified a solution that would allow the applicant to construct a path and retain trees.

Vice Mayor Fine asked if the applicant proposed to plant trees along the path.

Mr. Lait replied yes.

Vice Mayor Fine inquired whether the lifts could store multiple cars within the same vertical space.
Mr. Lait responded yes.

Vice Mayor Fine requested the number of vehicles stored in one vertical space.

Sheldon Ah Sing, Senior Planner answered five.

Vice Mayor Fine asked if vehicles' lights were permitted to remain on during nighttime hours.

Mr. Lait indicated the Council could impose a condition prohibiting that.

Mr. Hutson reported the lights could remain on until the dealership closed at 10:00 P.M.

Vice Mayor Fine inquired regarding conditions of approval limiting construction and excavation during peak traffic hours at the intersection.

Mr. Lait advised that the Council could impose such a condition of approval. The Construction Management Plan routinely prohibited lane closures during peak travel times. Limiting construction hours typically caused an extension of the construction period.

Vice Mayor Fine asked if the DEE pertained to a larger setback.

Mr. Lait replied yes. The applicant proposed a larger setback than required by the Code.

Vice Mayor Fine inquired whether the Council could impose as a condition of approval a stricter noise standard for the carwash.

Mr. Hutson reported the Noise Study found the existing ambient noise level at the proposed location for the carwash was between 45 and 50 decibels.

Molly Stump, City Attorney requested time for Staff to study the technical basis for imposing such a condition of approval.

Vice Mayor Fine felt the back corner of the property was a sensitive area as it abutted the park. He inquired whether the ARB would review the green screen.

Mr. Lait responded yes, as the green screen was conditioned.

Vice Mayor Fine requested possible solutions to improve the green screen.
Mr. Lait relayed the ARB was concerned about the green screen because it did not have sufficient information regarding the attachment and integration to the building.

Vice Mayor Fine requested to know the 2016 Council direction.

Council Member Kniss requested the size of the hotel proposed for the site.

Mr. Lait recalled the proposed hotel contained four stories. A drawing of the proposed hotel was contained in the slide presentation.

Council Member Kniss remarked that suggestions for the site included housing, a park and a school. She seemed to recall that the prior dealership application proposed a larger building than the current application.

Mr. Lait explained that the building in the prior application was taller and contained more gross floor area. The prior building also contained more exempt floor area.

Mayor Filseth inquired whether the volume of the current proposed building was greater than the prior application even though the height of the current building was less.

Mr. Lait did not have the volumetric measurements to make a comparison. The current application pertained to two sites with a dealership on each site. The prior application pertained to a single dealership on a single site.

Council Member Kniss felt a bike path was important. She inquired whether the ARB had reviewed the lighting plan.

Mr. Hutson advised that the ARB had reviewed the lighting plan.

Council Member Kniss estimated 500 to 1,000 vehicles were located on the sites of the Audi and Mercedes dealerships and an adjoining dealership.

Mr. Hutson did not believe the sites would support even 500 vehicles. The automated storage system needed to eliminate a sea of vehicles parked and visible on the site.

Council Member Kniss inquired whether lowering the ceiling heights eliminated the automated storage system.

Mr. Lait responded that fewer vehicles could be placed in the puzzle lift. At some point, a lower ceiling height made the lift system infeasible.
Council Member Kniss requested Staff comment regarding the allowable floor area for automobile dealerships.

Mr. Lait explained that the allowed FAR for dealerships was 0.4 FAR. The AD overlay provided at most an additional 0.2 FAR for the showroom.

Council Member Kniss commented that the area was not a gateway to the Baylands but to an industrial area.

Mr. Ah Sing reported the hotel proposed in the prior application for the site contained 118,000 square feet.

Mayor Filseth added that the current application proposed a 170,000 square-foot building.

Mr. Lait stated that would be the total of proposed and exempt square footage.

Mayor Filseth inquired regarding the square footage of the 2016 application for a dealership.

Mr. Lait answered approximately 61,500 square feet in gross floor area.

Council Member Kniss requested the correct allowed gross and exempt floor areas.

Mr. Lait indicated the correct floor areas could be found in the At-Places Memo. The correct exempt floor area was 66,546 square feet for the Audi dealership and 86,264 square feet for the Mercedes dealership. He did not have the exempt floor area for the 2016 application, but believed it was more than 86,264 square feet.

Mayor Filseth asked if the Mercedes dealership in the current application was smaller than the Mercedes dealership in the prior application.

Mr. Lait responded yes.

Council Member Kou asked if the PTC had contextual drawings for the application.

Mr. Lait advised that the PTC received a packet similar to the one provided to the Council. The PTC received more detailed plans than the conceptual drawings referenced in the Site and Design Review regulations.

Council Member Kou noted the ARB also received contextual drawings because the ARB received the same information the PTC received. The
project plans provided online did not contain the lighting report. She inquired whether the applicant agreed to utilize bird-safe glass rather than a film.

Mr. Lait answered yes.

Mr. Ah Sing advised that exterior finishes included bird-safe glass, frosted fiberglass and paint color.

Council Member Kou requested clarification of nighttime lighting at security levels.

Mr. Lait explained that lighting would be low level but sufficiently bright to deter individuals from accessing the property.

Council Member Kou asked if interior lighting remained on during the night.

Mr. Hutson advised that the Code required some night lighting in buildings.

Francis Krahe, lighting engineer stated the California Building Code stipulated lighting of 1 foot candle minimum for emergency egress and circulation after hours. Once operations ceased at 10:00 P.M., lighting dimmed to approximately 10 percent of the illumination during business hours.

Council Member DuBois asked if the display lights would remain lit after 10:00 P.M.

Mr. Krahe indicated the display lights would shut off or remain on at a reduced level.

Council Member DuBois asked if lighting designed to outline the building and roof would remain on throughout the night.

Mr. Krahe advised that roof lighting would comply with requirements for egress lighting. If someone accessed the roof, lighting was going to brighten. Once the person left the roof, lighting returned to the reduced level.

Mr. Lait reported conditions of approval could align Building Code requirements with Zoning Code interests. Following construction, Staff could work with the applicant to ensure the dimming system did not result in glare or unexpected light.

Council Member Kou felt the lighting would be too bright for birds because the building was massive and covered with glass. Mitigation measures never
fully resolved negative impacts. She requested clarification of the statement that the proposed buildings would not be the largest in the area. The volume of the building was approximately 51 percent greater than the dealership in the previous application.

Mr. Lait indicated Staff had not performed a volumetric calculation. Comparing the current application to the prior application for the site was problematic because the prior application proposed one building on one site while the current application proposed two buildings on two sites.

Mr. Ah Sing related that the building to the south exceeded the FAR. In relation to the size of the lot, the building was larger than the proposed building.

Council Member Kou asked if the project needed to be presented to the Santa Clara County Airport Land-Use Commission, PG&E and Caltrans.

Mr. Ah Sing explained that correspondence from PG&E outlined its regulations for vegetation under its power lines.

Council Member Kou asked if the Packet contained comments from the Santa Clara County Airport Land-Use Commission.

Mr. Hutson reported the Airport Land-Use Commission approved the project. The project was not located within the Airport Land-Use Commission's jurisdiction, and the proposed heights of the buildings were well below the Airport Land-Use Commission's height requirement.

Council Member Kou inquired about Caltrans approval of the project.

Mr. Hutson indicated Caltrans did not have jurisdiction over any part of the applicant's property.

Council Member Kou asked if the carwash would be monitored to ensure it complied with the City's noise standards.

Mr. Hutson explained that the carwash was automatic. The doors closed after a vehicle entered the carwash and did not open until the dryer blowers shut off.

Council Member Kou asked if water from the carwash was dumped into storm drains.

Mr. Hutson replied no. The water was recirculated and filtered for sand and grease prior to its release into the sewer.
Council Member Kou inquired about C-3 compliance.

Mr. Lait reported the Public Works Department evaluated C-3 compliance.

Mr. Hutson advised that all water was treated onsite.

Austin Hunt, Civil Engineer clarified that all water on the site was treated before being discharged to the storm drain. If the project was constructed, there was to be no runoff into the Baylands.

Council Member Kou requested clarification of CMR 9892 as she could not find it.

Mr. Lait indicated CMR 9892 referenced a March, 2019 PTC meeting.

Council Member Kou remarked that an automobile dealership was appropriate for the site; however, it needed to comply with Municipal Code requirements and the Baylands design guidelines. Traffic circulation at the intersection needed improvements. The Baylands Master Plan stated the site was a gateway to the Baylands.

**MOTION:** Council Member Kou moved, seconded by Council Member XX to deny the project.

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

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

A. Direct Staff that the Council intention is to rezone the property to ROLM(E)(D) (AD) overlay to accommodate the Mercedes/Audi dealerships;

B. Direct Staff and the ARB to better incorporate the Baylands Master Plan guidance for this sensitive location in the Baylands and as a gateway to the Baylands: low, horizontal development, muted colors, parklike qualities of Embarcadero Road, signage, lighting, etc.;

C. Direct Staff and ARB to retain the existing trees along East Bayshore and also provide the bike/ped path (not specifying the location);

D. Direct Staff and ARB to reduce the height and perceived height of the building by reducing floor heights and stepping in the parapet from the edge of the building;

E. Direct the applicant to provide the context drawings as required;
F. Direct Staff and ARB to specify what security levels of lighting means and which lighting locations/fixtures would be utilizing this feature including bollard style fixtures and the impact on the Baylands;

G. Direct Staff to confirm all lighting specs are provided to the ARB;

H. Direct the ARB to address the list identified in the Staff Report as ARB concerns and any other considerations resulting from the changes directed by this Motion;

I. Address FAR discrepancies that have been identified between and among various documents describing the project including the MND, Staff Report to Council, various;

J. Direct Staff to provide responses from the Airport Land Use Committee; and

K. Direct Staff to include a TDM program for the project as was requested of the prior auto dealership.

Council Member Kou felt the ARB should reconsider the Site and Design Review and ensure compliance with the Baylands Master Plan. Zoning for the site needed to be consistent with other parcels in the area.

Council Member DuBois advised that he supported the concept of remanding the project to the ARB but not many of the details of the Motion. He preferred providing the ARB with a framework for reviewing the project.

Mr. Lait thought the Council's interests for reviewing the project should be explicitly stated if the Council chose to remand the project to the ARB.

Council Member DuBois supported the Motion if Subpart A was deleted and a few of the other subparts were softened.

Council Member Kou asked if Council Member DuBois preferred to approve CS zoning for the site.

Council Member DuBois did not believe the Council was addressing the zoning by remanding the project to the ARB. He supported the Motion if Subparts A and D were deleted.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to delete from the Motion Parts A and D.

Ms. Stump noted Staff would have comments regarding Subpart B of the Motion.
Mayor Filseth requested the meaning of Subpart G.

Council Member DuBois understood the discussion addressed the square footage. He inquired whether the Baylands Master Plan and design guidelines were considered throughout the review of the project.

Mr. Lait responded yes. Any development in the area was evaluated to the Baylands Master Plan. In a number of aspects, the project attempted to conform to the Baylands Master Plan. Additional work on landscaping, walls, and signs was needed for the project to conform to the Master Plan.

Council Member DuBois noted public comment regarding a showroom being located on the second floor.

Mr. Lait clarified that showrooms were limited to a height of 20 feet.

Council Member DuBois asked if the lighted stacker was considered a showcase.

Mr. Lait did not consider the lift system a showroom component. If the lift system was considered a showroom, it needed to be removed.

Council Member DuBois asked if the ARB recommended approval of the project at its June 6, 2019 hearing.

Mr. Lait stated the ARB had not made a favorable recommendation for the project.

Council Member DuBois asked if the ARB specified any conditions of approval.

Mr. Lait replied no.

Council Member DuBois asked if the ARB could recommend conditions of approval if the Council returned the project to the ARB.

Mr. Lait answered yes.

Council Member DuBois asked if the sign program was before the Council.

Mr. Lait advised that consideration of a sign program at a later time was not unusual. Elements of signage shown in the project did not comply with the Sign Code.

Council Member DuBois asked if zoning of ROLM(AD) was appropriate for the site.
Mr. Lait indicated ROLM zoning was appropriate even though the applicant did not request it. However, the AD overlay was not applicable to ROLM zoning at the site.

Council Member DuBois asked if the Audi site was zoned ROLM(AD) at some point.

Mr. Lait responded no. The Audi site was zoned LM.

Council Member DuBois requested clarification of which trees remained and which would be removed.

Ken Puncerelli, LAI Design Group reported retaining the trees along the multiuse path created an awkward intersection of the path with Bayshore and Embarcadero. The applicant proposed removing ten mature trees along the multiuse path and planting 20 larger trees to prevent the loss of biomass.

Council Member DuBois asked if the trees near the corner would be removed.

Mr. Puncerelli answered no. The Chinese elm trees were located along the southern and eastern right-of-way.

Council Member DuBois inquired whether the trees shown in purple on the plans were new trees.

Mr. Puncerelli replied yes, native Western redbud trees.

Council Member DuBois asked if the large tree near the corner could be saved.

Mr. Puncerelli believed that tree was in poor health and grew larger than allowed by PG&E regulations.

Council Member DuBois inquired whether the existing trees and shrubs between the two buildings would remain or be removed.

Mr. Puncerelli indicated a number of trees along the fence line would be removed. The trees between the buildings were going to be removed.

Council Member DuBois asked why trees along the property line would be removed.
Mr. Puncerelli explained that the site had to be regraded for the bioswales. Three trees at the rear of the property were to be removed and replaced with six trees.

Council Member DuBois inquired whether the applicant would be amenable to the Council specifying larger trees.

Mr. Puncerelli answered yes.

Council Member DuBois asked if the Council could request the environmental report be recirculated for 20 days.

Mr. Lait reported the environmental analysis was studied at 106,000 square feet; therefore, Staff felt the project studied was consistent with the proposed project. The project description was not significantly different from the proposed project. If new information caused Staff to identify a new project impact or mitigation measure, the environmental analysis was going to have to be redone. That was not the case for this project. Staff submitted the environmental document to the clearinghouse for submission to Caltrans and PG&E.

Council Member DuBois inquired regarding the process for an MND.

Mr. Lait advised that Rincon Consulting had prepared the Initial Study. The MND, public comments and responses were posted to the website.

Council Member DuBois believed a roundabout could improve traffic circulation, but changing some of the traffic lanes would not be helpful.

Mr. Lait indicated the applicant could mitigate the impacts from the project, while the City was considering a roundabout to improve traffic circulation.

Council Member DuBois noted the Baylands Master Plan stated the site was a gateway to the Baylands. An automobile dealership was a reasonable use for the site. The project had the potential to set a precedent for the area, which would result in an urban looking gateway to the Baylands. His concerns were the lighting conditions, mass and scale, findings, landscaping, traffic impacts, and construction impacts. He wanted the ARB to make a recommendation and review, in-depth, the conditions of approval. The applicant agreed to use larger replacement trees. Perhaps the applicant was able to submit contextual drawings. He asked if a Transportation Demand Management (TDM) Program was needed for the project.

Mr. Lait indicated imposing an effective TDM Program on an operation about automobiles was difficult.
INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion new Part B, the language “work with the applicant on specifying the use of larger trees in key locations.”

Mr. Hutson asked if the intent of using larger trees was to shield the view from the Baylands.

Council Member DuBois related that the concern was the number and size of the new trees.

Mr. Hutson requested clarification of the comment regarding Bayshore.

Council Member Kou wanted to soften the view of the building from Bayshore.

Mr. Hutson suggested the Council look at the renderings of the building in the Packet because they showed the bottom of the building would not be visible from Bayshore. The applicant discussed planting trees in the Baylands area in addition to those shown in the rendering and said the applicant had already addressed the two concerns.

MOTION AS AMENDED RESTATED: Council Member Kou moved, seconded by Council Member DuBois to:

A. Direct Staff and the ARB to better incorporate the Baylands Master Plan guidance for this sensitive location in the Baylands and as a gateway to the Baylands: low, horizontal development, muted colors, parklike qualities of Embarcadero Road, signage, lighting, etc.;

B. Direct Staff and ARB to work with the applicant on specifying the use of larger trees in key locations;

C. Direct the applicant to provide the context drawings as required;

D. Direct Staff and ARB to specify what security levels of lighting means and which lighting locations/fixtures would be utilizing this feature including bollard style fixtures and the impact on the Baylands;

E. Direct Staff to confirm all lighting specs are provided to the ARB;

F. Direct the ARB to address the list identified in the staff report as ARB concerns and any other considerations resulting from the changes directed by this Motion;
G. Address FAR discrepancies that have been identified between and among various documents describing the project including the MND, staff report to Council, various;

H. Direct Staff to provide responses from the Airport Land Use Committee; and

I. Direct Staff to include a TDM program for the project as was requested of the prior auto dealership.

**SUBSTITUTE MOTION:** Council Member Kniss moved, seconded by Vice Mayor Fine to:

A. Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;

B. Adopt the Ordinance changing the zoning district on the subject properties to CS(D)(AD); and

C. Adopt the Record of Land Use Action approving the request for Site and Design and a Design Enhancement Exception based on findings and subject to the conditions of approval.

D. Direct Staff and the ARB to better incorporate the Baylands Master Plan guidance for this sensitive location in the Baylands and as a gateway to the Baylands: low, horizontal development, muted colors, parklike qualities of Embarcadero Road, signage, lighting, etc.;

E. Direct Staff and ARB to work with the applicant on specifying the use of larger trees in key locations;

F. Direct the applicant to provide the context drawings as required;

G. Direct Staff and ARB to specify what security levels of lighting means and which lighting locations/fixtures would be utilizing this feature including bollard style fixtures and the impact on the Baylands;

H. Direct Staff to confirm all lighting specs are provided to the ARB;

I. Direct the ARB to address the list identified in the staff report as ARB concerns and any other considerations resulting from the changes directed by this Motion;

J. Address FAR discrepancies that have been identified between and among various documents describing the project including the MND, staff report to Council, various’
K. Direct Staff to provide responses from the Airport Land Use Committee;

L. Direct Staff to include a TDM program for the project as was requested of the prior auto dealership.

Vice Mayor Fine commented that the project was within the zoning as proposed by the CS(D)(AD). The Motion approved the zoning change, the MND, and the Record of Land Use Action, but the Council continued to have many concerns about the project. He wanted to ensure Subparts A-C did not conflict with Subparts D-L.

Council Member Kniss wanted the ARB to review the project within six months, even though the Motion did not require that.

Council Member DuBois advised that adopting the conditions of approval conflicted with directing the ARB to review the conditions of approval.

Vice Mayor Fine clarified that the conditions of approval required ARB evaluation of the project.

Mr. Lait reported if the Council acted on the Record of Land Use Action, the applicant was going to have to file a new ARB application to address the outstanding issues.

Vice Mayor Fine understood the Record of Land Use Action included a provision that the applicant needed to file a new ARB application and was able to meet with the ARB three times, in order to resolve the outstanding issues. He inquired whether Staff had any concerns regarding Subpart D.

Mr. Lait interpreted Subpart D as the building footprint, size, height, and volume was approved. Implementation of the Baylands Master Plan involved further refinement of the landscape plan, a sign application, perimeter walls, and colors.

Vice Mayor Fine reiterated that lighting was required by the Building Code; however, Council Member DuBois voiced other concerns about lighting.

Mr. Lait added that Staff would verify FAR figures.

Vice Mayor Fine inquired whether the Airport Land-Use Commission would comment on the project.

Mr. Lait did not anticipate the Airport Land-Use Commission was going to issue anything determinative to the application.
Vice Mayor Fine concurred with Mr. Lait's comment regarding imposing a TDM Program on the project.

Council Member Kniss suggested Subpart L be deleted.

Mr. Lait offered to explore a TDM Program with the applicant.

Ms. Stump noted a conflict with Subpart D, with respect to "low horizontal development," as that pertained to mass and footprint.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to remove from the Motion Part D the words “... low, horizontal development ... .”

Council Member Kniss suggested "park-like qualities of Embarcadero Road" be deleted because Embarcadero Road was not park-like.

Vice Mayor Fine commented that the DEE to set back the building could address park-like qualities.

Council Member Kniss proposed adding that the project would return to the Council in six months.

Mr. Lait advised that Staff had no control over when the applicant submitted an application. The application before the Council was not expected to return to the City Council except through an appeal. If the application advanced through the process correctly, the Council was not going to review the project again.

Council Member Kniss asked if the applicant understood the Substitute Motion.

Mr. Hutson answered yes.

Council Member Cormack asked if the AD overlay specifically included a connection to Highway 101.

Mr. Lait did not have information to respond to the question.

Council Member Cormack inquired regarding the expected lifespan of the building.

Mr. Ah Sing reported the ARB had reviewed the project in relation to sea level rise. The project complied with existing requirements.
Council Member Cormack noted Staff was developing a plan for sea level rise. She asked if traffic improvements could be constructed prior to construction of the project.

Mr. Lait suggested the Council could require the improvements to be completed prior to occupancy.

Ms. Stump expressed concerns about such a requirement.

Council Member Cormack asked if the applicant would pay the full cost of traffic improvements.

Mr. Ah Sing indicated under the near-term scenario the applicant would pay for and implement traffic improvements.

Council Member Cormack related that the proposed trees, Western redbud, were deciduous and would alter the appearance of the building for a portion of the year. She requested clarification of parking and storage on the roof deck.

Mr. Lait clarified that vehicles on the roof deck would likely be screened from view from the sidewalk. A taller vehicle would be visible from the sidewalk. The new car inventory would be stored on the roof deck.

Council Member Cormack inquired whether the second At-Places Memo resolved the issue of the new car inventory storage constituting floor area.

Mr. Lait reported the Council's Motion affirmed Staff's interpretation of the issue.

Council Member Cormack commented that the beige color was more compatible with the Baylands. She inquired whether public art was required for the project.

Mr. Lait advised that the applicant elected to pay the In-Lieu Fee for public art.

Council Member Cormack requested the height of the Stanford building across East Bayshore from the project.

Mr. Ah Sing answered 35 feet.

Council Member Cormack requested an explanation of context drawings.

Mr. Lait believed context drawings would not be necessary as the Motion approved the height, size and footprint of the building.
Council Member Cormack inquired whether Subpart G was a subset of Subpart H.

Council Member Kniss was amenable to combining the two subparts.

Vice Mayor Fine clarified that Subpart G pertained to security levels of lighting and where that was used. Subpart H required confirmation of all lighting specifications.

Council Member Cormack asked if the project included any up-lighting.

Mr. Ah Sing responded no.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to Motion Part C, “along with the correction as recommended by the Architectural Review Board.”

Mayor Filseth remarked that the main difference between the Motion and Substitute Motion was whether the project returned to the Council. The public expressed concern regarding the accuracy of the MND; however, no one alleged anything that would materially change the MND. Changing the zoning to CS was not unreasonable. He questioned the necessity of context drawings if the Council approved the Site and Design Review. He asked if an ARB recommendation, subsequent to Council approval of Site and Design Review, was appealable, with regard to the project mass or scale and whether it should be revised.

Mr. Lait explained that a subsequent ARB recommendation to alter, for instance, the building height was to be presented to the Director. The Director was to review the recommendation in light of the Council Motion and make a determination. It was possible for the Director's decision to be appealed. The ARB's recommendation was not consistent with Council direction and the applicant's Site and Design entitlement.

Mayor Filseth asked if there should be conditions of approval for lighting.

Mr. Lait indicated Subpart D gave the ARB broad discretion to examine the lighting plan to determine its consistency with the Baylands Master Plan and impose conditions of approval. Security lighting was able to be conditioned to comply with the minimum Building Code requirements.

Mayor Filseth inquired whether there could be a condition of approval that the ARB was satisfied that security lighting would not have a negative impact on wildlife migration.
Mr. Lait clarified that adoption of the MND meant the environmental impacts were fully analyzed and that the lighting plan contemplated the impacts to the Baylands.

Council Member DuBois understood the applicant would submit a new application and asked if the lighting in the new application was subject to ARB review.

Mr. Lait responded yes, but Staff would utilize the existing MND as the CEQA document for the new application.

Council Member DuBois inquired whether conditions of approval could be applied to the new application.

Mr. Lait replied yes.

Mayor Filseth asked if Subpart D and/or Subpart G could be part of conditions of approval.

Vice Mayor Fine interpreted the issue as whether lighting should be added to the list of ARB concerns.

Mr. Lait indicated the Council could do that.

Council Member Cormack suggested the language of Subpart I covered the lighting issue.

Vice Mayor Fine concurred.

**SUBSTITUTE MOTION AS AMENDED RESTATED:** Council Member Kniss moved, seconded by Vice Mayor Fine to:

A. Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;

B. Adopt the Ordinance changing the zoning district on the subject properties to CS(D)(AD);

C. Adopt the Record of Land Use Action approving the request for Site and Design and a Design Enhancement Exception based on findings and subject to the conditions of approval, along with the correction as recommended by the Architectural Review Board;

D. Direct Staff and the ARB to better incorporate the Baylands Master Plan guidance for this sensitive location in the Baylands and as a
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gateway to the Baylands: muted colors, parklike qualities of Embarcadero Road, signage, lighting, etc.;

E. Direct Staff and ARB to work with the applicant on specifying larger trees in key locations;

F. Direct the applicant to provide the context drawings as required;

G. Direct Staff and ARB to specify what security levels of lighting means and which lighting locations/fixtures would be utilizing this feature including bollard style fixtures and the impact on the Baylands;

H. Direct Staff to confirm all lighting specs are provided to the ARB;

I. Direct the ARB to address the list identified in the Staff Report as ARB concerns and any other considerations resulting from the changes directed by this Motion;

J. Address FAR discrepancies that have been identified between and among various documents describing the project including the MND, Staff Report to Council, various;

K. Direct Staff to provide responses from the Airport Land Use Committee; and

L. Direct Staff to include a TDM program for the project as was requested of the prior auto dealership.

SUBSTITUTE MOTION AS AMENDED PASSED: 6-1 Kou no

State/Federal Legislation Update/Action

None.

Council Member Questions, Comments and Announcements

Council Member Cormack reported she participated in a tour of the Hetch Hetchy water supply.

Vice Mayor Fine inquired whether the Residential Preferential Parking Permit (RPP) Program for the Old Palo Alto neighborhood was on track for November, 2019.

Ed Shikada, City Manager advised that the RPP was on track.

Adjournment: The meeting was adjourned at 11:46 P.M.