The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:02 P.M.

Present: Cormack, DuBois; Filseth arrived at 5:05 P.M.; Fine arrived at 5:50 P.M., Kniss, Kou, Tanaka

Absent:

Closed Session

1. CONFERENCE WITH CITY ATTORNEY-POTENTIAL LITIGATION

   THIS ITEM HAS BEEN REMOVED

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
   Authority: Government Code Section 54956.8
   Property: Cubberley Conveyance Property and Leased Site, 4000 Middlefield Road, Palo Alto, CA
   Assessor’s Parcel Nos. 147-08-052 and 053
   Agency Negotiators: Ed Shikada, Kristen O’Kane, Molly Stump, Terence Howzell, Kiely Nose, David Ramberg, and Sunny Tong

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

   MOTION PASSED: 5-0 Filseth, Fine absent

Council went into Closed Session at 5:03 P.M.

Council returned from Closed Session at 6:12 P.M.

Mayor Filseth announced no reportable action.

Study Session

3. Study Session Regarding Recycled Water Expansion Opportunities and Potential Regional Treated Wastewater Transfer from the Regional
Water Quality Control Plant (RWQCP) to Santa Clara Valley Water District.

Karla Dailey, Utilities Senior Resource Planner reported the Sustainability Implementation Plan (SIP) contained goals and initiatives related to water. Palo Alto's supply of drinking water was obtained from the Hetch Hetchy system, 85 percent of which originated in the Tuolumne River. Palo Alto's demand for potable water was approximately 10 million gallons per day, which costs approximately $1,900 per acre foot. The Regional Water Quality Control Plant’s (RWQCP) supply of water reuse was able to provide up to 50 percent of Palo Alto's demand for water. Significant investments in facilities and conveyance would be needed to utilize the supply. The RWQCP was able to provide non-potable or purple pipe water, which was used in commercial applications, or purified water, which was used in indirect potable reuse and direct potable reuse. Currently, the RWQCP converted approximately 5 percent of wastewater to non-potable water, which was consumed in Palo Alto and Mountain View for landscape irrigation and toilet flushing. Staff projected San Francisco Public Utilities Commission (SFPUC) water rates in 2030 would be around $3,000 per acre foot, and the cost of pumping groundwater plus some treatment was approximately $3,000 per acre foot. Some projects identified in the Northwest County Recycled Water Strategic Plan were compatible with a transfer of water to the Santa Clara Valley Water District (Valley Water), specifically expansion of the non-potable distribution system, (also known as Phase 3,) and a pilot project for direct potable reuse. Either of the projects could provide water equivalent to approximately 10 percent of Palo Alto's current potable water demand. A large-scale direct potable or indirect Potable Reuse Project that met 50 percent of Palo Alto's demand would not be compatible with a transfer to Valley Water.

Karin North, Watershed Protection Manager advised that the City utilized very little treated effluent for recycled water. Mountain View and Palo Alto provided approximately 80 percent of the water flow into the RWQCP. The agreement among Valley Water, Mountain View and Palo Alto was to repurpose and reuse treated effluent. Mountain View had 60 customers that wanted non-potable reuse water but were not going to connect to the purple pipe system because the salt content was too high. The agreement provided for construction of a salt removal facility and was able to enable the City to construct Phase 3. In exchange, the RWQCP provided half of its flow, approximately 10,000 acre feet, to Valley Water for use in South County. The term of the agreement was 76 years. Within the first 13 years, Valley Water paid approximately $16 million towards the cost of the salt removal facility, and Palo Alto and Mountain View paid any remaining amounts. With the salt removal facility, the use of non-potable reuse increased.
addition, Valley Water paid $200,000 per year. During the 13 year timeframe, Valley Water researched uses of treated effluent obtained from the RWQCP. After 13 years, Valley Water paid the RWQCP partners $1 million per year for treated effluent. The expected lifespan of the salt removal facility was 30 years. Valley Water had 23 years to begin taking treated effluent water. If Valley Water did not take treated effluent water within 23 years, its option for the salt removal facility was to expire. Should the City need additional water supply, they were able to obtain water from groundwater or Valley Water. The agreement provided Santa Clara County with a local drought-resistant water supply, it provided the City with an opportunity to expand its existing non-potable reuse system and to conduct a Direct Potable Reuse Pilot Project, and it allowed the City with an alternative water supply after 16 years. Under the agreement, the City lost control of a large-scale Direct Potable Reuse Project within Palo Alto and half of treated effluent for up to 76 years. Environmental benefits of the agreement were a reduction in County-wide reliance on imported water, a reduction in the amount of water taken from the Tuolumne River, an improvement in the quality of recycled water in Palo Alto and Mountain View, and a reduction of the flow into the lower South Bay. Staff planned on returning to the Council on November 18, 2019 for consideration of the agreement. The Northwest County Recycled Water Strategic Plan was to be presented to the Utilities Advisory Commission (UAC) in January, 2020 and the Council in February, 2020 for approval.

Garth Hall, Santa Clara Valley Water District Deputy Operating Officer explained Valley Water’s goals for increasing usage of recycled water and reducing usage of imported water. Recycled water systems were sustainable and reliable. The environmental benefits of recycled water were extremely important. Under the agreement, the City was able to diversify their water supply.

Ed Arango, City of Mountain View Public Works related that Mountain View supported the proposed agreement and would continue to work to meet the tentative schedule.

Dave Warner remarked that the environmental benefits of the agreement were murky given that the other benefits to Palo Alto were insignificant. The future uses of potable and non-potable water were not guaranteed; therefore, there was no benefit to the Tuolumne River. Valley Water opposed the Bay Delta Plan, which assured additional water for the Tuolumne River.

Emily Renzel felt the Measure E land should be dedicated parkland. The property was not able to be used for the water facility unless approved by
the voters. Injecting treated water into groundwater sounded like a concept to dilute water rather than improve it.

Peter Drekmeier, Tuolumne River Trust did not believe the project would provide environmental benefits. In 2017 after five dry years, SFPUC had to release 88 percent of its water entitlements, a ten year water supply, into the Tuolumne River. Recycled water was subject to the same conditions. The term sheet appeared favorable, but the environmental benefits were questionable.

Bob Wenzlau supported the model agreement. Alternate water supplies allowed the City to address environmental concerns.

Esther Nigenda enthusiastically supported the concept of drought-proofing the City’s water supply if Mr. Drekmeier's concerns were addressed. Paying to introduce recycled water into the water supply was not logical when dewatering occurred. A developer was not charged for pumping groundwater, and the amount pumped was not subject to a limit.

Keith Bennett, Save Palo Alto’s Groundwater concurred with Mr. Warner's apprehensions. He related numerical information regarding dewatering projects.

Herb Borock suggested the Council direct Staff to take no further action on the item. Staff's presentation for a sea level rise policy showed the path of any new recycled water pipeline being inundated by seawater during the term of the agreement. He felt water should not be added to the lower aquifer because it was subject to saltwater intrusion. Valley Water's use of water to enable future development along the Caltrain line, which would create a need for more frequent trains that would require grade separations in Palo Alto, was a bad idea, unless Valley Water agreed to pay for the water and grade separations in Palo Alto. The City needed to retain ownership of the RWQCP.

Gary Kremen, Santa Clara Valley Water District Board Chair reported the proposed agreement was revised to incorporate comments from the prior Council discussion of the agreement. Valley Water supplied water without taking an ideological position on the use of water. Valley Water had no plans to inject recycled water into groundwater. City Staff was going to handle the siting of a facility. Valley Water had invited Mr. Drekmeier to speak to its Board regarding the Bay Delta Plan.

Council Member Kniss appreciated the effort to reduce the salt content of recycled water. She inquired regarding the future use of recycled water.
Ms. Dailey related that the State was preparing regulations for direct potable reuse. Direct potable reuse was likely to occur first in Southern California.

Council Member Kniss requested a timeline for direct potable reuse.

Ms. North explained that the treatment facility would remove impurities from water. Currently, direct potable reuse was stored in a reservoir or utilized to recharge a groundwater aquifer. State regulations allowed direct potable reuse water to be ingested. In areas with limited water supplies, direct potable reuse was a viable water supply.

Council Member Kniss inquired whether recycled water would be used in place of potable water.

Ms. North clarified that recycled water was high-quality treated effluent, which could not be ingested.

Council Member Kniss hoped the use of recycled water occurred sooner rather than later.

Council Member Cormack noted one result of the agreement would be a reduction in the amount of effluent released into the Bay. The City would have to relinquish control of a future large-scale Indirect Potable Reuse Project.

Ms. North added that the City would relinquish control of a large-scale Direct Potable Reuse Project as well.

Council Member Cormack requested clarification of the reverse osmosis concentrate disposal.

Ms. North explained that a concentrate of impurities resulted from the process to purify water. Water from the salt removal facility was treated, blended with effluent, and discharged into the Bay. Valley Water determined the treatment needed for water from the facility.

Council Member Cormack asked if Staff would like to comment regarding sea level rise and the agreement.

Brad Eggleston, Director of Public Works indicated the goal was to develop a plan for sea level rise by the end of 2020. The sea level rise policy required a risk assessment of significant and sensitive infrastructure on a case-by-case basis until the plan was adopted.

Council Member Cormack asked if an assessment had been conducted for the small plant.
Ms. North related that the small plant had not been designed. An initial assessment of the RWQCP had been conducted.

Council Member Cormack requested Staff comment regarding the large regional plant.

Mr. Eggleston indicated the agreement addressed the Measure E site but did not require the City to site a facility on the Measure E site.

Ms. North reported Staff had evaluated the former Los Altos treatment plant site but did not have any results to present to the Council.

Council Member Cormack requested an explanation of the consultant's rankings of concept options.

Ms. Dailey clarified that the projects were ranked by cost and by qualitative factors, which the consultant combined into one ranking.

Council Member Cormack noted the significant variations in capital costs in addition to unit costs. The cost of water purchased from Valley Water could be significant.

Council Member DuBois believed the agreement would be a good deal for Palo Alto because of the investment in Palo Alto and increased water robustness. Producing more recycled water was good for the region. Wastewater had to be treated before it could be discharged to the Bay. The agreement placed a value on wastewater, and the City received payment for wastewater. A small recycling plant could be built in Palo Alto or elsewhere, but Valley Water would pay the City $1 million per year once the plant began operations. Supporting the agreement supported the City's position on the Bay Delta Plan.

Vice Mayor Fine inquired regarding the need to reduce effluent flows into the Bay.

Ms. North advised that the City's permit required the City to reduce flows into the Bay and to have a recycled water program.

Vice Mayor Fine asked if the requirement was becoming stricter and whether the City was able to comply with the requirement in the future.

Ms. North explained that regulations affecting the facility continued to be stricter. The City had to comply with permit requirements, and upgrades were occurring. The agreement benefitted the City by reducing flows into the Bay.
Vice Mayor Fine felt the City should not avoid the agreement because of it supported the Bay Delta Plan. He inquired regarding the effect of a large decrease in effluent.

Ms. North advised that provisions of the agreement allowed Valley Water to reduce its payments if the amount of effluent decreased.

Vice Mayor Fine supported the agreement as a good way to diversify the City's water supply, to increase the number of consumers of recycled water, to assist County and regional partners with drought resistance, and to improve groundwater recharge.

Council Member Tanaka requested clarification of the need for the agreement when the City had more water supply than it needed.

Ms. Dailey explained that the City had sufficient water supply in normal years. In drought years, the City had to conserve water. The agreement provided water supply that was drought proof and reduced the City's reliance on imported water. Purchasing water from Valley Water under the agreement would be a last resort.

Mr. Eggleston suggested a major driver of the agreement was the City's Sustainability and Climate Action Plan (SCAP), which promoted the increased use of recycled water.

Council Member Tanaka inquired whether the agreement should be viewed from environmental and sustainability perspectives instead of a water supply perspective.

Ms. Dailey replied yes.

Council Member Tanaka requested Staff's view of the environmental benefits of the agreement, given public comment about those.

Ms. Dailey reported the City and Mountain View could reduce their use of Hetch Hetchy water through the increased use of recycled water. Through the agreement, the City and Mountain View was able to control the water supply. The combination of environmental benefits would be significant.

Council Member Tanaka asked about the $20 million cost.

Ms. North indicated that was the capital cost of the small salt removal facility.

Council Member Tanaka inquired about the duration of Water Valley's $200,000 payments.
Ms. North responded that Valley Water would pay $200,000 for the first 13 years in addition to $16 million for the facility. A portion of the $200,000 funded operations and maintenance of the facility.

Council Member Tanaka requested the division of the capital cost between Palo Alto and Mountain View.

Ms. North anticipated Mountain View would pay three-fourths and the City would pay one-fourth based on the existing recycled water agreement between the City and Mountain View. No other cities utilized recycled water. Remaining partners in the RWQCP could contribute to the capital cost so that they could utilize recycled water.

Council Member Kou requested an explanation of recycled water used for toilet flushing.

Ms. North explained that Mountain View required dual plumbing for large commercial sites so that recycled water could be utilized for toilet flushing, irrigation, and cooling towers. Dual plumbing for residential uses was not required.

Mayor Filseth inquired regarding the length of time water remained in the aquifer.

Ms. North advised that water remained in a reservoir for 60 days.

Mayor Filseth understood the main tradeoff with the agreement was a large-scale Potable Water Project.

Ms. North clarified that the City would not control such a project.

Mayor Filseth questioned whether the sale of a 76 year option for $1 million a year was a good deal for Palo Alto. Tying support of the agreement to Valley Water's support of the Bay Delta Plan was wrong, but Valley Water should support the Bay Delta Plan.

NO ACTION TAKEN.

Agenda Changes, Additions and Deletions

Mayor Filseth noted the Caltrain Business Plan would be the first Action Item.
City Manager Comments

Ed Shikada, City Manager reported PG&E had announced a possible public safety power shutoff for September 23-25, 2019. The City was possibly going to be affected by the shutoff. The Connecting Palo Alto Expanded Community Advisory Panel (XCAP) was going to meet September 25, 2019. The design workshop previously scheduled for September 27, 2019 had been postponed. Bike Palo Alto was going to launch Walk and Roll Week on September 29, 2019. The City had provided additional training and revised practices and protocols in response to concerns about a public safety call on June 3, 2019.

Council Member DuBois inquired whether the statement regarding the public safety call was available on the City website.

Mr. Shikada responded yes.

Oral Communications

Jack Morton invited the public to celebrate Palo Alto's 125th Anniversary at the Black and White Ball on October 4, 2019.

David Coale requested the Council direct Staff to prepare an all-electric requirement for buildings and a process to review the climate change impacts of any large City projects.

Ed Schmitt, speaking for Fred Balin, Becky Sanders, Paul Machado and Bob Moss supported investigation of Michael Alcheck’s construction of garages at two locations.

Minutes Approval


MOTION: Mayor Filseth moved, seconded by Council Member Cormack to approve the Action Minutes for the September 9, 2019 Council Meeting.

MOTION PASSED: 7-0

Consent Calendar

Council Member Kniss advised that she would not participate in Agenda Item Number 5 as she owned real property that was subject to the Williamson Act contract.
FINAL MINUTES

MOTION: Council Member DuBois moved, seconded by Council Member Cormack to approve Agenda Item Numbers 5-7.

5. Review and Approval of the Annual Williamson Act Contract Renewals Within Palo Alto City Limits; and Find This Action Exempt from Review Under the California Environmental Quality Act (CEQA) Pursuant to Section 15317 (Open Space Contracts or Easements) of the CEQA Guidelines.

6. Approval of Amendment Number 1 to Contract Number C18169608 With Clean Harbors Environmental Services, Inc. to Allow Consumer Price Index Increases to all Rates on an Annual Basis for Household Hazardous Waste Management and Emergency Response Services.

7. Approval of Amendment Number 2 to Contract Number C15152204 With Questica Inc. for the City's Budgeting Software for Five Additional Years in a Not-to-Exceed Amount of $399,556.

MOTION PASSED FOR AGENDA ITEM NUMBER 5: 6-0 Kniss abstain

MOTION PASSED AGENDA ITEM NUMBERS 6-7: 7-0

Council took a break at 7:55 P.M. and returned at 8:20 P.M.

Action Items

7A. Caltrain Business Plan - Direction to Staff Regarding Comments on the Draft Long Range Service Vision (Continued from September 16, 2019).

Ed Shikada, City Manager reported since the Caltrain presentation to the Council on May 13, 2019, Caltrain had developed a Long Range Service Vision. The Staff Report indicated that the Caltrain Board would review and possibly act on the Long Range Service Vision in early October, 2019. The October date was tentative, and the Council may have additional time to interact with the Board. The Council could direct Staff to reinforce the fact that Caltrain's service delivery directly related to the importance of advancing grade separation projects. Caltrain's existing service vision focused mainly on the frequency of service. Previous discussions had noted that the service level could not be achieved without significant investment in grade separations, which was acknowledged in the Long Range Service Vision. The question for the Council was whether the statement was sufficient. The Council could authorize and direct the Council's designee to the Local Policy Maker Group (LPMG) to share Palo Alto's perspective and position with the LPMG. Staff advocated for the City's position with their
counterparts at Caltrain and other agencies. Options for the Council to discuss were Caltrain's commitment to address grade separations prior to adopting a Long Range Service Vision and a Feasibility Study of passing tracks in northern Santa Clara County before adopting a Long Range Service Vision.

Mayor Filseth noted the purpose of the item before the Council was to provide feedback regarding the Business Plan, which had to be accomplished by October 3, 2019.

Mr. Shikada clarified that Caltrain staff had indicated the discussion may occur on a later date.

Mayor Filseth asked if Mountain View had expressed its position to Caltrain.

Mr. Shikada answered yes.

Herb Borock remarked that the City's main interest was the entity that would pay for grade separations. Caltrain assumed it could only operate with a funding source other than its operations. He questioned whether the City could influence Caltrain decisions now that Caltrain's environmental analysis had been approved.

Council Member Kniss inquired about the number of grade separations in San Mateo County.

Vice Mayor Fine indicated a total of 42 at-grade crossings needed to be separated.

Council Member Kniss requested the number of those grade crossings that had been separated.

Vice Mayor Fine did not know.

Council Member Cormack related that there were 18 at-grade crossings from Palo Alto to San Jose, 21 for Morgan Hill, unincorporated Santa Clara County, and Gilroy, and 30 in San Mateo County. The number of completed grade separations was unknown.

Council Member Kniss did not know how Caltrain could adopt a long range vision without a Feasibility Study. She did not believe Caltrain had discussed sharing the costs of grade separations.

Mr. Shikada advised that Caltrain had begun a discussion of an organizational structure to build and run a system contemplated in the Long Range Service Vision.
Mayor Filseth understood Council Member Kniss was highlighting the importance of a Feasibility Study.

Council Member DuBois agreed with the need to coordinate grade separations in the Caltrain Corridor. The City's letter needed to request clarification of the projection for fewer passengers at the California Avenue station under the high service model and Caltrain's view of how the California Avenue station was able to meet the needs of Stanford Research Park.

Mr. Shikada remarked that Caltrain's approach to the Business Plan had been to obtain a macro-scale sense of the cost and potential ridership benefit of the options. Many questions about the Long Range Service Vision could be answered by refinements to forecasts.

Council Member DuBois felt Caltrain's forecasted level of service for the California Avenue station was important to the City as well as the interplay between the University and California Avenue stations.

Philip Kamhi, Chief Transportation Official reported Caltrain's travel demand model indicated at higher levels of service that more passengers would go to the station with the higher level of service, which was the Palo Alto station.

Council Member DuBois suggested a higher level of service at the California Avenue station would distribute traffic more evenly. Passengers were most likely to go to the University station because it had a higher level of service, even if they were traveling to South Palo Alto.

Mr. Kamhi read a portion of an email from Caltrain, which stated actual ridership outcomes would vary based on realized changes to land use, service, and station access and egress options.

Council Member DuBois inquired whether Council Members supported locating four tracks at the California Avenue station.

Mayor Filseth asked if that could be addressed in a Feasibility Study of passing tracks before adopting a Long Range Service Vision.

Council Member DuBois was unsure whether the Feasibility Study would address his concerns. Including details in a comment letter beyond Staff's recommended points was useful. Perhaps Staff was able to learn the amount of Measure A and B funding that had been allocated and the process for the City to apply for those funds. He questioned whether the letter should ask Caltrain to urge Santa Clara Valley Transportation Authority (VTA) to consider bonding Measure B funds for grade separations.
Mr. Kamhi related that Caltrain had informed Staff that a portion of the Business Plan would address funding strategies. VTA had informed him that they had not officially stated they would not Bond Measure B funds.

Council Member DuBois stated the letter could refer to funding strategies and request support for bonding of any possible funds. He supported the formation of some type of construction authority if that was part of Caltrain's Business Plan. That could be emphasized in the letter.

Mr. Kamhi recalled the City's federal lobbyist advising that a regional project would be more competitive for funding.

Vice Mayor Fine encouraged Council Members to focus on the highest value request of Caltrain. The letter needed to emphasize as strongly as possible that grade separations acceptable to affected communities throughout the Corridor were the most critical issue to resolve for the Business Plan to succeed. If Caltrain did not solve grade separations, the Business Plan was not going to work. The passing tracks were located to facilitate the service vision and High Speed Rail.

**MOTION:** Vice Mayor Fine moved, seconded by Council Member Kniss to thank Caltrain for their continued work on their business plan and emphasize that grade separations up and down the corridor are the most critical problem to solve in order for the business plan to proceed.

Vice Mayor Fine believed the service vision was the region's main priority while the City's main priority was grade separations. The letter was not the correct mode to address a construction authority.

Council Member Kniss indicated the City should continue to work with Caltrain and VTA in order to obtain funding for grade separations.

Council Member Cormack inquired whether Staff had communicated with Mountain View staff regarding the location of four tracks.

Mr. Shikada replied yes. Caltrain had indicated that it had not begun a specific study of an appropriate location.

Council Member Cormack requested the possible locations of passing tracks for High Speed Rail.

Mr. Shikada reported he had not seen an official statement of passing tracks being located in Redwood City for High Speed Rail.
Mr. Kamhi added that the Mountain View City Council had recommended Caltrain conduct a Feasibility Study of passing track locations before adopting a Long Range Service Vision.

Council Member Cormack felt that Caltrain had to recognize the enormous contributions of cities to grade separations. She inquired whether any Council Members were concerned about the subsidy issue or station modifications.

Council Member DuBois agreed that Staff should communicate with Caltrain regarding other issues, particularly funding. Focusing the letter on funding was appropriate, but other issues needed to be raised at the appropriate time.

Vice Mayor Fine indicated the letter could indicate the City was actively pursuing funding sources, and Caltrain's assistance would be welcome.

Mr. Shikada reported Caltrain's need to establish ongoing funding could be tied with grade separation funding in ways that could advance Palo Alto's interests. Staff was able to pursue informal priority issues identified by the Council.

Council Member Kou wanted to incorporate into the Motion "which should include among other key factors design criteria, funding, and implementation of responsibility."

Mr. Shikada agreed to include the language in the letter.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to change the last word in the Motion from "proceed" to "succeed".

Council Member Kou suggested the letter request Caltrain work closely with Santa Clara County.

Council Member Kniss explained that San Mateo County imposed a tax, which was funding grade separations.

Council Member Kou inquired whether tax revenue or High Speed Rail funding was used to construct the 29th Avenue project.

Council Member Kniss was not aware of the funding source for the 29th Avenue project.

Council Member Kou believed the letter should refer to Palo Alto having the second highest capacity station.
8. Colleagues’ Memo from Council Members DuBois and Kou Regarding Affordable Housing Plan to Advance Housing Goals That Address Socio-economic Diversity and Affordability.

Jonathan Lait, Director of Planning and Development Services reported Staff was working on the recommendations for implementing the Palmer Fix and exploring possible increases to onsite affordability. The Report was near completion when the Council adopted the Housing Incentive Program in May, 2019, but the Report needed revisions to accommodate the program. Staff planned to present the Report to the Planning and Transportation Commission (PTC) in October, 2019 and an Ordinance to the Council later in 2019. Staff requested Council direction regarding an increase in Development Impact Fees for commercial office projects and changes to the Local Density Bonus Ordinance. Staff looked forward to studying the feasibility of in-lieu fees or offsite replacement of existing residential units.

Council Member Kou advised that the City had inclusionary zoning for ownership housing but not for rental housing. Many new State laws encouraged development of rental housing. The City had not met its Regional Housing Needs Assessment (RHNA) allocation for below-market-rate (BMR) housing. These programs could fulfill the RHNA allocation for BMR housing. If the City did not provide funding for housing, especially BMR housing, developers were not going to propose residential developments. She inquired regarding the balance of the Affordable Housing Fund.

Mayor Filseth suggested approximately $1 million.

Mr. Lait indicated the balance was not sufficient to fund an Affordable Housing Project.

Council Member Kou believed funds were needed for the Affordable Housing Fund. The loss of affordable housing stock was a great concern. Without the Palmer Fix, rental rates were going to remain extremely high. She hoped the Palmer Fix could be implemented in 2019.

Mayor Filseth clarified that the County of Santa Clara (County) had increased its Development Impact Fee to $68.50.

Bob Moss preferred the City require replacement units rather than in-lieu fees. He commented regarding SV@Home's recommendations.
Greer Stone supported the Colleagues' Memo and urged the Council to adopt the recommendations, especially the Palmer Fix, the no net loss policy, and increasing Development Impact Fees on commercial developments.

Herb Borock recalled that Palo Alto Housing preferred to manage properties that were all rental units. Subsidized housing was able to be constructed on a portion of the Stanford Research Park to fulfill the current unmet need and the future need during the term of the Stanford University General Use Permit (GUP).

Mitch Mankin, Silicon Valley @Home supported the adoption of a rental inclusionary Ordinance. The Council was also able to explore mechanisms to increase housing production. Raising the inclusionary percentage on density bonus developments to 20-25 percent was counterproductive. Any protection or regulation of cottage clusters and duplexes needed to focus on preventing their replacement with single-family homes.

Arthur Keller supported the Colleagues' Memo. The City was on track to fulfill its RHNA allocation for market-rate housing; however, only 10 percent of the allocation for BMR housing had been permitted. The City needed to focus on providing BMR housing for people earning $100,000 or less. Reducing the proposed increase in the Development Impact Fee affected development in Stanford University and Palo Alto.

Mary Sylvester remarked that a portion of the Stanford Research Park could be rezoned for inclusionary housing. Development Impact Fees should be increased, perhaps higher than $64. The Council should enact the broadest possible protections for renters and consider rent stabilization.

Kelsey Banes felt one of the most important components of the plan was the preservation of existing multifamily housing. She expressed concern about increasing the inclusionary percentage. Ideally, all neighborhoods would be zoned for higher densities. Public land was able to be zoned for housing.

Vincent Rocha, Silicon Valley Leadership Group supported housing for all incomes; however, meaningful housing supply should be constructed for families and workers in Palo Alto. Item 5 protected single-family and R-2 neighborhoods from any sort of up-zoning or mixed use. Changes to R-2 zoning possibly prevented construction of Accessory Dwelling Units (ADU). Item 6 should provide exceptions for mixed-use projects.

Mark Molineux hoped the Palmer Fix would apply to rental and ownership units. The Council should support the construction of rental housing and the conversion of ownership housing to rental housing as much as possible. The
Colleagues' Memo did not consider methods to reduce home prices and rents.

L. David Baron concurred with the comments of Mr. Mankin, Ms. Banes, and Mr. Rocha. The Council should direct Staff to consider the effects of affordability requirements on housing production. Housing stock could be increased by reducing parking requirements, allowing more floor area and increasing height limits.

Terry Holzemer stated the City should provide incentives that would assist low-income residents, such as implementing the Palmer Fix and increasing Development Impact Fees to at least $64. He did not think the conversion of residential uses to commercial uses should be allowed.

Council Member DuBois asked if the City's inclusionary policy applied to four or more housing units.

Mr. Lait answered three or more units.

Council Member DuBois explained that the Colleagues' Memo was a request to prioritize and explore the proposals. Given the dynamic housing market, revisiting the Nexus Study for Development Impact Fees was reasonable and supported the County's position on the Stanford University GUP.

**MOTION:** Council Member DuBois moved, seconded by Council Member Kou to direct Staff to prioritize exploring elements of the City’s affordable housing activities and accelerate bringing them to Planning and Transportation Commission and Council as each item is ready, including the following priorities contained in the Colleagues’ Memo:

A. Applying/implementing an inclusionary Below Market Rate (BMR) program for rental units (Palmer Fix). Evaluate and recommend inclusionary percentage in the range of 15-25 percent of the units in rental residential developments with over 5 units (make same as ownership) must be affordable. Consider specifying income level requirements as well (percentage at each income range) Based on state law, affordable rental units would remain affordable for at least 55 years; could come in phases if possible to implement Palmer Fix quickly;

B. Increase development impact fees to $64 per square feet for commercial projects; explore leveraging recent nexus studies including Palo Alto’s and Santa Clara County’s study for the Stanford General Use Permit application to contain costs and time for an updated nexus study;
C. Clarify/update our Ordinances to ensure that when density bonuses are applied to mixed use projects the bonus is focused on the housing portion to the extent legally permissible. Evaluate and recommend inclusionary percentage in the range of 20-25 percent of density bonus is applied to the project;

D. Explore feasibility of in-lieu fees or off-site replacement if existing residential units are removed from the housing stock;

E. Explore protections and regulations in low density zoning such as cottage cluster developments and existing duplexes in the R-1, R-2 RMD and commercial districts to preserve “missing middle housing” and preserve transitions between R-1 and higher density; and

F. Explore citywide protections and regulations to prevent existing housing to be converted to commercial/hotel use.

Council Member Kou commented that trickle-down economics were not effective. Affordable housing needed to be considered as 80 percent and less of average median income (AMI).

Council Member Kniss found the Colleagues' Memo troubling. She requested an explanation of the Palmer Fix.

Mr. Lait reported the concept was to extend inclusionary housing requirements to rental units. Currently, inclusionary housing requirements were applied to ownership units only.

Council Member Kniss requested the amount of inclusionary housing.

Mr. Lait advised that 15 percent was the local standard.

Council Member Kniss asked if any jurisdiction required more than 15 percent.

Mr. Lait indicated other communities were exploring higher percentages. The study was going to include 15, 20, and 25 percent.

Council Member Kniss stated 20 or 25 percent was a high bar for a developer. Affordable housing units were very expensive. The Wilton Court project practically drained the Affordable Housing Fund.

Mr. Lait clarified that the City allocated $10 million from the Affordable Housing Fund.
Council Member Kniss related that there were no commercial projects in the pipeline to which Development Impact Fees could be applied. Development Impact Fees funded affordable housing. She inquired whether any commercial projects were in the pipeline.

Mr. Lait reported approximately 30,000 square feet of office development projects were pending.

Council Member Kniss requested the City's limit on commercial development.

Mr. Lait clarified that the cap on commercial development applied to discrete parts of the community.

Council Member Kniss commented that people were not proposing projects for commercial uses and apartment buildings, to which the Palmer Fix could be applied. If the Council was not willing to increase floor area, density, and height limits, affordable housing was not going to be built. In approving the Housing Work Plan, the Council wanted to increase affordable and market-rate housing. The Colleagues' Memo wanted to increase the kinds of things that had to comply with objective standards. Without revising objective standards, the City was not going to achieve the amount of housing needed in any of the very-low-income areas. A Nexus Study was needed to increase Development Impact Fees. She questioned whether a requirement for just-cause eviction was new.

Molly Stump, City Attorney indicated the City did not have a just-cause requirement for landlords. The Council adopted limited relocation assistance for certain large building classes. Renter protections were not a component of the Colleagues' Memo.

Council Member Kniss suggested the Council revise development standards so that developers could afford to build affordable housing units.

Vice Mayor Fine expressed disappointment that more progress had not been made on the Housing Work Plan. Bodies with little expertise in housing had attempted to incentivize housing, but the results showed their efforts had failed. RHNA allocations needed to be considered a floor rather than a ceiling. AMI and median rents were separate issues. Affordable housing was constructed through inclusionary housing requirements and impact fees. An Impact Fee of $65 per square foot on 30,000 square feet of commercial development generated about $2 million or 2.5 units of affordable housing. Experience had shown that affordable housing was produced in larger projects with a mix of market-rate and affordable housing units. He inquired whether the Palmer Fix proposal contained a percentage.
Council Member DuBois clarified that the proposal was to consider a range of 15-25 percent.

Vice Mayor Fine noted the range of 15-25 percent was considered for ownership units, but ownership and rental markets were different. He inquired about a special process for density bonus, the Palmer Fix, or onsite if the inclusionary rate was greater than 15 percent.

Mr. Lait explained that the State Department of Housing and Community Development (HCD) had to review and understand a proposal to exceed 15 percent. A Nexus Study had to demonstrate the proposal was feasible in the market.

Vice Mayor Fine inquired whether a Palmer Fix of 25 percent for rental housing was supportable and whether HCD would support it.

Mr. Lait reported the study would clarify the percentage that could be supported; however, 25 percent likely could not be supported.

Vice Mayor Fine preferred to limit the Palmer Fix to 15 percent for rental units.

Mr. Lait advised that Staff was studying the percentages for the Palmer Fix.

Vice Mayor Fine related that Palo Alto's Development Impact Fees were not comparable to the County's Development Impact Fees because the County provided a range of different services and unincorporated areas and Stanford University were subject to different tax laws. However, the most recent Nexus Study indicated the City could raise its impact fees. He inquired whether the Density Bonus Law could be applied to the commercial portion of a mixed-use project.

Mr. Lait stated the State attempted to incentivize increased density for housing in mixed-use projects. If a developer provided a certain percentage of qualified affordable housing, they could receive a density bonus for residential units. In addition, a developer was able to receive incentives or concessions for the commercial portion.

Vice Mayor Fine advised that increasing the inclusionary percentage to 20-25 percent was directly in opposition to the intent of the Density Bonus Law. He asked if the proposal to prevent the loss of housing stock affected a conversion of four housing units to ten housing units.

Mr. Lait replied no. It applied to a net loss of housing units.
Vice Mayor Fine questioned whether the language about missing middle housing should be changed to "promote missing middle housing." He requested Staff's interpretation of exploring citywide protections to prevent existing housing from being converted to commercial or hotel uses.

Mr. Lait suggested the concept was to explore regulations that would preclude the redevelopment of existing housing as a commercial use.

Vice Mayor Fine asked if regulations could preclude that redevelopment in zones that permitted residential and commercial uses.

Ms. Stump indicated the regulations could have a narrow application to areas where all the uses were permitted. Practical and legal issues needed to be explored.

Vice Mayor Fine suggested the Motion set the Palmer Fix at 15 percent. Subpart C needed to be deleted from the Motion. Subpart E needed to promote cottage cluster developments in existing duplexes.

Council Member Cormack requested Staff comment regarding the items Staff was preparing.

Mr. Lait clarified that generally Staff would complete Housing Work Plan items designated high priority before beginning work on items designated as medium priority and complete medium priority items before beginning low priority items.

Council Member Cormack noted items listed in both the Colleagues' Memo and the Housing Work Plan had been given the same priority on both lists. She inquired whether Staff had to change the priority of items on the Housing Work Plan if the Council added items from the Colleagues' Memo to the Housing Work Plan.

Mr. Lait indicated adding all the items to the Housing Work Plan would change the priority of some items on the Housing Work Plan. Staff was likely able to accommodate adding impact fees to the Housing Work Plan without changing the priority of any items on the Housing Work Plan.

Council Member Cormack did not believe there was an issue with Subpart A as it was already an item in the Housing Work Plan. A Nexus Study needed to be conducted before considering an increase in Development Impact Fees. She requested examples of incentives and concessions.

Mr. Lait related that local zoning identified incentives that were "by right." A developer was able to choose from a menu of incentives such as setbacks...
and floor area. Concessions or waivers had not been identified in the Local Density Bonus Ordinance, but a developer identified a need, such as an additional story or a reduction in the open space requirement, that made the affordable housing component of the project feasible.

Council Member Cormack related that Subpart D was an item in the Housing Work Plan. She questioned Subpart E's focus on protection rather than production. She preferred to delete Subpart F as it did not identify a significant objective.

Council Member Kou requested clarification of the 50,000 square foot cap and the Comprehensive Plan's 850,000 square foot limit.

Mr. Lait reported the 50,000 square foot cap limited development in the Downtown, California Avenue, and El Camino areas. The Council adopted a change to the Comprehensive Plan that limited overall commercial growth, office and Research and Development (R&D) specifically, to 850,000 square feet. Approximately 590,000 square feet remained in the Comprehensive Plan cap.

Council Member Kou asked if the project for the Mercedes dealership in the Baylands was counted under the 50,000 square foot cap.

Mr. Lait advised that it was not counted in either cap.

Council Member Kou asked if hotels were counted towards the caps.

Mr. Lait replied no.

Council Member Kou commented that many commercial projects were demolishing existing buildings and constructing new buildings of the same square footage.

Mr. Lait advised that most of the recent development in Stanford Research Park had been mostly replacement projects with a few incremental additions of square footage.

Mayor Filseth appreciated the focus on affordable housing. The Comprehensive Plan housing target was not going to be met entirely by BMR housing. He preferred to review Staff's recommendation for a Palmer Fix percentage before setting one. He did not believe a new Nexus Study would reduce the Impact Fee stated in the last study; therefore, the Council needed increase Development Impact Fees.

Council Member DuBois reported the number of California cities that had enacted inclusionary zoning laws had increased tremendously in the past ten
The Council had supported affordable housing projects since 2009. The project on the Santa Clara Valley Transportation Authority (VTA) lot was market-rate housing. The protection for cottage clusters was taken from the Housing Work Plan. The Comprehensive Plan and the Housing Work Plan contained extensive discussion about middle-market housing of two, four, and eight units as a transition between R-1 and commercial zones. The proposal was separate from the concept of creating higher-density multifamily units. He agreed to delete Subpart C or to limit the scope of work for Staff.

Vice Mayor Fine expressed concern about considering specific income requirements. He proposed changing Subpart A to "continue prioritizing work on the Palmer Fix."

Council Member DuBois inquired whether Staff viewed the proposal as different from the existing Subpart A.

Mr. Lait reported Staff was working on the Palmer Fix; therefore, the existing Subpart A or the proposal was fine.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to amend the Motion Part A to state, “continue prioritizing the City’s work on the Palmer Fix.”

Vice Mayor Fine questioned whether a Nexus Study was necessary.

Council Member DuBois believed the City needed to conduct a Nexus Study based on the length of time since the prior one.

Ms. Stump reported the Nexus Study should be updated.

Council Member Kou inquired about a timeframe for completing a Nexus Study.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to amend the Motion Part B to state, “Direct Staff to do a nexus study for commercial projects.”

Council Member DuBois inquired whether Staff was considering different inclusionary ranges for ownership properties.

Mr. Lait responded yes, in Subpart A. The range in Subpart C was covered in Subpart A.

Vice Mayor Fine asked if increasing the local inclusionary percentage would affect the Local Density Bonus Ordinance.
Mr. Lait clarified that increasing the BMR requirement above 15 percent could result in developments being eligible for more incentives.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to amend the Motion Part C to state, “Direct Staff to transmit to Council an informational report on the State and Local Density Bonus Ordinances.”

Council Member Kou did not see a need to change the language of Subpart E.

Vice Mayor Fine reiterated that some Council Members were concerned about the protection and regulations and preserve transitions language.

Council Member Kou wanted to ensure denser properties did not infringe on residents' light and such.

Vice Mayor Fine felt multifamily housing infringing on single-family residents was a policy preference.

Council Member Kou related that the language of Subpart E was similar to the item in the Housing Work Plan.

Vice Mayor Fine believed language in the Housing Work Plan and the Comprehensive Plan contained a production component.

Mr. Lait read the language from the Housing Work Plan and the Comprehensive Plan. Subpart E pertained to not only housing units but also incentivizing the retention of cottage clusters and creating opportunities for future development of cottage clusters.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to Amend the Motion Part E to state “Focus on the Housing Work Plan and Comprehensive Plan language related to low density zoning such as cottage cluster developments and existing duplexes in the R-1, R-2, RMD and commercial districts.”

Vice Mayor Fine requested comments regarding Subpart F.

Council Member Kou indicated the intent was to explore citywide protections and regulations so that existing housing was not converted to commercial or hotel uses.

Mr. Lait reported the Council or Staff could designate a priority for Subpart F.
Council Member Kou did not believe it should be a high priority at the current time.

Council Member Kniss appreciated the changes to the Motion but remained troubled by it. She asked if the range for the Palmer Fix could extend to 25 percent.

Vice Mayor Fine recalled Staff's statement that they were considering inclusionary percentages of 15-25 percent for both ownership and rental housing.

Council Member Kniss understood the Palmer Fix applied to new rental housing only. She requested the date of the last apartment project.

Mr. Lait would have to research the issue.

Council Member Kniss related that the State Density Bonus Law was straightforward. She did not believe the Council would convert residential zoning to commercial zoning.

Council Member Cormack inquired regarding the problem that Subpart F was intended to solve.

Council Member DuBois advised that some Mountain View properties had converted from residential uses to commercial or hotel uses.

Council Member Kou reported the Hotel President was an example of the conversion of housing to hotel.

Council Member Cormack asked if the future use of the Hotel President had been determined.

Council Member Kou answered no. The item was intended to provide information about regulations that could prevent a change in the use of a residential property.

Mayor Filseth remarked that if the City was not building housing supply as fast as housing demand, the City was part of the solution.

Council Member Kou asked if the Palmer Act could return to the Council sooner than planned.

Mr. Lait explained that Staff anticipated a Draft Report would be ready in the next four weeks or so for Staff review and discussion. Next steps were Planning and Transportation Commission (PTC) review of the Report and a subsequent review of a proposed Ordinance and Council review of a
proposed Ordinance likely in early 2020. The Palmer Act was a top priority from a policy perspective.

**MOTION AS AMENDED RESTATE**: Council Member DuBois moved, seconded by Council Member Kou to direct Staff to prioritize exploring elements of the City’s affordable housing activities and accelerate bringing them to Planning and Transportation Commission and Council as each item is ready, including the following priorities contained in the Colleague’s Memo:

A. Continue prioritizing the City’s work on the Palmer Fix;
B. Direct Staff to do a nexus study for commercial projects;
C. Direct Staff to transmit to Council an informational report on the state and local density bonus Ordinance;
D. Explore feasibility of in-lieu fees or off-site replacement if existing residential units are removed from the housing stock;
E. Focus on the Housing Work Plan and Comprehensive Plan language related to low density zoning such as cottage cluster developments and existing duplexes in the R-1, R-2, RMD and commercial districts; and
F. Explore citywide protections and regulations to prevent existing housing to be converted to commercial/hotel use.

**MOTION AS AMENDED PASSED**: 7-0

State/Federal Legislation Update/Action

None.

**Council Member Questions, Comments and Announcements**

Council Member Cormack reported the Bay Area Water Supply and Conservation Agency (BAWSCA) continued to advocate with the San Francisco Public Utilities Commission (SFPUC) for additional water supply projects. 2019 water usage for all the member agencies was tracking usage in 2018. Supervisors were to begin consideration of the Stanford University General Use Permit (GUP) the following day.

Adjournment: The meeting was adjourned at 11:00 P.M.