The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:04 P.M.

Present: Cormack, DuBois, Filseth arrived at 6:05 P.M., Fine, Kniss, Kou, Tanaka

Absent:

Mayor Fine announced Agenda Item Number 2 had been continued.

Special Orders of the Day

1. Proclamation Honoring the 100th Anniversary of the League of Women Voters of Palo Alto.

Council Member Cormack read the Proclamation into the record.

Council Member Kniss shared her experiences with the League of Women Voters and thanked the League of Women Voters for continuing its mission.

Mayor Fine congratulated the League of Women Voters on their anniversary. The League of Women Voters was an essential resource for election matters.

Ellen Forbes, First Vice President, League of Women Voters thanked the Council for the Proclamation and described the services offered by the League of Women Voters. The public was invited to Vote-a-Palooza on February 22, 2020.

Jeannie Lythcott, League of Women Voters explained the changes implemented by the Voters Choice Act.

Mayor Fine inquired about ways to learn more about the Voters Choice Act.

Ms. Forbes indicated information was available at lwvpaloalto.org.

Liz Jensen, League of Women Voters emphasized the importance of everyone participating in the 2020 Census.

NO ACTION TAKEN.
2. Recognition of the Firefighters who Responded to the Sonoma County and Ventura County Fires in 2019.

Closed Session

3. CONFERENCE WITH CITY ATTORNEY-EXISTING LITIGATION
   Subject: ABG-PACT Owner v. City of Palo Alto et al.
   Santa Clara County Superior Court, Case No. 19cv352355
   Authority: Government Code Section 54956.9 (d)(1).

4. CONFERENCE WITH CITY ATTORNEY-EXISTING LITIGATION
   Subject: Written Liability Claim Against the City of Palo Alto By Julio Arevalo (Claim No. C19-0112)
   Authority: Government Code Section 54956.9 (e)(3).

Melanie Grondel, addressing Agenda Item Number 3 remarked that the landlord for College Terrace Centre failed to fulfill his promises to Khoury Market. A market was needed in College Terrace.

Michael Frank, addressing Agenda Item Number 3 appreciated the convenience of Khoury Market. The owners of Khoury Market believed the landlord acted maliciously to force the closure of the business. He supported the imposition of penalties for the property owner.

Derek Gurney, addressing Agenda Item Number 3 felt the owners of College Terrace Centre had taken the value of additional development space but failed to provide the required public benefit.

Fred Balin, addressing Agenda Item Number 3 urged the Council to contest the Hearing Officer's decision to reduce the fines imposed on the property owner for College Terrace Centre.

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

**MOTION PASSED:** 7-0

Council went into Closed Session at 6:29 P.M.

Council returned from Closed Session at 7:58 P.M.

Mayor Fine announced no reportable action.
Agenda Changes, Additions and Deletions

Mayor Fine reiterated the continuation of Agenda Item Number 2 to a date uncertain.

Agenda Item Number 2 was removed from the Agenda.

Oral Communications

Liz Gardner supported the construction of affordable housing for low-wage earners.

Jason Oberman, representative of the owner of College Terrace Centre advised that a search for a new tenant was underway. The lease with Khoury's Market required the owner to make improvements to the building. The owner had worked with Khoury's Market for several months without lease payments.

Minutes Approval

5. Approval of Action Minutes for the January 27, 2020 Council Meeting.

MOTION: Council Member Cormack moved, seconded by Mayor Fine to approve the Action Minutes for the January 27, 2020 Council Meeting.

MOTION PASSED: 7-0

Consent Calendar

Melanie Grondel, addressing Agenda Item Number 9 hoped a new market could be located in College Terrace Centre once construction was complete.

Fred Balin, addressing Agenda Item Number 9 read the term and penalty provisions of the Covenants, Conditions & Restrictions (CC&Rs) to which the College Terrace Centre owner had agreed. The City was able to initiate litigation to obtain the fines lost, due to an Administrative Error.

Ken Joye, addressing Agenda Item Number 7 supported extension of the contract and urged the Council to approve the contract.

Herb Borock, addressing Agenda Item Number 9 was unable to find a Department of Environmental Health approval of Khoury's Market. Without the proper approvals, opening a business and stocking the shelves did not qualify the business as a grocery and did not fulfill the letter or intent of the Planned Community (PC) Zone.

MOTION: Council Member Cormack moved, seconded by Vice Mayor DuBois to approve Agenda Item Numbers 6-9.
6. Approval of two Professional Services Agreements for On-call Construction Inspection Services for Water, Gas, Wastewater Collection, and Electric Utility Capital Improvement Projects With: 1) 4Leaf, Inc. (C20176888A) for a Not-to-Exceed Amount of $2,000,000; and 2) Park Engineering, Inc. (C20176888B) for a Not-to-Exceed Amount of $1,000,000, for a Total Not-to-Exceed Amount of $3,000,000 for up to Five Years.

7. Approval of Amendment Number 2 to Contract Number S16163447 With Brad Horak Consulting for Public Safety Network and Wireless Consulting Services to Increase the Amount by $40,000 for a new Not-to-Exceed Amount of $140,000.

8. Adoption of an Ordinance Dedicating 0.64 Acres of Land Adjacent to 3350 Birch Street to Become Part of Boulware Park.

9. Resolution 9879 Entitled, “Resolution of the Council of the City of Palo Alto Amending the Administrative Penalty Schedule to add Penalties Related to Planned Community (PC) Ordinance Number 5069/Title 18 (Zoning).”

**MOTION PASSED:** 7-0

City Manager Comments

Ed Shikada, City Manager reported Staff issued Council letters of support for Senate Bill (SB) 795 and for Supervisor Simitian's referral to update the Stanford University Community Plan and 1985 Land Use Policies. Outreach for a potential Business Tax ballot measure was going to begin soon. The City was named one of seven jurisdictions to receive a mid-career fellow who was going to help the City and SV@Home develop tenant protection policies. Assistant City Manager Monique Le Conge Ziesenhenne and he represented the City at the League of California Cities City Managers' Conference. The Rail Expanded Community Advisory Panel (XCAP) was scheduled to meet February 12, 2020. A resource housing services fair was going to be held at the Opportunity Services Center on February 14, 2020. Applications for Code Art II were due February 14, 2020. Town Halls for rail crossings were scheduled for February 20 and 27, 2020. Project Safety Net was going to conduct culturally tailored training on February 26, 2020.

Action Items

10. TEFRA HEARING, Regarding Conduit Financing for Palo Alto Housing Corporation, on Behalf of the Wilton ECR, L.P. Project Located at 3703-3709 El Camino Real, Palo Alto; and Resolution 9880 Entitled,
“Resolution of the Council of the City of Palo Alto Approving the Issuance of Revenue Bonds by the California Municipal Finance Authority for the Purpose of Financing the Acquisition, Development, Construction and Equipping of a 59-unit Multifamily Rental Housing Facility for Low-income Households and Other Matters Relating Thereto.”

Tarun Narayan, Manager of Treasury, Debt and Investments reported this item pertained to tax-exempt financing for the acquisition, development, construction and equipping of a 59 unit Multifamily Rental Housing Project for low-income households. Council approval of the bond issuance was not going to result in a financial impact or an obligation to the City.

TEFRA Hearing opened at 8:23 P.M.

Liz Gardner inquired about applying for housing in the Wilton Court Project. She hoped Wilton Court would have sufficient covered bike lockers for all residents.

TEFRA Hearing closed at 8:25 P.M.

**MOTION:** Vice Mayor DuBois moved, seconded by Council Member Cormack to adopt the Resolution approving the issuance of the bonds by the California Municipal Finance Authority for the benefit of Wilton ECR, L.P.

**MOTION PASSED:** 7-0


Sharon Erickson recommended the Council hire a new City Auditor. The Consultant's Report and analysis were flawed. The consultant's recommended changes to the reporting structure of the City Auditor's Office did not conform to the City Charter or the Municipal Code.

Herb Borock remarked that the Report appeared to have been created to provide a desired answer. The materials did not contain a copy of Charter language. Not appointing a City Auditor and attempting to eliminate positions within the City Auditor's Office were tantamount to a Charter amendment.

Bob Moss indicated structuring the City Auditor's Office to report to the City Manager was inappropriate. A City Auditor's independence was critical in the evaluation of the use of funds.
Council Member Filseth advised that the Council Appointed Officers (CAO) Committee commissioned a survey of other agencies and their practices. Having the City Auditor report to the City Manager was contrary to the City Charter and defeated the purpose of an independent auditor. In December, 2019 the CAO Committee did not discuss any changes to the reporting structure of the City Auditor's Office or any changes in audit standards. The cost per audit was high when compared with nearby cities' audit costs. A substantial amount of the City Auditor's work over the prior three years did not involve verification of the City's internal controls in areas of significant risk. Forty-one audit recommendations had not been implemented, and 25 of those were more than a year old. Since 2008, the City had employed at least four people in the City Auditor position.

Council Member Kniss encouraged Council Members to review the cost per audit. Several companies were able to provide contract audit services.

Vice Mayor DuBois indicated the consultant's Report described a range of alternatives. The recommendation to scope the number of hours per audit seemed to align with best practices utilized in other cities. The Council needed to consider allocating some funds for outsourcing audits. The recommendation to evaluate risks and exposures was important.

Council Member Cormack commented that best practices for performance metrics and stakeholder feedback needed to be implemented. Contracting some audits was logical if expertise was available. The audits that had been conducted did not relate to areas of risk.

Council Member Tanaka agreed that the City Auditor should report to the Council and that some audits should be outsourced. Performance audits should be the focus. He wanted the City Auditor to be more like Los Angeles' auditor.

Council Member Kou believed the City Auditor's Office should be independent and ensure the City was operating efficiently. She concurred with the recommendations.

Mayor Fine commented that the efficient use of resources and the implementation of recommended changes were important. Areas of significant risk to the City had not been audited recently. He thought performance management could be handled with contract services and highlighted advantages and disadvantages of using a contract auditing firm rather than appointing a City Auditor.
Council Member Filseth stated the City Council was not an ideal manager for the City Auditor; yet, the City Auditor had to be independent from the City Manager.

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

A. Accept the report; and

B. Direct the Mayor to appoint an Ad Hoc Committee to fill the City Auditor function which would allow consideration of firms.

Council Member Filseth found the work of the City Auditor's Office to be underwhelming. Changes were needed.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to amend Motion Part B to state, “... to assign the CAO Committee to develop a specification for... .”

Council Member Kniss felt the cost of audits was not equal to their outcomes. The Motion provided forward movement.

Council Member Cormack asked if the specification would allow but not require the consideration of firms.

Council Member Filseth replied yes.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to amend Motion Part B to state, “... City Auditor Function which would focus on consideration of firms.”

Council Member Cormack inquired regarding Council Member Filseth's thoughts about the structure of the work.

Council Member Filseth noted some cities utilized an Audit Committee. Currently, the Policy and Services Committee served that role, but the Council was able to form an Audit Committee.

Council Member Cormack inquired about a timeframe for Part B.

Council Member Filseth responded 90 days.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to Motion Part B, “to be completed within 90 days.”
Council Member Cormack asked if Council Member Filseth envisioned the CAO Committee recommending an individual.

Council Member Filseth advised that the Motion did not envision an individual filling the City Auditor position.

Vice Mayor DuBois asked if the CAO Committee could meet in Closed Session to discuss negotiation of a contract.

Molly Stump, City Attorney reported the process would be public. Interviews and evaluations of individual candidates for the City Auditor position were the only items that could be conducted in Closed Session.

Vice Mayor DuBois expressed some concern about negotiation of a contract in a public setting. He asked what would occur in 90 days.

Council Member Filseth indicated a Request for Proposals (RFP) would be issued.

Vice Mayor DuBois remarked that the process could be fairly lengthy. The Council needed to give the CAO Committee clear directions. He questioned whether the responsible committee should be the CAO Committee or an Ad Hoc Committee.

Council Member Tanaka expressed interest in performance audits. Hiring an outside expert for performance audits would be relatively easy.

Council Member Kou asked if the people of Palo Alto voted in the City Auditor's position.

Ms. Stump reported the City Auditor's Office was contained in the City Charter. The City needed to have an Auditor.

Council Member Kou asked if the Auditor function could be filled by a firm.

Ms. Stump answered yes.

Council Member Kou asked if the model for the City Auditor would be the same as the Board of Supervisors' model.

Council Member Filseth replied yes.

Council Member Kou asked if the Board of Supervisors used a firm or an individual.

Council Member Filseth responded a firm.
Council Member Kou asked if the Motion needed to include an RFP.

Council Member Filseth suggested the CAO Committee might receive some responses in that time.

Mayor Fine asked if the CAO Committee would return to the Council in 90 days for approval of a process and an RFP.

Council Member Filseth hoped the CAO Committee could issue an RFP much faster than 90 days.

Mayor Fine asked if the Council could authorize the CAO Committee to act on behalf of the Council.

Ms. Stump answered yes. The direction to the CAO Committee needed to be clear.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to Motion Part B, “...to develop and issue a specification... .”

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to Motion Part B, “... and return to Council with responses.”

Council Member Filseth requested Staff's role in preparation and review of an RFP.

Ms. Stump advised that Staff could provide some support, but the CAO Committee had to drive the process and make all decisions.

Mayor Fine asked if the RFP would include a Budget.

Ms. Stump indicated the City's standard practice for procurement of professional services was to ask proposers to provide costs.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, “With an understanding that the scope of work will include a city-wide risk assessment.” (New Part C)

Mayor Fine noted the Auditor’s Office should conduct some audits, but performance audits could be conducted by an outside contractor.

Council Member Filseth suggested Staff reporting to a contractor could be problematic.
Mayor Fine questioned whether the Auditor should be an individual or a firm and whether the CAO Committee or an Ad Hoc Committee should be responsible for the process.

Council Member Filseth related that an Ad Hoc Committee could probably work faster than the CAO Committee. He could accept either.

Council Member Kniss preferred the public process provided by the CAO Committee. The scope of the proposed change deserved transparency.

Council Member Filseth concurred with assigning the process to the CAO Committee.

Mayor Fine also concurred.

Council Member Cormack remarked that the turnover in the City Auditor's position had persuaded her of the value of a firm filling the function. She requested the term of a contract with a firm.

Ms. Stump advised that a term of two or three years with some provisions to extend the contract was standard, but the Council was able to set the term. Professional services contracts typically included a provision that allowed termination of the contract with 30 days' notice.

Council Member Kou inquired whether the CAO Committee would determine the operating continuum.

Council Member Filseth indicated the CAO Committee would discuss the issue.

Council Member Kou requested the Motion include language for auditing services.

Council Member Cormack related that auditing services were inherent in the specification.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, “The CAO Committee will discuss the exact array and focus of auditing services.” (New Part D)

MOTION AS AMENDED RESTATED: Council Member Filseth moved, seconded by Council Member Kniss to:

A. Accept the report;

B. Direct the Mayor to assign the CAO Committee to develop and issue a specification for the City Auditor function which would focus on
consideration of firms, to be completed within 90 days and return to council with responses;

C. With an understanding that the scope of work will include a city-wide risk assessment; and

D. The CAO Committee will discuss the exact array and focus of auditing services.

MOTION AS AMENDED PASSED: 7-0

Council took a break from 9:38 P.M. and returned at 9:45 P.M.

12. Review the Preferred Alternative Concept Plan for San Antonio Road and East Charleston Road Intersection and Direct Staff to Initiate and Complete Final Design Plans, Environmental Analysis, Specifications and Estimates for Construction.

Philip Kamhi, Chief Transportation Official reported the San Antonio Road and East Charleston Road intersection was identified in the 2017 Traffic Safety and Operations Report. The project was able to be modified in the future for major plans identified in an Area Plan, new development plans, specific corridor plans or an updated Bicycle and Pedestrian Transportation Plan.

Rafael Rius, Traffic Engineering Lead advised that goals for the project were to improve pedestrian and vehicular safety and traffic operations. From 2012 through 2016, 25 collisions were reported at the intersection. Staff held four community meetings and presented the concept plans to the Pedestrian and Bicycle Advisory Committee (PABAC) and Planning and Transportation Commission (PTC). Three concepts were presented to the public. Based on feedback from the community, Staff prepared a recommended alternative, which was before the Council.

Ken Joye, PABAC Chair indicated the project improved pedestrian safety. The existing intersection was challenging for experienced bicyclists; therefore, he looked forward to bicycle improvements contained in Phase III of the Charleston-Arastradero Corridor Plan. He encouraged the Council to approve the project.

Stewart Cobb noted issues that the Concept Plan did not address. The right-turn-only lane on Charleston at Fabian needed to be modified so that vehicles in the right lane did not have to merge to the left. The corner at the Arco station needed to be pulled back so that tractor-trailer trucks could make the turn.
Vice Mayor DuBois inquired regarding the owner of the 76 station's support for the project.

Mr. Rius related that Staff had met with the owner and manager of the 76 station and committed to designing the corner so that fuel delivery vehicles could make the turn.

Vice Mayor DuBois asked if the issue with Charleston at Fabian would be addressed at some point.

Mr. Rius advised that resurfacing and restriping Charleston between San Antonio and Fabian was part of the Phase III project, but the right-turn-only lane would remain. The shared thru/right-turn lane and the right turn-lane from San Antonio onto Charleston was possibly going to change to a single right turn-lane in the future.

Vice Mayor DuBois understood the County of Santa Clara (County) planned to add an interchange from San Antonio to Highway 101 South.

Mr. Rius was aware of trucks hitting the pole on the corner by the Arco. The pole was going to be relocated.

Vice Mayor DuBois believed traffic and congestion at the intersection were a priority. Traffic in the area was congested for many hours of the day. He liked Alternative D and asked Staff to think about the routing of bikes. A pedestrian and bike overpass were possibly appropriate for the intersection.

**MOTION:** Vice Mayor DuBois moved, seconded by Council Member Cormack to approve Concept Plan D as the preferred alternative for San Antonio Road and East Charleston Road intersection and direct Staff to initiate and complete final design plans, environmental analysis, specifications and estimates for construction.

Council Member Cormack appreciated the iterative process and Staff prioritizing the pedestrian issues at the intersection. She asked when Staff might evaluate the intersection to determine whether the project had improved the level of service.

Mr. Rius reported a level of service analysis would likely be conducted a month after work was complete.

Council Member Cormack inquired whether vehicles could turn right on red from San Antonio onto Charleston at the two traffic lights near the Jewish Community Center (JCC) after completion of the project.

Mr. Rius replied yes.
Council Member Cormack shared the concern about vehicles merging to avoid the right-turn-only lane from Charleston onto Fabian. The PTC had many thoughts about the project. Bicycles needed to be addressed at some point in the future too.

Council Member Kniss asked what caused Staff to consider and request approval of improvements for this intersection.

Mr. Kamhi explained that the 2017 Traffic Safety and Operations Report found the intersection had one of the highest rates of collisions.

Council Member Tanaka agreed that biking through the intersection was harrowing. He expressed concern that the viability of the proposed changes was unknown. He inquired about the ways these improvements could improve bicyclists' navigation of the intersection.

Mr. Rius advised that Phase III improvements would include bike lanes in both directions along Charleston to the intersection. Staff planned on designing the project so that it would not preclude future bike projects in the Corridor.

Council Member Tanaka requested the rationale for not making all the changes at one time.

Mr. Kamhi reported the community had rejected that concept and supported improvements for pedestrian connectivity.

Council Member Tanaka inquired about the fit of this project with bicycle plans.

Mr. Kamhi clarified that the project did not include any bike plans, but it was not going to preclude future bicycle improvements.

Council Member Tanaka felt improvements to the crossing of Charleston would lead to more bicyclists traveling the Corridor.

Mr. Rius indicated improvements to the crossing were identified in Phase III of the Charleston-Arastradero Corridor Project, which was likely going to occur prior to the subject project. Phase III improvements were going to be released for construction bids soon; the Intersection Project was a concept only.

Mr. Kamhi related that the project could have been implemented several years earlier; however, bicycle projects had been delayed.

Council Member Tanaka asked if there would be a bicycle lane on East Charleston Road that crossed San Antonio.
Mr. Rius answered yes. The traffic lanes were going to be shifted so that a bike lane could be constructed.

Council Member Tanaka asked if the bike lane could be protected.

Mr. Kamhi advised that the present project did not include a bike lane.

Council Member Filseth agreed that biking across the intersection was scary.

Mayor Fine reiterated that Phase III would include bicycle facilities.

Council Member Kou asked if a no-turn-on-red from San Antonio onto Charleston would cause traffic to queue to the freeway during peak hours.

Mr. Rius replied yes, during the morning peak hours. Queues in the left turn-lane blocked through traffic; therefore, Staff added a second left turn-lane. Staff wanted to develop a design that could be modified in the future.

Council Member Kou inquired regarding signals for pedestrians crossing the intersection.

Mr. Rius advised that a sign directing turning vehicles to watch for pedestrians or yield to pedestrians could be used.

Mr. Kamhi added that a key component of the project was shortening the distances across the intersection for pedestrians.

Council Member Kou inquired about lighting for pedestrians.

Mr. Kamhi indicated Staff would address lighting as part of the design phase.

Council Member Kou asked if bicyclists would be able to travel from Fabian Way to San Antonio.

Mr. Rius answered yes. A bike slot through the intersection of Fabian and Charleston was part of the Phase III project.

Council Member Kou asked Staff to consider additional traffic from the proposed development in the area.

**MOTION PASSED:** 7-0

**MOTION:** Mayor Fine moved, seconded by Vice Mayor DuBois to adopt the Resolution scheduling the City Council 2020 Summer Break and Winter Closure.

**MOTION PASSED:** 7-0

Council Member Questions, Comments and Announcements

Mayor Fine reported Council Member Kniss, Council Member Cormack and he had attended the Emergency Services Volunteer event.

Council Member Filseth indicated he had attended the San Francisco International Airport (SFO) Roundtable meeting, where the Roundtable expressed support for the City's request for noise monitors and indicated they had sent a letter to the Federal Aviation Administration (FAA) requesting permission to install monitors.

Council Member Cormack advised that the San Francisquito Creek Joint Powers Authority had received an award during the Emergency Services Volunteer event. She attended the Association of Bay Area Governments (ABAG) General Assembly. She added that she was going to serve as Vice Chair of the Policy Committee for the Bay Area Water Supply and Conservation Agency (BAWSCA) Board of Directors.

Council Member Kniss acknowledged Ellen and Dennis Smith, who were observers for the League of Women Voters.

**Adjournment:** The meeting was adjourned at 10:30 P.M.