CITY OF PALO ALTO CITY COUNCIL
FINAL SENSE MINUTES

Special Meeting
May 21, 2018

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:04 P.M.

Present: DuBois, Filseth, Fine, Holman, Kniss, Kou, Scharff, Tanaka, Wolbach

Absent:

Special Orders of the Day

1. Appointment of one Candidate to an Unexpired Term on the Historic Resources Board Ending December 15, 2019, one Candidate to an Unexpired Term on the Human Relations Commission (HRC) Ending May 31, 2020, and Three Candidates to HRC for Three-year Terms Ending May 31, 2021.

[The City Council continued with the Agenda through Item Number 2 before returning to this item.]

First Round of voting for one position on the Historic Resources Board with a term ending December 15, 2019.

Voting For: Gogo Heinrich DuBois, Filseth, Holman, Kou

Voting For: Deborah Shepherd Fine, Kniss, Scharff, Tanaka, Wolbach

Beth Minor, City Clerk, announced Deborah Shepherd with five votes was appointed to the Historic Resources Board.

First Round of voting for three positions on the Human Relations Commission with terms ending May 31, 2021.

Voting For: Rebecca Eisenberg Tanaka

Voting For: Kathy Johnson

Voting For: Gabriel Kralik DuBois, Filseth, Holman, Scharff

Voting For: William Morrison Kou

Voting For: Kaloma Smith	DuBois, Fine, Holman, Kniss, Kou, Wolbach
Voting For: Valerie Stinger	DuBois, Filseth, Fine, Holman, Kniss, Kou, Scharff, Tanaka, Wolbach
Voting For: Mark Weiss	
Voting For: Qifeng Xue	Filseth, Fine, Kniss, Scharff, Tanaka, Wolbach

Ms. Minor announced Valerie Stinger with nine votes, Kaloma Smith with six votes, and Qifeng Xue with six votes were appointed to the Human Relations Commission.

[The Council proceeded to Agenda Item Numbers 6 and 7.]

First Round of voting for one position on the Human Relations Commission with a term ending May 31, 2020.

Voting For: Rebecca Eisenberg	Tanaka
Voting For: Kathy Johnson	
Voting For: Gabriel Kralik	DuBois, Filseth, Fine, Holman, Kniss, Scharff, Wolbach
Voting For: William Morrison	Kou
Voting For: Mark Weiss	

Ms. Minor announced Gabriel Kralik with seven votes was appointed to the Human Relations Commission.

Agenda Changes, Additions and Deletions

None.

City Manager Comments

James Keene, City Manager, announced pre-opening events for the Baylands Golf Links were scheduled during the week. A Family Day Grand Opening Festival and ribbon cutting would be held from 2:00 P.M. to 6:00 P.M. on May 26. Work continued on the Upgrade Downtown Project. University Avenue was closed between Cowper and Waverley; sidewalks were open. Palo Alto Teen Services would host the Third Annual Gala on May 22 at Mitchell Park Community Center. The City and the Age-Friendly City

Committee would host a free, fun, and interactive training from an expert in the field of aging on May 24 at Mitchell Park Community Center. The week of May 20-26 was Emergency Medical Services Week.

Mayor Kniss noted Item Number 6 on the handout was Agenda Item Number 7.

Beth Minor, City Clerk, explained that an item had been removed from the Consent Calendar prior to production of the Council packet; however, the item was not removed from the printed Agenda. The Council's first book contained the correct Agenda.

Council Member Wolbach asked if invitations to the opening of the Baylands Golf Links had been extended to the City Council and community of East Palo Alto.

Mr. Keene believed so, but he would follow up.

Oral Communications

Ken Horowitz shared the website sugarscience@ucsf.org for information about sugar. He requested the June 4 Agenda item for polling results be moved to earlier in the evening.

Kerry Yarkin felt airplane noise directly over home had increased by 30 percent since March 29. The Council had only seven days to file a petition for review. She questioned whether the City filing a lawsuit was related to an individual filing suit against the Federal Aviation Administration (FAA).

Sea Reddy had submitted a petition to be a write-in candidate for the U.S. Senate. His theme was innovation, integrity, inclusion.

Paul McGavin stated the City collected seven fees for seven appeals. The agenda listed a consolidated public hearing for the seven appeals. Reducing appellants' comment period to five minutes was not appropriate.

Stacy Smith had sent a document about AB 1479 to the City Clerk for distribution to the City Council. The City of Palo Alto could not make an independent determination for release of Stanford University records.

Mayor Kniss requested Mr. Smith contact Staff.

Reinette Senum reported a 2016 National Institutes of Health study regarding radio frequency found scientific bases to support a conclusion that cellular radiation exposure led to the formation of glioma, which led to brain cancer. After two years of peer review, the conclusion stated there was

clear evidence of a casual [sic] relationship between cellular microwave signal and increased likelihood of formation of brain cancers.

Mark Weiss encouraged voters to participate in the June 5 election.

Karen Porter encouraged the Council to ask Staff to focus on SRFR3 as airplane noise had increased and flight paths were more directly over Palo Alto and East Palo Alto. Litigation appeared to be the City's most effective recourse.

Roberta Ahlquist hoped the City would consider serving residents in the interest of the commons.

Stephanie Munoz believed the City should pressure the Federal Government to provide homes for homeless veterans.

Jay West shared his experiences with Palo Alto Housing's compliance with Federal and State regulations for affordable housing.

Minutes Approval

2. Approval of Action Minutes for the May 7, 2018 Council Meeting.

MOTION: Vice Mayor Filseth moved, seconded by Council Member DuBois to approve the Action Minutes for the May 7, 2018 Council Meeting.

MOTION PASSED: 9-0

Consent Calendar

Council Member Kou requested clarification of the items on the Consent Calendar.

James Keene, City Manager, advised that former Item Number 3 had been continued to a future meeting.

Council Member Kou registered a no vote on Agenda Item Number 5.

Council Member Fine registered a no vote on Agenda Item Number 5.

Council Member Holman registered a no vote on Agenda Item Number 5.

Mayor Kniss registered a no vote on Agenda Item Number 5.

Council Member Tanaka registered a no vote on Agenda Item Number 5.

Council Member Holman rescinded her no vote and registered a yes vote on Agenda Item Number 5.

Council Member Kou rescinded her no vote and registered a yes vote on Agenda Item Number 5.

MOTION: Council Member Wolbach moved, seconded by Council Member Fine to approve Agenda Item Numbers 3-5.

3. Approval of a Construction Contract With Los Loza Landscaping in an Amount Not-to-Exceed $429,195 to Repair and Replace Brick Pathways and Install Replacement Pathway Lighting at the Lucie Stern Community Center and Approve a Budget Amendments in the General Fund and the Capital Improvement Fund.

4. Resolution 9757 Entitled, "Resolution of the Council of the City of Palo Alto Adopting a Mitigated Negative Declaration and Related Mitigation Monitoring and Reporting Program; and Approval of a Design for the Construction of a new Outfall Pipeline to Convey Treated Effluent From the RWQCP Through the Palo Alto Airport to Discharge Into an Unnamed Slough in the Baylands."

5. Ordinance 5439 Entitled, "Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Chapter 18.40 (General Standards and Exceptions) of Title 18 (Zoning) to add a new Section Imposing an Annual Office Limit and Setting Forth Related Regulations, and to Repeal the Respective Regulations From Chapter 18.85 (Interim Zoning Ordinances). This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No. 9720 (FIRST READING: April 30, 2018 PASSED: 5-4 DuBois, Fine, Holman, Kou no)."

MOTION FOR AGENDA ITEM NUMBERS 3 AND 4 PASSED: 9-0

MOTION FOR AGENDA ITEM NUMBER 5 PASSED: 6-3 Fine, Kniss, Tanaka no

[The Council returned to Agenda Item Number 1 before proceeding with Item Number 6.]

Action Items

6. PUBLIC HEARING / QUASI-JUDICIAL: The City Council Will Consider Appeals of the Planning and Community Environment Director's

Decision to Approve Eleven (11) Tier 3 Wireless Communication Facility Permits to Establish Small Cell Wireless Communication Antennas and Equipment on Utility Poles in the Public Right of Way Near the Following Addresses: Node #129: CPAU Pole# 3121 (Near 2490 Louis Road, APN 127-30-062), Node #130: CPAU Pole #2461 (Near 2802 Louis Road, APN 127-28-046), Node #131: CPAU Pole #3315 (Near 891 Elbridge Way, APN 127-26-067), Node #133E: CPAU Pole #2856 (Near 949 Loma Verde, APN 127-24-020), Node #134: CPAU Pole #2964 (Near 3409 Kenneth Dr., APN 127-09-028), Node #135: CPAU Pole # 3610 (Near 795 Stone Ln., APN 127-47-001), Node #137: CPAU Pole #3351 (Near 3090 Ross Rd., APN 127-52-031), Node #138: CPAU Pole #2479 (Near 836 Colorado Ave., APN 127-27-063), Node #143: CPAU Pole #3867 (Near 419 El Verano Ave., APN 132-15-017), Node #144: CPAU Pole #1506 (Near 201 Loma Verde Ave., APN 132-48-015), Node #145: CPAU Pole #3288 (Near 737 Loma Verde Ave., APN 127-64-039) Environmental Assessment: Exempt Pursuant to California Environmental Quality Act (CEQA) Class 3, Guidelines Section 15303.

Jonathan Lait, Planning and Community Environment Acting Director, reported the item was an appeal of a Director's decision. Eleven small cell nodes were proposed in various neighborhoods throughout the City. The Director approved the application on March 26. The City received seven discrete appeals during the appeal period, which ended April 9. A mock site was installed near the Palo Alto Art Center. In nine locations, the applicant proposed installing a 5-foot antenna atop a 7-foot bayonet atop a wood utility pole. The antenna and bayonet would be covered in a shroud colored to match the utility pole. Cabling would extend from the antenna to the radio equipment, which would be located toward the bottom of the pole and enclosed in a mechanical shroud. The remaining two locations would have a taller utility pole and no bayonet. In 2015, the Council established a series of tiers to process certain applications. The instant application was classified as a Tier 3 wireless communication facility and was subject to requirements set forth in the Municipal Code.

Albert Yang, Deputy City Attorney, advised that a number of Federal and State laws applied to wireless communication facilities. The Telecommunications Act of 1996 preserved the local land use authority of cities, but it included a number of important limitations. Cities could not effectively prohibit the provision of wireless service. The concept of least intrusive means had to be an alternative that was both available and feasible. Cities could not unreasonably discriminate between providers of functionally equivalent services with respect to structure, placement, or cumulative impact of similarly situated facilities. Cities could not base their

decisions on the effects of radio frequency (RF) emissions to the extent the facilities complied with Federal Communication Commission (FCC) regulations. Wireless applications were also subject to a unique processing timeline, referred to as a shot clock. For a Tier 3 wireless communication facility, the City must act within 150 days of application submittal unless the City and applicant agreed to extensions. The City and applicant agreed to extensions such that the shot clock expired on May 24, 2018. California Public Utilities Code Sections 7901 and 7901.1 concerned telephone companies in the right-of-way and provided a statewide franchise for telephone companies. These Code sections were the source of a city's authority to regulate issues such as aesthetics and noise in the right-of-way. Assembly Bill (AB) 57 allowed a provider/applicant to assert that the application should be deemed granted if there was no decision within the shot clock period.

Mayor Kniss asked if copies of the presentation were available for the public.

James Keene, City Manager, indicated copies were located at the back of the room.

Mr. Yang continued that AB 57 shifted the burden from the provider to cities to seek relief from the shot clock limitation.

Mr. Lait stated a review of the project was completed by the Architectural Review Board (ARB). The ARB recommended equipment be placed underground. Based on Staff's understanding of the constraints for vaulting equipment, Staff recommended the ARB approve placement of equipment on the pole, which the ARB did and which the Director supported. Staff had received a number of public comments expressing concerns regarding health and safety, aesthetics, noise, and vaulting of equipment. The applicant had expressed objections to vaulting the 11 nodes due to locations in the flood zone and concerns about shallow groundwater, existing underground utilities, the limited right-of-way, venting of vaults, employee safety, and compliance of vaults with the City's California Environmental Quality Act (CEQA) threshold. The City did not have restrictions on vaulting in the flood zone or shallow groundwater. The City was interested in reserving the roadway for City infrastructure, which limited the applicant's ability to place vaulting equipment in the parkway and sidewalk areas and within a 30-foot radius of the pole. An at-places memorandum listed concerns such as proximity to other utilities. Pole-mounted equipment had no backup batteries and, therefore, no fans to generate noise. Vaulting equipment required ventilation fans and sump pumps, both of which generated noise. Equipment, which generated a three to five decibel increase over ambient noise in a residential neighborhood, could trigger a CEQA impact based on

local thresholds. Staff had not received any information to substantiate concerns regarding the applicant's ability to meet the noise threshold. An inability to meet the noise threshold in and of itself did not bar an application from moving forward. Staff could conduct additional environmental analysis that could be reviewed by the City Council. Professional experts had investigated the structural integrity of the poles and would conduct another thorough review at building permit/plan check.

Dr. Jonathan Kramer, Telecom Law Firm, had been retained by the City to evaluate a number of technical issues and compliance with Federal laws regarding RF emissions. According to the Telecommunications Act, if a wireless site was proposed and demonstrated plan compliance with FCC rules, then local government could not use that as a basis to deny the site. Congress delegated sole national authority to the FCC to create the standards that applied across the country. In 1997, the FCC released rules that stated the same basic tenet. His firm evaluated each project for compliance with Federal rules; each project did comply. At the State level, the California Government Code section stated essentially the same tenet. That was not a satisfying answer for members of the public who had thoughtful concerns regarding the subject. FCC rules had a built-in safety margin of 50 times the maximum a wireless carrier was allowed to admit to the public where the public was not aware it was being exposed to RF and the point where a change could be measured. Most small cells operated at a fraction of 1 percent. By technical design, small cells were intended to have very constrained coverage measured in hundreds of feet. From a technology standpoint, the wireless industry had a finite number of frequencies they could use, so they reused frequencies and constrained coverage. That gave them more capacity in their networks. Carriers were going into the neighborhoods to bring their signals closer to the end users and to reuse the frequency bands assigned by the FCC. Adequacy of standards was an area of Federal preemption. Since the project had demonstrated compliance with the FCC rules, the City could not base a denial on concerns about RF emissions. A number of countries had different RF safety standards, and some were stricter than the FCC's standards. The FCC recently reevaluated the adequacy of standards and determined no science demonstrated the standards for the proposed types of cell sites should be changed. The FCC published a guide to local governments regarding RF emissions.

Mr. Lait reported procedurally the Council's rules of order set forth a process to determine speaking times in the event of multiple appellants. Staff suggested Council Members ask Staff questions following the presentation. In the public hearing, the order of public speakers should be the appellant groups with five minutes each, the applicant with ten minutes, public comment, and finally rebuttals by the appellant groups at three minutes

each and the applicant at ten minutes. Staff provided two recommendations for Council consideration. One was to endorse the Director's decision for pole-mounting equipment. If the Council found that one or more nodes should be placed underground, it could make that recommendation.

Council Member DuBois had spoken with Jeanne Fleming and had a phone call with three Verizon representatives.

Council Member Holman had a conversation a very long time ago with someone whose name she could not remember.

Council Member Fine had spoken via phone and email with numerous residents and met the prior week with the Verizon team.

Council Member Wolbach had a conversation with an appellant and did not learn any information that was not in the public record.

Mayor Kniss had met with some people from Verizon, had visited the site with Verizon's engineer, and had heard from numerous community members via phone and email.

Vice Mayor Filseth had email and phone discussions with a number of project opponents and a few proponents. He had visited a noisy AT&T unit in Old Palo Alto. He had met with the City's engineering consultant and Verizon to view the mockup site. He had not received any non-public information during any of the interactions.

Council Member Scharff had visited the mockup site and had received information left at his home, numerous emails, and some voice mails.

Council Member Kou had spoken with United Neighbors and many residents and had visited the mockup site with Verizon representatives and sites with pole-mounted equipment.

Council Member Tanaka had spoken with numerous residents and had held several meetings during his weekly office hours. Recordings of large meetings held during his office hours were available at gregtanaka.org. Verizon had attended the latest meeting. He had spoken via phone with Verizon representatives. During one conversation, it was asserted that rates the City received for pole rights were lower than neighboring cities were receiving.

Vice Mayor Filseth understood the explanation for the intensity of radiation from a cell phone being higher than from a cell tower. He requested elucidation of the FCC changing standards for cell phones.

Mr. Kramer advised that the FCC was considering changes to standards so that effective emissions were lower. The effects of low-power site near a person could be similar to a high-power site at a greater distance.

Council Member Scharff asked if the distributed antenna system (DAS) emitted noise.

Mr. Lait indicated some systems were installed with a battery backup and corresponding fan, which generated noise.

Council Member Scharff inquired whether all or some of the sites had battery backup systems.

Mr. Lait answered some.

Council Member Scharff asked if the Council approved the battery backup and then switched.

Mr. Lait explained that the application for DAS sites proposed no backups. The Council requested installation of backups.

Council Member Scharff inquired whether the proposed equipment would not have a fan and attendant noise.

Mr. Lait responded yes, subject to Council approval.

Council Member Scharff inquired about the noise level from underground equipment.

Mr. Lait indicated the applicant stated underground equipment would generate noise.

Council Member Scharff asked if the proposed equipment would generate noise louder than existing equipment.

Mr. Lait recommended the applicant respond to the question.

Council Member DuBois requested members of the public address particular issues, if any, for each site being appealed. The City updated its Wireless Code in 2015 to require a Conditional Use Permit (CUP). Because technology changed rapidly, any decision made during the meeting should not be a final decision. He asked if Staff evaluated whether locations could be viable if City infrastructure was relocated.

Mr. Lait advised that in some locations infrastructure and utilities could not be relocated.

Council Member DuBois inquired whether the noise level of a battery backup would trigger a CEQA analysis.

Mr. Lait replied yes.

Council Member DuBois inquired about the thresholds for determining an alternate node was not viable or was preferred.

Mr. Lait suggested the applicant could have a set of business decisions that governed the viability of a site. For example, the applicant was not interested in placing vaulted equipment in locations identified as flood zones; however, the City did not prohibit placing vaulted equipment in flood zones.

Council Member Holman asked if the location of vaulted equipment could be shifted slightly to avoid impacting a tree.

Mr. Lait explained that the amount of right-of-way available for equipment was somewhat limited. The City had taken the position that vaulting should not occur in the street right-of-way, which left the parkway and the sidewalk for vaulted equipment. Trees, utility poles, street lights, and other types of infrastructure could impact the placement of vaults. Some trees were located in the public right-of-way, and some were located on private property. In following the standard to discourage vaulting within a tree's dripline, some trees on private property could be negatively impacted. These types of constraints were revealed in the vaulting analysis.

Council Member Holman inquired about the Council's ability to direct vaulting in feasible locations.

Mr. Lait clarified that only the application pertaining to 11 nodes was before the Council at the current time. Four additional nodes were removed from consideration because the applicant wished to explore the feasibility of vaulting equipment at the nodes. To the extent that other wireless applications met the same criteria, they potentially could be vaulted.

Council Member Fine asked if the City had a plan to underground all utilities.

Rebecca Atkinson, Planner, advised that a Comprehensive Plan policy generally implemented undergrounding districts throughout the City.

Jim Fleming, Utilities Senior Management Analyst, reported the City had a multiyear program for undergrounding utilities.

Mr. Yang added that the City had a Master License Agreement (MLA) with Verizon that covered access to utility poles. A provision of the MLA stated Verizon would relocate its underground equipment if the City undergrounded

utilities. Verizon could relocate its equipment to street lights in such a scenario.

Council Member Fine inquired about the cost of Staff time and resources and reimbursement.

Mr. Lait could provide the amount of Staff time at a future date. To date, the City had collected approximately $70,000 for Staff time. Staff time spent processing the application and appeal was billed to the applicant. Ms. Atkinson worked almost full-time on processing the pending applications.

Council Member Fine asked if the shot clock motivated attention to the applications in light of other City priorities.

Mr. Lait indicated Staff was subject to timelines for processing, administering, and reviewing applications. The shot clock was a factor in the timeliness of processing applications.

Council Member Wolbach requested clarification of the Staff Report statement that the Council's action on the application would inform review of future applications related to small cell deployment throughout the City. He expressed concern regarding Staff time being diverted from City priorities given the limited number of Staff in the Planning and Community Environment Department. The Council's decisions on specific appeals may not apply to future applications.

Mr. Lait reported the statement was motivated by an operational concern. The Council's deliberation could inform future Staff recommendations and processing of applications. Staff would listen carefully to Council decisions regarding nodes with specific attributes and determine whether the decisions could be applied to other sites and applications.

Mayor Kniss requested a comparison of the effects of radiation from holding a cell phone against her ear, using the speaker option, and being near a cell tower.

Mr. Kramer had never attempted to compare those choices. Cell towers were on 24/7 and typically much higher powered than a cell phone. Because of the many factors involved, he was not comfortable providing an estimate.

Mayor Kniss requested the number of AT&T nodes in the community.

Mr. Lait responded approximately 73.

Mayor Kniss inquired whether vaulting with the noise from a fan and sump pump would trigger a CEQA analysis.

Mr. Lait answered yes. Staff had not received any information from the applicant that demonstrated compliance with the City's noise threshold; therefore, a noise study would be needed.

Council Member DuBois clarified that he had inquired about batteries in pole-mounted equipment.

Mayor Kniss asked if Staff knew the amount of noise generated by vaulted equipment.

Mr. Lait advised that the applicant had indicated it would not meet the City's standard.

Mayor Kniss wanted additional information about noise generated by the fan and sump pump.

Council Member Kou inquired whether Tier 3 wireless applications involved new installations.

Mr. Lait responded yes.

Council Member Kou requested the total number of nodes in the City.

Mr. Fleming indicated AT&T installed 73 DAS nodes in 2012. In 2016, Crown Castle installed 19 small cell nodes for Verizon in the Downtown area.

Council Member Kou asked if the pending application totaled 90 with or without the 11 appeals.

Mr. Fleming replied that the total number of nodes in the pending application was 93.

Council Member Kou inquired about the height of the poles before the addition of the extension.

Gregory McKernan, Utilities Power Engineer, reported the total pole height was between 45-55 feet. The extension was an additional 8 feet with the antenna. The cell sites were subject to height restrictions. Generally, poles were 40-50 feet in height.

Council Member Tanaka asked about fees collected by the City.

Mr. Fleming revealed that under the MLA the City collected $270 per pole per year. In other cities, most installations were placed on street light poles, and the fees were not as restricted.

Council Member Tanaka requested a comparison of Palo Alto fees with other cities' fees.

Mr. Fleming suggested the City's fees were low.

Council Member Tanaka inquired about the fees charged by Mountain View.

Mr. Fleming did not know. The City of San Jose charged AT&T $1,500 per pole per year.

Mr. Yang reported legislation limited the amount of fees charged by a local publicly owned utility. The City's situation was not comparable to most of the neighboring jurisdictions because the City owned its utilities.

Council Member Tanaka asked why fees were limited.

Mr. Keene suggested the placement on utility poles versus street light poles could be a distinguishing factor.

Public Hearing opened at 6:53 P.M.

Herc Kwan remarked that the ugly equipment would be placed on a pole directly in front of his home. He urged the Council to overturn the Director's decision and direct Verizon to comply with Palo Alto's noise and aesthetics Ordinances. Above-ground equipment would be highly visible and would reduce residents' quality of life. Vaults were available specifically for flood-prone areas. There were many types of equipment and vaults that could be used. Vaulted equipment was safer for everybody.

Jerry Fan, speaking for appellant Francesca Lane Kautz, expressed concern that the cell node would interfere with future undergrounding of utilities and with future home sales. Undergrounding would be possible if Verizon used a cable and located the vault a few feet further from the pole. There was no screening to reduce visibility of the antenna. Equipment could be placed at utility substations or at City, commercial, and industrial buildings. Neighborhoods do not need to be destroyed in order for Verizon to increase capacity for 5G technology. Equipment noise should not exceed established noise thresholds.

Amrutha Kattamuri indicated the problem was the proximity of antennas to homes. Her home's value could decrease by 20 percent or more. She opposed all cell towers in residential zones.

Susan Downs had disability rights protected by the Americans with Disabilities Act (ADA). It was illegal for Verizon and the City to create an access barrier to her home or her community by installing the unnecessary

nodes. The FCC provided commercial guidelines, not health or safety guidelines. Evidence proved there was no significant gap in Verizon's coverage. The City Council could make findings to deny all 11 towers.

Ms. Kattamuri added that State and Federal laws did not allow preemption of local authority for capacity, only for addressing significant gaps in coverage. Verizon did not prove the existence of a significant gap. The City did not perform an independent or objective analysis or metering to determine if the 11 nodes were necessary. Fiber to the Premises was the solution.

Jeanne Fleming advised that Verizon deliberately misled City Staff and the ARB about the feasibility of undergrounding equipment because vaulted equipment was more expensive to install and maintain than pole-mounted equipment. Solutions were available for each engineering problem raised by Verizon.

Christopher Linn related the situation with power poles and lines in front of his home. In addition, the tree that obscured the poles and lines had died. The City should insist on underground equipment vaults and high aesthetic standards.

Harry Lehmann, speaking for Russell Targ and Patricia Targ, commented that the amount of time granted to appellants was a violation of due process. Research found clear evidence of a relationship between cellular signals and carcinogen effect. The 1996 Telecommunications Act did not apply because there was direct physical harm. He suggested the Council continue the item to allow the City Attorney to explore the City's liability for the dangerous condition of public property and for ADA violations.

Jennifer Haas, Applicant, reported the project was designed to address the increasing need for network capacity and to fill in coverage areas. Equipment was designed to blend into the existing environment. Since 2016, Verizon had appeared at three ARB hearings, held four community meetings, attended approximately five DRC meetings with City Staff, participated in numerous site walks, phone calls, and emails, rebuilt its mock site three times, and received its first approvals. Because of insurmountable issues, Verizon determined vaulting equipment underground was not feasible. The custom design of the network did not generate noise, had no visible cables, had no boxes on the ground, did not harm trees, and was intended to look like any other utility equipment.

Paul Albritton, Applicant, advised that Verizon believed the 11 nodes could not be vaulted, and the ARB and the Planning Director concurred. He requested the Council affirm the decision.

Paul McGavin speaking for Bala Meduri, Jyothi Kota, Roopam Bahl, Mary Sylvester, Kathleen Krier, Wolfgang, Lakshmi Deepak, Ingrid, Suzanne Keehn, stated the reduction of speaking time was a due process error. Verizon was transferring liability to the City. Verizon lied about solutions to engineering issues. The cell towers would eliminate citizens' rights to privacy and safety. He requested RF readings of the environment as required of the applicant.

Dr. Cindy Russell requested the Council deny the project based on no significant gap in coverage. Three significant studies found substantial evidence of biologic harm.

Dr. Ann Lee remarked that Verizon had no factual evidence to support its claim that exposure to RF was safe. There was no gap in Verizon's coverage. Vaulting was possible at every proposed location.

Judy Kleinberg commented that the Council should consider the need for cell phone coverage as part of emergency and disaster resilience.

Barbara Straka supported the project because service inside her home was poor to nonexistent. Palo Alto's public safety services needed better and dependable coverage. Cell phones and other devices produced more RF emissions than cell towers.

Bill Straka stated emergency services needed good cell phone coverage.

Barbara Criner inquired whether Staff submitted data showing the cumulative toxic emission totals existing in her neighborhood.

Reinette Senum recommended the Council rethink the application because of misinformation from Verizon and increased incidence of cancer.

Daphne Mitchell had little Verizon coverage in her home. She needed wireless service in order to remain in contact with her elderly parents and her job.

Debbie Mytels felt one issue was the City's financial liability for Verizon's equipment on the City's utility poles.

Johanna Finney supported the appellant's position. The City would be liable when residents held the City responsible for injuries.

Kipp Thomas felt the biggest concern with wireless facilities was health risk.

Marin Lipowitz stated the health guidelines were outdated, and people were living and dying by them.

Carrie Aun felt the way technology was being used was objectionable. Technology should be safe.

Kip Husty remarked that industries promised safety but did not deliver.

David Witkowski commented that medical research was ongoing. Joint Ventures Silicon Valley studied impacts of wireless facilities on property values and found no impact.

Rich Simoni indicated the wireless industry was not providing small and invisible antennas as promised.

Helen Simoni advised that invisible or attractive antennas would benefit the public and cost less than existing methods.

Tom O'Connor stated Verizon was lying by stating they could not put the equipment underground.

Alissa Hatfield encouraged the Council to listen closely to public comment.

Anne Lum opposed a cell tower being installed in front of her home. She expressed concerns about health risks, aesthetics, and liability for the City.

Alexa Gatiss reported 5G networks would mean more cell towers in closer proximity to homes, which would cause more harmful effects.

Jyo Nimkar voiced concerns regarding the negative impact of cell towers on home values. Research showing no impact was funded by the wireless industry.

Leonard Schwarz believed Verizon could underground equipment for the amount of money it was spending on the appeal.

Jim Van Horne urged the Council to require Verizon to vault the equipment.

Annette Fazzino voiced concerns regarding aesthetics, noise, property values, potential health risks, and the City's financial liability. Wireless service was not needed for emergency calls.

Michael Blume stated approval would be a catastrophic mistake.

Lorraine Parker supported the comments of Ms. Kleinberg and the Strakas.

Mark Weiss referred to prior votes of the Council and Planning and Transportation Commission (PTC) on wireless facilities.

Max Kapczynski advised that vaulting the equipment would cause more noise, more disruption, and more delays in badly needed cell service.

Amnon Silverstein supported installation of cell phone towers as cell phone coverage was a safety benefit for neighborhoods. Utility poles were hideous with or without the wireless box.

Bryan Chan felt the Council should deny the project because Verizon had not shown a gap in coverage. The Council should work with the PTC to develop a plan for deployment of wireless technology.

Ryan Polich reported lack of coverage affected his phone calls and prevented him from working from home. He supported the project.

Stephanie Munoz indicated the Council should think twice before approving the project.

Rob Bedichek did not believe RF emissions negatively affected health as no connection between the two had been found.

Bob Moss remarked that utilities would not pay for undergrounding utilities in Palo Alto. Verizon would not pay for future undergrounding if these facilities were first placed on poles. Aquifer depth was not a problem for undergrounding facilities.

Annette Ross did not feel Verizon was being honest with the public. She did not want to live in a City that helped her get a brain tumor.

Mr. Kwan reiterated that vaulting near his home was reasonable and necessary. Equipment should be installed underground with no protruding components and without violating noise thresholds.

Mr. Fan, speaking for appellant Francesca Lane Kautz, advised that coverage was good, and there was no need for additional equipment. Neighborhood residents did not want above-ground facilities or increased noise.

Ms. Kattamuri referred to legislation exempting fire stations from cell facilities.

Ms. Downs added that firefighters became ill when wireless facilities were placed on fire stations.

Mr. McGavin stated the City needed landlines for emergency calls. Wireless service is not energy efficient.

Ms. Fleming commented that Verizon did not want vaulted equipment because it was more expensive. Verizon chose the sites located in flood zones. Verizon's claims of engineering problems preventing vaulting of equipment were bogus. The Council should prevent Verizon from placing equipment on poles.

Mr. Linn proposed alternate sites be found or micro cells not be installed in neighborhoods.

Mr. Lehmann, speaking for Russel Targ and Patricia Targ, supplied research data regarding wireless facilities causing brain cancer. Fiber optics were safer and more reliable.

Paul Albritton, Applicant, reported a study by consulting engineers showed extremely low emissions from facilities. A carrier's compliance with FCC guidelines removed the issue of emissions from Council consideration. The MLA addressed indemnity and liability. The vaulting of equipment in Santa Cruz, as mentioned by Ms. Fleming, caused a reduction in the homeowner's front yard. The main problems with vaulting equipment in Palo Alto were lack of space, existing underground utilities, and flood zones. The vaults could not be waterproof because of the need to circulate air to cool equipment. To comply with the City's Noise Ordinance, the vault would need to be placed 22 feet away from a property line. Vaulting in other cities was mentioned, but the failure rate for radios located in those vaults was high. Vaulting equipment at the Kwan residence would result in removal of a light standard and landscaping. When the City undergrounded utilities, then Verizon could underground its facilities as well. Verizon created a pole-mounted design specifically for Palo Alto. Verizon had the right to place telephone equipment on telephone poles.

Public Hearing closed at 8:52 P.M.

Council Member Scharff had heard public concerns regarding emissions, aesthetics, noise, and safety. The difference in the aesthetics of poles with and without the proposed facility was only marginal. The mock site was quiet and invisible. Vaulting equipment would cause noise. At most sites, vaulting was not feasible. Good cell service was critical. The amount of excavation needed to vault equipment was a concern. The City had no plan to underground its utilities. Adding wireless facilities to utility poles would not make the poles more dangerous. The safety issue of not having cell service was much higher. Existing science did not seem to support health concerns.

MOTION: Council Member Scharff moved, seconded by Council Member Fine to deny the appeals and uphold the Director of Planning and Community

Environment's decision to approve eleven (11) Tier 3 Wireless Communication Facility Permits consistent with a recommendation by the Architectural Review Board and based upon the findings and conditions of approval described in the Record of Land Use Action.

Council Member Scharff in weighing the concerns felt the better choice was pole-mounted equipment.

Council Member Fine advised that the application for the 11 facilities followed the City's established process. The ARB considered vaulting for each facility and continued to recommend pole-mounted equipment. He suspected the same residents would appear to oppose vaulting at any of the 11 sites. State and Federal laws constrained the Council's ability to regulate facilities in terms of aesthetics only. Good cell service was a concern and a consideration in making a decision.

Mayor Kniss noted the Council packet included a summary for vaulting equipment at each location.

Council took a break from 9:05 P.M. to 9:17 P.M.

Council Member Kou was disappointed by the Motion as it discounted the public's concerns. The Council had a duty to Palo Alto voters. Facilities do not have to be mounted on poles. Vaulting equipment would be expensive for carriers, but they received incredible amounts of revenue. It was time for corporate giants to invest in and safeguard the community. Carriers should choose alternate sites and vault equipment or not install antennas at all. Equipment at the mock site was not operational; therefore, it could not generate noise. There had not been enough evidence to demonstrate a significant gap in coverage. The applicant did not propose the least intrusive method for installing wireless facilities.

SUBSTITUTE MOTION: Council Member Kou moved, seconded by Council Member Holman to:

A. Grant the appeals overturning the Director's Approval and approve the Tier 3 Wireless Communication Facility Permits and requiring radio equipment for all nodes to be placed in underground vaults subject to updated conditions of approval (as included in the Staff Report as Attachment B); and

B. Direct Staff to update project-related findings and conditions as appropriate.

Molly Stump, City Attorney, suggested the Council continue its discussion while Staff determined if changes to the language of the Substitute Motion were needed.

Council Member Holman concurred with many of Council Member Kou's concerns. The Council's obligation was to the public. The durability of utility poles was unknown, and adding weight to the poles was a concern. The proposed pole-mounted equipment was not particularly elegant and not acceptable. For a very long time, she had advocated for a siren warning system in emergency situations. She inquired about the reason for the City collecting less per pole than other cities collected.

Mr. Yang explained that a provision of State law regulated the amount the City, as a publicly owned electric utility, could charge for attachments to a utility pole.

Council Member Holman expressed disappointment with the public's behavior during the meeting.

Council Member Fine encouraged colleagues to support the Motion and to proceed..

Mr. Keene reported the Council needed to take up Item Number 7 due to time constraints.

Vice Mayor Filseth requested the ARB's dissenting opinion regarding the application.

Mr. Lait recalled that the ARB expressed interest in vaulting equipment. After a discussion with Staff, minority support for vaulting failed.

Vice Mayor Filseth requested Staff present the attachment fee as part of the Finance Committee's review of municipal fees.

Mr. Keene agreed to do so.

Vice Mayor Filseth felt the concern about noise was important. The utility pole with or without the proposed pole-mounted equipment was ugly. He inquired about a precedent for future installations being set by the Council's decision given improvements in technology and design.

Mr. Lait believed the Council's decision would inform the three pending applications. From a precedent-setting perspective, there seemed to be some space to recognize the evolution of technology in the review of future applications.

Mr. Yang indicated the City Attorney's position was that Staff would take each application in the context it was presented. The context could change over time.

Vice Mayor Filseth asked if the Council could review future applications regardless of the decision made during the meeting.

Mr. Yang advised that that would be the City Attorney's position.

Vice Mayor Filseth requested comment regarding the assertion that adding weight to the utility poles would increase the likelihood of them falling.

Mr. Lait reported engineers inspected utility poles and required replacement of two poles. Poles would be reviewed again during the plan review process to ensure attachments did not compromise the integrity of the pole.

Council Member DuBois understood the issue with waterproofing vaults was heat, but solutions were available. He inquired with vaults could be placed perpendicular to sidewalks if the public easement was large enough.

Mr. Lait advised that that was possible, but space could be a problem. The space between the curb and the property line, perpendicular to the street, was smaller than the space extending parallel to the street.

Council Member DuBois believed vaulting should be considered on a location-by-location basis. He was skeptical that not one of the 11 locations could not accommodate a vault. He inquired whether vaulting for Node 143 was determined to be infeasible because the bushes would have to be removed.

Mr. Lait answered yes. The applicant identified removal of landscaping and a fence as constraints to vaulting.

Council Member DuBois could support installation of a vault in that area if the property owners were agreeable. Node 144 had a similar situation. Determining that vaulting was infeasible at all 11 nodes was extreme. He urged Staff to review the City of Piedmont's requirements for vaults if the Council approved vaulting. He preferred the equipment include battery backup, but the batteries would be noisy. For that reason he favored vaulting. He had difficulty making findings for the smallest footprint possible, a gap in service, minimizing mass and size, and the heights of poles.

Council Member Wolbach acknowledged the various sides of the issue. He asked if wireless facilities had been vaulted in other communities.

Mr. Albritton clarified that Verizon felt the 11 nodes were so constrained that they could not be vaulted. Seven other nodes were still under consideration. The majority of the 11 nodes were located in a floodplain. Wireless facilities were vaulted in Montecito, Santa Barbara, and Santa Cruz, but the equipment was not functioning properly. Crown Castle was suing the City of Piedmont because of its requirements for vaulting and noise. In addition, Crown Castle was suing the City of Hillsboro for denial of the application.

Council Member Wolbach felt the impact of vaulting to trees was a sensitive issue. Perhaps the City could investigate the concern about flooding and vaulting. He inquired whether Verizon would be willing to voluntarily allow the City more time to find some common ground.

Mr. Albritton was not empowered to make that decision. Verizon had reevaluated the locations as though flooding was not the principle issue and determined the lack of space was the main constraint to vaulting.

Council Member Wolbach wanted to find common ground. Some of the important questions had not been answered. He was interested in working with Verizon to identify locations or alternate locations that could be vaulted.

Mr. Albritton agreed that an enormous amount of information had been collected for each site. He was confident that vaulting would be a problem at all 11 sites and would cause more impacts than mounting equipment on poles.

Council Member Wolbach requested additional time to make a decision.

Mayor Kniss understood the applicant stated he did not have the power to grant additional time.

Mr. Albritton would inquire whether his client would grant additional time to the City.

Council Member Wolbach acknowledged the disadvantages of underground construction.

Ms. Haas concurred with the disadvantages. Column 2 of the summary of impacts highlighted the number of mature trees that would be impacted or removed.

Mayor Kniss noted the table spelled out clearly the problems with each site.

Council Member Wolbach indicated mature trees were not issues with Nodes 129, 143, and 133E. There could be alternative sites that could be explored.

Mr. Albritton reported that the shot clock expired on May 24. Several extensions had been negotiated; the shot clock originally expired in 2017. He could not discount the possibility of further extensions when the parties had a few days to negotiate.

Mayor Kniss did not believe the Council had an opportunity to discuss the topic again before the end of the fiscal year on June 30.

AMENDMENT TO THE SUBSTITUTE MOTION: Council Member Wolbach moved, seconded by Council Member XX to add to the Substitute Motion, "unless an extension to the Shot Clock is reached in agreement with the Applicant."

Mayor Kniss asked if the item would be presented to the Council in the fall if an extension was negotiated.

Mr. Lait preferred to have an understanding of what the extension would be, but would defer to the City Attorney.

Mr. Albritton asked if Council Member Wolbach intended for there to be no decision if the shot clock was extended and Verizon provided additional information.

Mr. Keene felt the Amendment needed clarification.

Mr. Lait could not endorse the Amendment from a Staff perspective.

Molly Stump, City Attorney, reported there were no legal issues with the Amendment. The Council was hearing a question about the practicality of the Amendment and the possibility of obtaining an agreement given the amount of additional work and another lengthy hearing. Staff was confounded by the thought that they would return with an extensive additional analysis and another long hearing.

AMENDMENT TO THE SUBSTITUTE MOTION WITHDRAWN BY THE MAKER

Council Member Tanaka inquired about the City's latitude for property tax fees, MLA fees, and permit fees; a comparison of City fees with fees in other cities; and the City's right to have market-rate fees if either Motion was approved.

Mr. Lait was not aware of permit fees charged in other cities. For each hour Staff spent working on the application, Staff charged an hourly rate for cost recovery.

Mr. Yang reported approval of the application would not impact attachment fees as the fee was set in the Electric Utility's rates and regulations, which could be amended by the Council. He could not speak to the property tax fee as he was not familiar with it.

Council Member Tanaka asked if the City charged $1,500 per pole for the pole attachment fee in 2011.

Mr. Yang believed that was correct. After 2011, legislation restricted the fee to the cost of maintenance.

Ms. Stump agreed to review the fee carefully.

Council Member Tanaka was interested in knowing what the law allowed and the market rate.

Ms. Stump clarified that the City was not eligible for market rate based on her current understanding. Her office would confirm that the City was not eligible for market rate and whether the fee could be increased.

Council Member Tanaka inquired whether Staff could provide a comparison to other cities.

Ms. Stump answered no. Her first job was to give Palo Alto Council Members advice about what the City could do.

Council Member Tanaka felt it was important to know the amounts other cities charged.

Mr. Keene understood the Council wanted to capture the maximum value as allowed by law. Typically fee proposals included a comparison to other cities.

Council Member Tanaka felt the long-term vision for the City was undergrounding utilities. He inquired whether adding more utilities to poles made it more difficult to underground utilities.

Ms. Stump advised that the MLA anticipated the City undergrounding utilities. The City's undergrounding program moved slowly due to cost. If the City undergrounded utilities in a district that had one of the facilities, Verizon would have to move it.

Council Member Tanaka asked if it would be more logical to locate the wireless facilities on light posts if utilities were eventually undergrounded.

Mayor Kniss requested Council Member Tanaka speak to the Substitute Motion.

Council Member Tanaka wanted to understand the rationale before deciding whether to support the Substitute Motion.

Mayor Kniss remarked that additional study would be needed before the Council could consider mounting equipment on any pole other than the utilities pole.

Mr. Keene clarified that the vision to underground utilities would probably require 100 years to complete.

Council Member Tanaka believed undergrounding wireless facilities would be the first step in undergrounding utilities.

Mr. Keene reported the cost to individual homeowners was the biggest impediment to undergrounding utilities.

AMENDMENT TO THE SUBSTITUTE MOTION: Council Member Tanaka moved, seconded by Council Member XX to add to the Substitute Motion, "to give the Applicant the option of using a telephone pole or a light pole."

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

Council Member Scharff agreed that undergrounding utilities would be wonderful. The way to achieve that would be a ballot measure.

SUBSTITUTE MOTION FAILED: 4-5 DuBois, Holman, Kou, Tanaka yes

Council Member DuBois inquired whether another carrier could request to place an antenna on the same pole.

Mr. Yang indicated a second facility mounted on a pole with a small cell facility would not be physically feasible. Federal law granted some ability for an automatic expansion of a cell phone facility. That ability was limited by a provision stating the carrier could not defeat the stealth or concealment elements of the existing facility. Adding anything additional to a small cell site would defeat the stealth elements.

Council Member DuBois asked if conditions of approval could be revised to prioritize use of a different pole for a second facility.

Mr. Yang indicated a condition could be added; however, Staff did not think it was necessary.

Council Member DuBois wished to set a total height of less than 65 feet. It would be valuable to encourage Staff to monitor vaulting technology and projects in other cities.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "direct Staff to explore updating the WCF (Wireless Communication Facility) requirements to minimize height impacts." (New Part B)

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "direct Staff to monitor vaulting technologies and activities in other cities and report back to Council when appropriate." (New Part C)

Vice Mayor Filseth liked the last Amendment to the Motion.

Mayor Kniss agreed that the two Amendments were helpful.

Council Member Kou inquired whether the MLA provided a possessory interest and whether that was taxable.

Ms. Stump would explore all possible bases for increasing fees associated with this activity.

Mayor Kniss noted the summary of nodes indicated vaulting could be done at specific locations. The flood zone was a problem for many locations. Cell phones was one of the best ways to protect children. A gap in service coverage was debatable. Attaching things to utility poles was a part of providing service to the community.

MOTION AS AMENDED RESTATED: Council Member Scharff moved, seconded by Council Member Fine to:

A. Deny the appeals and uphold the Director of Planning and Community Environment's decision to approve eleven (11) Tier 3 Wireless Communication Facility Permits consistent with a recommendation by the Architectural Review Board and based upon the findings and conditions of approval described in the Record of Land Use Action;

B. Direct Staff to explore updating the WCF (Wireless Communication Facility) requirements to minimize height impacts; and

C. Direct Staff to monitor vaulting technologies and activities in other cities and report back to Council when appropriate.

MOTION AS AMENDED PASSED: 6-3 Holman, Kou, Tanaka no

7. Approval of: (1) a Construction Contract With O'Grady Paving, Inc. in the Amount of $4,336,298 for the Charleston-Arastradero Corridor Project - Phase 1, Capital Improvement Project PE-13011; (2) Construction Contract With O'Grady Paving, Inc. Contractor in the Amount of $4,434,347 for the Charleston-Arastradero Corridor Project Phase 2, Capital Improvement Project PE-13011; (3) Contract Amendment Number 2 to Contract C14150694 With Mark Thomas & Company in the Amount of $145,419; (4) General Services Contract With TrafficWare Group, LLC. in the Amount of $181,287 for Purchase of SynchoGreen Adaptive Traffic Control System for Charleston-Arastradero Corridor Project, Capital Improvement Project PE-13011; and (5) Budget Amendments in the Capital Improvement Fund, Charleston/Arastradero Transportation Impact Fee Fund, and Storm Drain Fund.

Holly Boyd, Public Works Senior Engineer, reported the Charleston-Arastradero Corridor (Corridor) was a 2.3-mile, east-west, residential arterial extending from Fabian Way to Miranda Avenue. The Council approved the concept plan in September 2015. The Corridor served 11 schools, parks, Cubberley Community Center, and eight neighborhoods. Goals of the project were to enhance the streetscape and quality of life; enhance school commute safety for students; improve the quality of the bike and pedestrian experience; reduce the amount of very-high-speed vehicles; minimize traffic shifts to adjacent streets; and meet Bicycle and Pedestrian Transportation Plan and Comprehensive Plan goals and objectives. Project completion included installation of landscaped medians and bio retentions, pedestrian refuge areas, dedicated turn lanes, traffic improvements at various locations, a continuous bike lane, and school access and pedestrian improvements. One of the first tasks was to mark improvements at key locations along the corridor. Staff held community meetings, mobile office hours, and open houses. Next steps were to authorize construction contracts for Phases I and II. Construction was scheduled to begin in June and extend for 11 months. Phase III was fully designed; bidding was expected to occur in the spring of 2019. Phase III construction was expected to begin in the summer of 2019 and end in the spring of 2020.

Sonya Bradski remarked that the final safety improvements were needed. Changes to the signal and hardscape would make her husband's commute safer. Median and signal improvements at Nelson would aid neighbors in entering and exiting the neighborhood more safely and efficiently. Improvements would slow traffic and increase safety for everyone.

Ron Pyszka advised that traffic speed had improved dramatically since the roadway was reduced to two lanes. Project improvements were still needed.

Landscaping improvements would help mitigate the street's appearance as an expressway.

Andrew Voltmer supported the project and encouraged the Council to approve the project.

Elke MacGregor encouraged her children not to bike in the Corridor because of safety concerns. These improvements would improve the length of the road. Traffic adaptive signal systems would be another nice aspect of the project.

Betty Lum requested the Council approve the project.

Nina Bell hoped the Council approved the contracts.

Diane Chambers supported the project. Final construction would provide benefits that could alleviate current problems and create a safe residential street.

Robert Neff supported the Staff recommendation. Sections of the Corridor without bicycle lanes were intimidating and discouraging for most bicyclists. Existing conditions at El Camino and near San Antonio discouraged many potential bicycle trips.

Ken Joye hoped the Council voted in favor of the project.

Kirsten Flynn commented that the infrastructure project would keep bicyclists, pedestrians, and cars safe.

Penny Ellson encouraged the Council to approve the contracts per Staff's recommendation. The finished project would deliver safe and efficient operations for all road users. Improvements would facilitate safety and more efficient through-put for motor vehicles.

Mark Weiss voiced apprehension about the speed of the project.

Mayor Kniss had reviewed the project site the prior day with Ms. Ellson. Improvements would make a dramatic difference in the Corridor.

MOTION: Mayor Kniss moved, seconded by Council Member Wolbach to:

A. Approve and authorize the City Manager or his designee to execute a contract with O'Grady Paving, Inc. in an amount not to exceed $4,336,298 for the Charleston-Arastradero Corridor Project – Phase 1 (Capital Improvement Program (CIP) Project PE-13011);

B. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with O'Grady Paving, Inc. for related additional but unforeseen work that may develop during the project, the total value of which shall not exceed $433,630;

C. Approve and authorize the City Manager or his designee to execute a contract with O'Grady Paving Inc. in an amount not to exceed $4,434,347 for the Charleston-Arastradero Corridor Project – Phase 2 (CIP Project PE-13011);

D. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with O'Grady Paving, Inc. for related additional but unforeseen work that may develop during the project, the total value of which shall not exceed $443,435;

E. Approve and authorize the City Manager or his designee to execute Amendment No. 2 to Contract C14150694 with Mark Thomas & Company for construction administration services for Charleston-Arastradero Corridor Project (CIP PE-13011) in the amount $145,419 for the base contract associated with the scope of work covered in the contract. This amendment results in a revised total contract amount of $1,934,307;

F. Approve and authorize the City Manager or his designee to a execute contract with TrafficWare Group, LLC to purchase licensing and install SynchroGreen adaptive traffic control system and related hardware along the Charleston-Arastradero Corridor (CIP PE-13011) in the amount not to exceed $181,287;

G. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with TrafficWare Group, LLC for related additional but unforeseen work that may develop during the project, the total value of which shall not exceed $18,129;

H. Amend the Fiscal Year 2018 Budget Appropriation for:

i. The Capital Improvement Fund by:

a. Increasing the revenue estimate for grants by $250,604;

b. Increasing Transfers from the Charleston-Arastradero Development Impact Fee Fund by $12,000;

c. Increasing Transfers from the Storm Drainage Fund by $330,000;

d. Decreasing the Sidewalk Repair Project CIP (PO-89003) by $575,000;

e. Decreasing the Capital Fund Infrastructure Reserve by $4,658,211;

f. Increasing the Charleston/Arastradero Corridor Project CIP (PE-13011) appropriation by $5,825,815;

ii. The Charleston/Arastradero Development Impact Fee Fund by:

a. Decreasing the Ending Fund Balance by $12,000;

b. Increasing the transfer to the Capital Improvement Fund by $12,000;

iii. The Storm Drain Fund by:

a. Decreasing the Ending Fund Balance by $330,000; and

b. Increasing the transfer to the Capital Improvement Fund by $330,000.

Mayor Kniss inquired regarding the anticipated completion date.

Ms. Boyd indicated Phases I and II should be complete in May 2019.

Council Member Wolbach inquired about outreach efforts to residents living within a block of the Corridor.

Ms. Boyd advised that Staff sent more than 4,000 mailers to residents and installed changeable message signs along the Corridor for the March meetings. Those efforts would be repeated for construction. Eight message signs had been placed along the Corridor, and updates would be posted to the project website and Nextdoor. Staff engineers would be knocking on doors of residences located on Charleston-Arastradero. Staff would mark improvements and install signage up to four weeks in advance of construction.

Josh Mello, Chief Transportation Official, added that based on lessons learned from the Ross Road project, Staff would improve their outreach.

Council Member Wolbach supported the Motion because of the years of work on the project and increased safety. Improvements for drivers would be huge.

Council Member Holman found it difficult to review projects in isolation from other projects. It was not a good way to manage financial resources. She asked about the eligibility of the project for Stanford University Development Agreement funding of $1.55 million.

Brad Eggleston, Public Works Assistant Director, directed attention to significant budget amendments included in the Staff recommendation. Some of the contracts for the project would be awarded in Fiscal Year 2018. The proposed Capital Budget for Fiscal Years 2019-2023 assumed total non-Staff salaries and benefits cost for the project of $16.6 million, which had increased approximately $1 million because bids were received after Staff prepared the proposed Capital Budget. The lowest Infrastructure Reserve balance would be approximately $3 million in either fiscal year 2019 or 2020 of the proposed Capital Budget. Absent any other choices on projects, the project could result in the Infrastructure Reserve balance falling to approximately $2 million. In 2013, the Council allocated SUDA funding when developing the Infrastructure Plan. The funds were fungible and could be used for various projects.

Council Member Holman seemed to recall the criteria for use of funding were more particular.

James Keene, City Manager, reported the funding was discussed in detail as part of the Council's allocation of funding for the Infrastructure Plan.

Mr. Eggleston indicated some components of the funding were targeted for specific projects.

Council Member Holman inquired about reasons for the increase in costs.

Mr. Eggleston suggested the increase in construction costs caused the increase in project cost. Typically, bids ranged in the neighborhood of 6-31 percent of the engineer's estimate.

Council Member Holman asked for the name of the construction contractor for the Ross Road project.

Mr. Mello reported the contractor was Granite Construction.

Council Member Holman remarked that the quality of construction on Ross Road was quite poor. She asked if the project included speed bumps or many bulb-outs.

Ms. Boyd advised that the project included landscaping, medians, bio retention, bulb-outs at many of the side street intersections, one speed

table, a raised crosswalk, and significant traffic signal modifications. The project did not include speed humps or traffic circles.

Council Member Holman inquired whether Staff considered ways to accomplish the same thing with less expensive means.

Ms. Boyd recounted Staff's review of replacing landscape with hardscape on small medians and use of striping. Much of the work was infrastructure work that needed to be done.

Council Member Holman supported the project and stressed the Council's need for contextual financial information.

Council Member Kou inquired about reasons for the Council discussion not including the other Infrastructure Plan projects.

Mr. Eggleston reported the Finance Committee had discussed the project and its timeframe. Staff presented it because design and evaluation clearances were complete and grant funding would expire soon. Staff deliberately presented Phases I and II in order to preserve Vehicle Emission Reductions Based at Schools (VERBS) and Safe Routes to School grant funding.

Ms. Boyd added that the VERBS grant totaled $1 million and was applied to a portion of Arastradero Road near Gunn High School. The City had to submit its first invoice for construction on or before June 21.

Mr. Eggleston indicated Staff was attempting to time the work so that it occurred during schools' summer break.

Council Member Kou asked if the VERBS grant would be used for Phase I or Phase II.

Ms. Boyd advised that it would be used for work in Phase I. The Safe Routes to School grant would be used in Phase II, which had to be complete by May 2019 for the City to receive the grant.

Council Member Kou inquired about coordination of the project with grade separations.

Mr. Mello revealed that Staff was working with Caltrain to make small safety improvements at the Charleston Road crossing as part of the project. In the long term, anything the City did with respect to grade separation would affect a small segment of Charleston Road. The small number of improvements resulting from the project would not warrant leaving a gap for grade separation or modifying the project.

Council Member Kou inquired regarding use of storm drain funding.

Mr. Eggleston explained that the bio retention component of the project was considered green stormwater infiltration, which qualified for storm drain funding. The Storm Drain Oversight Committee recommended Staff utilize the first two years of funding for this project.

Council Member DuBois was expecting a recommendation from the Finance Committee for all projects.

Mr. Keene noted the Council had discussed the Infrastructure Plan, identified project costs, a schedule for escalation of costs, and the identified gap many times.

Council Member DuBois seemed to recall the Council directed the Finance Committee to develop a plan to reduce the funding gap. The original project cost had escalated from $10 million to $19.6 million.

Mr. Keene clarified that the $10 million amount was estimated in 2009. The last update to the Council, perhaps in 2017, indicated the $16 million amount.

Mr. Eggleston advised that the $19 million amount included almost $2 million in salaries and benefits. The original $10 million estimate was project costs alone. The 2008 estimate of $10 million had not been updated when the Council adopted the Infrastructure Plan.

Vice Mayor Filseth asked if the grant funding totaled $6 million.

Council Member DuBois responded yes. He inquired whether the grant funding could have been used for other projects.

Ms. Boyd reported the City received four grants totaling $1.825 million for the Charleston-Arastradero Corridor specifically. Identified funding sources included the Charleston-Arastradero Impact Fee, the storm water fee, and SB-1 funding.

Council Member DuBois believed Charleston-Arastradero needed to handle a lot of crosstown traffic; otherwise, traffic would be pushed onto collector streets. He inquired whether Phase III work would occur primarily at the El Camino intersection.

Ms. Boyd clarified that Phase III involved Arastradero Road from Clemo to El Camino and Charleston Road from El Camino to Alma and Middlefield to San Antonio.

Council Member DuBois asked if a bulb-out at San Antonio was part of this plan.

Ms. Boyd indicated resurfacing and restriping from Fabian to San Antonio was planned for continuity, but the plans did not include a bulb-out.

Council Member DuBois asked if any of the components had changed since the Council's review in 2015.

Ms. Boyd stated the plans had been refined based on comments made during outreach meetings. Nothing major had changed.

Council Member DuBois inquired about a dedicated turn lane along the entire block from San Antonio to Fabian.

Mr. Mello advised that there were two dedicated right turn-lanes from San Antonio onto Charleston. A separate safety project for the intersection of San Antonio and Charleston was in the initial stages and would be presented to the Council in the fall.

Council Member DuBois asked if the project began at Fabian.

Mr. Mello responded just north of the departure from San Antonio. It did not include the San Antonio intersection.

Council Member DuBois felt the striping worked pretty well. He was concerned that solid barriers in the middle of the street would restrict vehicles turning into driveways. He requested the locations where the traffic lanes would be narrowest due to the wider sidewalks.

Mr. Mello reported the travel lanes along Charleston and Arastradero would be 10 and 11 feet wide.

Council Member DuBois inquired whether the width of the traffic lane in front of the YMCA on Ross Road was 10 feet.

Mr. Mello clarified that concerns around the Ross Road project occurred during construction, when cones placed at the edge of the gutter made the roadway appear narrower. Charleston-Arastradero would be different from Ross Road because it would have a bike lane or parking lane adjacent to the travel lane. The lanes on Middlefield Road were 10 feet in width.

Council Member DuBois commented that detailed plans would have been useful for the Council. Marking the improvements would be helpful for the public. He asked if Staff had prepared a response in the event of public backlash.

Ms. Boyd disclosed that Staff had marked the proposed bulb-outs in 2017. The public had not commented on the markings. The markings should not shock the public. If the public felt improvements were problematic, Staff would review them.

Council Member DuBois wished to ensure Staff was being proactive.

Mr. Keene recalled complaints about California Avenue just after work was completed. Staff's intention was to provide more advance notice and increase awareness of improvements.

Mr. Mello related modifications to the Ross Road project based on residents' comments.

AMENDMENT: Council Member DuBois moved, seconded by Council Member XX to add to the Motion, "direct Staff to make best efforts to mark planned work at least four weeks prior to commencement of work in each area to ensure the public is aware of coming changes."

AMENDMENT RESTATED AND INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "direct Staff to make best efforts to mark planned work at least four weeks prior to commencement of work where appropriate and would not cause delay or increases in cost, to ensure the public is aware of coming changes." (New Part I)

Council Member Scharff remarked that any delay would increase costs. The project should not be modified and should proceed.

Council Member Tanaka inquired about the effects of construction during the school year.

Ms. Boyd planned to complete all concrete work in front of schools before the new school year began. A safe passageway along sidewalks would remain open during construction. Staff had been coordinating work with schools.

Council Member Tanaka inquired about the effects of construction on bus schedules during and after construction.

Ms. Boyd advised that one lane in each direction was required to remain open during construction. Bus schedules should remain the same before, during, and after construction.

Council Member Tanaka requested the reason for including information about the bike share program in Attachment A.

Mr. Mello explained that the information was included when Staff proposed applying for a grant that would fund a bike share system and the adaptive traffic control system. Staff was proceeding with the adaptive traffic control system.

Council Member Tanaka noted differences between the engineer's estimate and bids and inquired about modifications to plans that resulted in those differences.

Ms. Boyd explained that more traffic controls would be needed than originally thought. With respect to the increase in cost for irrigation, she suspected the bidder padded the amount.

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

A. Approve and authorize the City Manager or his designee to execute a contract with O'Grady Paving, Inc. in an amount not to exceed $4,336,298 for the Charleston-Arastradero Corridor Project – Phase 1 (Capital Improvement Program (CIP) Project PE-13011);

B. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with O'Grady Paving, Inc. for related additional but unforeseen work that may develop during the project, the total value of which shall not exceed $433,630;

C. Approve and authorize the City Manager or his designee to execute a contract with O'Grady Paving Inc. in an amount not to exceed $4,434,347 for the Charleston-Arastradero Corridor Project – Phase 2 (CIP Project PE-13011);

D. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with O'Grady Paving, Inc. for related additional but unforeseen work that may develop during the project, the total value of which shall not exceed $443,435;

E. Approve and authorize the City Manager or his designee to execute Amendment No. 2 to Contract C14150694 with Mark Thomas & Company for construction administration services for Charleston-Arastradero Corridor Project (CIP PE-13011) in the amount $145,419 for the base contract associated with the scope of work covered in the contract. This amendment results in a revised total contract amount of $1,934,307;

F. Approve and authorize the City Manager or his designee to a execute contract with TrafficWare Group, LLC to purchase licensing and install SynchroGreen adaptive traffic control system and related hardware along the Charleston-Arastradero Corridor (CIP PE-13011) in the amount not to exceed $181,287;

G. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with TrafficWare Group, LLC for related additional but unforeseen work that may develop during the project, the total value of which shall not exceed $18,129;

H. Amend the Fiscal Year 2018 Budget Appropriation for:

i. The Capital Improvement Fund by:

a. Increasing the revenue estimate for grants by $250,604;

b. Increasing Transfers from the Charleston-Arastradero Development Impact Fee Fund by $12,000;

c. Increasing Transfers from the Storm Drainage Fund by $330,000;

d. Decreasing the Sidewalk Repair Project CIP (PO-89003) by $575,000;

e. Decreasing the Capital Fund Infrastructure Reserve by $4,658,211;

f. Increasing the Charleston/Arastradero Corridor Project CIP (PE-13011) appropriation by $5,825,815;

ii. The Charleston/Arastradero Development Impact Fee Fund by:

a. Decreasing the Ending Fund Balance by $12,000;

b. Increasing the transfer to the Capital Improvement Fund by $12,000;

iii. The Storm Drain Fund by:

a. Decreasing the Ending Fund Balance by $330,000;

b. Increasing the transfer to the Capital Improvement Fund by $330,000; and

I. Direct Staff to make best efforts to mark planned work at least four weeks prior to commencement of work where appropriate and would not cause delay or increases in cost, to ensure the public is aware of coming changes.

MOTION AS AMENDED PASSED: 8-1 Kou no

[The Council returned to Item Number 1.]

State/Federal Legislation Update/Action

None.

Council Member Questions, Comments and Announcements

Council Member Holman reported the California Preservation conference was successful.

Mayor Kniss had addressed the conference on two occasions. It was an honor to have the conference in Palo Alto.

Council Member DuBois noted the conference held a nice reception at MacArthur Park. The Barron Park May Fete was also successful. He hoped the City would waive fees for such events in the community. He wished to dedicate the meeting to Hank Nagao, who passed away on April 15. After being interned, Mr. Nagao served 22 years in the U.S. Army.

Adjournment: The meeting was adjourned at 12:04 A.M. in honor of Hank Nagao.