CITY OF PALO ALTO CITY COUNCIL
FINAL SENSE MINUTES

Regular Meeting
May 7, 2018

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

Present: DuBois, Filseth, Fine; Holman arrived at 6:08 P.M., Kniss, Kou, Tanaka, Wolbach

Absent: Scharff

Special Orders of the Day

1. Proclamation Recognizing Public Employees and Individual Service Accomplishments in Alignment With National Public Service Recognition Week, May 6-12, 2018.

Mayor Kniss read the Proclamation into the record.

James Keene, City Manager, thanked the Council for the Proclamation. City employees contributed to the community in thousands of ways. Twelve employees had served the City for 30 or more years.

Council Member Wolbach shared a personal story of City employees assisting him. Everyone had stories of City employees providing assistance.

Mayor Kniss thanked employees for their service and for being present.

[The Council heard Agenda Changes, Additions, and Deletions and City Manager Comments before hearing Item Number 2.]

2. Appointment of Three Candidates to the Public Art Commission and two Candidates to the Utilities Advisory Commission for Three-year Terms Ending May 31, 2021.

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

Voting For: Djibril Drame

Voting For: Loren Gordon	DuBois, Filseth, Fine, Holman, Kniss, Kou, Tanaka, Wolbach
Voting For: Bonnie Hall	Filseth
Voting For: Yeuen Kim	Tanaka
Voting For: Ian Klaus	DuBois, Fine, Holman, Kou, Tanaka, Wolbach
Voting For: Shannon McEntee	Fine, Kniss, Wolbach
Voting For: Ben Miyaji	DuBois, Filseth, Holman, Kniss, Kou
Voting For: Simcha Moyal	

Beth Minor, City Clerk, announced that Loren Gordon with eight votes, Ian Klaus with six votes, and Ben Miyaji with five votes were appointed to the Public Art Commission.

First Round of voting for two positions on the Utilities Advisory Commission with terms ending May 31, 2021.

Voting For: Arne Ballantine	DuBois, Filseth, Fine, Holman, Kniss, Kou, Wolbach
Voting For: Mike Danaher	DuBois, Filseth, Fine, Holman, Kniss, Kou, Wolbach
Voting For: Claude Ezran	
Voting For: Robert Hinden	
Voting For: Howard Hoffman	
Voting For: Yunteng Huang	Tanaka
Voting For: Kamlesh Oza	
Voting For: Curtis Smolar	
Voting For: Rajesh Srinivasaraghavan	
Voting For: Henry Wong	Tanaka

Ms. Minor announced that Arne Ballantine with seven votes and Mike Danaher with seven votes were appointed to the Utilities Advisory Commission.

Agenda Changes, Additions and Deletions

James Keene, City Manager, reported Staff proposed removing Agenda Item Number 3 from the Consent Calendar and placing it on the Action Agenda as Item Number 6A.

MOTION: Vice Mayor Filseth moved, seconded by Council Member Wolbach to pull Agenda Item Number 3 – Approval of the City of Palo Alto's Addendum to the Negative Declaration Adopted by the City of East Palo Alto … to be heard as Agenda Item Number 6A.

MOTION PASSED: 8-0 Scharff absent

Mr. Keene proposed continuing Agenda Item Number 9 to August 13, 2018.

MOTION: Vice Mayor Filseth moved, seconded by Council Member Wolbach to continue Agenda Item 9 – PUBLIC HEARING: Finance Committee Recommends Adoption of an Ordinance Amending Title 16 of the Palo Alto Municipal Code … to August 13, 2018.

MOTION PASSED: 8-0 Scharff absent

City Manager Comments

James Keene, City Manager, announced the 24th Annual Bike to Work Day would be held on May 10, 2018. The Municipal Service Center Open House would occur on May 12, 2018. A second crossing guard would be placed at the intersection of Middlefield and Embarcadero Roads until an all-red pedestrian signal phase could be implemented.

Mayor Kniss appreciated Staff reintroducing the previous signal phasing in response to public concern.

Mr. Keene reported Staff had launched a beta online tool, Heads Up, to provide real-time information about street closures of four hours or more. The public could register to receive notifications from Heads Up. Access to the My Utilities Account had been unavailable since May 5. Residents could access information and make payments via telephone. More than 2,000 people participated in the May Fete Parade. Cash prizes for floats were awarded to Ohlone Elementary School, Our School, and First School. Planning Director Hilary Gitelman's final day with the City would be May 11.

FINAL SENSE MINUTES

[The Council heard Agenda Item Number 2 before proceeding with Oral Communications.]

Oral Communications

Sea Reddy thanked staff for repairing the pothole at Jack in the Box. He was organizing his campaign to be a write-in candidate for the June 5 election. The latest gas tax was not affordable. Iran needed to work for peace.

Shani Kleinhaus, Santa Clara Valley Audubon Society, advised that she had spoken with Staff about revising work at the Emily Renzel Wetlands to avoid impacts to wildlife.

Emily Renzel expressed concerns about expansion of work at the Emily Renzel Wetlands during the nesting season.

David Shen requested Staff place a second crossing guard at the intersection of Middlefield and Embarcadero Roads in the afternoon and reinstitute the diagonal crossing.

Arnaud Ferring supported a diagonal crossing at the intersection of Embarcadero and Middlefield Roads.

Amy Darling thanked Staff for listening to public concerns and reinstating the four-way stop at Embarcadero and Middlefield Roads.

Stephanie Munoz urged the Council to consider a hotel as affordable housing for seniors.

Consent Calendar

Mayor Kniss reiterated that Agenda Item Number 3 had been removed from the Consent Calendar and placed as Agenda Item Number 6A.

Molly Stump, City Attorney, reported the table in the draft Ordinance for Agenda Item Number 6 contained an error. The parking requirement should state "0.75 per unit except as preempted by state law."

Shirley Wang, regarding Agenda Item Number 6, urged the Council to reconsider the parking requirement of the overlay.

Xiashe Liu, regarding Agenda Item Number 6, also urged the Council to reconsider the parking requirement.

Council Member Kou registered a no vote on Agenda Item Number 6.

Council Member Holman registered a no vote on Agenda Item Number 6.

MOTION: Council Member DuBois moved, seconded by Council Member Fine to approve Agenda Item Numbers 4-6 with changes to Agenda Item Number 4 as outlined in the at-place Staff Memorandum and to Agenda Item Number 6 as outlined by the City Attorney.

3. ~~Approval of the City of Palo Alto's Addendum to the Negative Declaration Adopted by the City of East Palo Alto, and Approval of an Agreement for the Permanent Transfer of a Portion of the City of Palo Alto's Individual Supply Guarantee to the City of East Palo Alto.~~

4. Authorize the City Manager or his Designee to Amend the Contract With WatchGuard Video for the Purchase of 50 Body-worn Cameras for the Field-based Video Program in a Not-to-Exceed Amount of $110,000 and Approve a Budget Amendment in the Law Enforcement Services Fund.

5. Approval of a Three-year Contract With Northwest Woodland Services, Inc. in an Amount Not-to-Exceed $657,278 for Trail Maintenance in the Palo Alto Baylands, Pearson-Arastradero Preserve, Foothills Park, and Grounds Maintenance in Utility Reservoir Sites.

6. Ordinance 5438 Entitled, "Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code Title 18 (Zoning) to add a new Chapter 18.30(J) (Affordable Housing Combining District) to Promote the Development of 100 Percent Affordable Housing Projects Located Within One-half Mile of a Major Transit Stop or One-quarter Mile of a High-quality Transit Corridor by Providing Flexible Development Standards and Modifying the Uses Allowed in the Commercial Districts and Sub-districts. California Environmental Quality Act (CEQA): This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution Nos. 9720 and 9721 (FIRST READING: April 9, 2018 PASSED: 7-2 Holman, Kou no)."

Council Member Holman requested Staff summarize the correction to Item Number 4

Beth Minor, City Clerk, reported the intent was to supplement existing department funding with funds from the Law Enforcement Services Fund known as COPS to purchase cameras. A memo was uploaded to the City website and provided in Council Chambers during the meeting.

MOTION FOR AGENDA ITEM NUMBERS 4-5 PASSED: 8-0 Scharff absent

MOTION FOR AGENDA ITEM NUMBER 6 PASSED: 6-2 Holman, Kou no, Scharff absent

Council Member Holman supported affordable housing; however, 120 percent of area median income (AMI) did not accomplish the established goal.

Council Member Kou felt the draft Ordinance could result in 80-100 percent AMI housing, which was essentially market-rate housing. There was no high-quality transit on the Peninsula. She favored zoning for 60 percent and below affordable housing in a manner that did not destroy or overwhelm a community.

Action Items

6A. (Former Agenda Item Number 3) Approval of the City of Palo Alto's Addendum to the Negative Declaration Adopted by the City of East Palo Alto, and Approval of an Agreement for the Permanent Transfer of a Portion of the City of Palo Alto's Individual Supply Guarantee to the City of East Palo Alto.

Ed Shikada, Assistant City Manager/Utilities Manager, reported the City of Palo Alto had a contractual right to purchase water from the San Francisco Public Utilities Commission (SFPUC) for utility customers within Palo Alto. The recommended action would transfer 0.5 million gallons per day (mgd) of water. The City of East Palo Alto would pay SFPUC for water used, and there would be no cost to the City of Palo Alto or its ratepayers. The proposed transaction would reduce Palo Alto's current water allocation of 17.1 mgd by 0.5 mgd, a negligible amount given Palo Alto's current demand of approximately 10-11 mgd. The recommended transaction reflected ongoing cooperation on a variety of topics between the City of Palo Alto and the City of East Palo Alto. With respect to the transaction between the City of Mountain View and the City of East Palo Alto, the City of Mountain View had a minimum purchase requirement with SFPUC, which required the City of Mountain View to pay for the water even if it was not used. The $5 million amount partially offset the forecast $8.5 million cost to Mountain View over the next several years.

James Keene, City Manager, noted Mountain View's allocation of 13.4 mgd would be reduced by 1 mgd. Mountain View's population was much larger than Palo Alto's and growing much faster than Palo Alto's.

Council Member Tanaka inquired about reasons for not including the Mountain View information in the Staff Report.

Mr. Shikada believed the transaction between the City of Palo Alto and the City of East Palo Alto stood on its merits.

Mr. Keene did not believe comparison to the Mountain View transaction was relevant.

Council Member Tanaka asked if Staff was attempting to imply the water rights had no value.

Mr. Keene stated Staff was not trying to imply anything. Staff provided the facts of a potential agreement. The City was a participant in a communal sharing of water through the SFPUC's supply of water and through Bay Area Water Supply and Conservation Agency (BAWSCA). The City of Palo Alto had the good fortune to be able to buy more water than East Palo Alto, who was able to purchase a de minimis amount. Staff was proposing to share the City's ability to buy water that Palo Alto residents would not use. The City of East Palo Alto would pay for the water. With respect to applying a surcharge for the City's benefit, the Council could consider other factors of value between the two Cities. There was no guarantee that the City could sell the water to East Palo Alto. Staff approached the transaction as a good neighbor.

Council Member Tanaka asked if the water rights had value.

Mr. Keene answered yes, value to East Palo Alto also.

Council Member Tanaka understood Mountain View sold 1 mgd to East Palo Alto.

Mr. Keene was not sure that statement was exactly correct. Mountain View transferred 1 mgd of its ability to buy water from its assured water supply. In exchange for that transfer, East Palo Alto agreed to pay a portion of essentially a fine that Mountain View had to pay annually because of its guaranteed minimum purchase agreement.

Council Member Tanaka had read Mountain View's staff report, which indicated the $5 million would be placed in a water reserve fund. The Mountain View staff report indicated Mountain View did not meet its minimum required usage amount in a couple of years. Mountain View staff forecast water usage above the required minimum level such that fines would not be imposed in the future. If Mountain View did not incur fines, then the $5 million could be used for infrastructure projects. Mountain View was selling water rights to East Palo Alto for $5 million.

Mr. Keene respectfully disagreed. He had spoken with Mountain View's City Manager in detail earlier in the day. Mountain View was basically paying a penalty for water it did not use, which increased the difficulty for Mountain View to transfer water to East Palo Alto. Mountain View's staff projected Mountain View could spend up to $8.5 million over the next four or five years. Mountain View's City Manager expected the City's growth to come online and demand sufficient water by 2021 or 2022 to meet the guaranteed minimum amount. At that time, the need to pay for water not used would be eliminated. The $5 million from East Palo Alto was designed to offset some of the $8.5 million loss. The City could transfer or sell the water to a neighbor, but there were numerous factors for the Council to consider. It would be interesting to see the view taken by other parties in the area if the City profited from a resource it was not going to use.

Council Member Tanaka was unsure whether the best public policy was to give away City assets. Based on Mountain View's transaction, the value of the City's water would be approximately $2.5 million. He did not understand the justification to give away assets when the City's water rates were proposed to increase by hundreds of dollars per family. He requested the total amount residents would pay for all the rate increases.

Mr. Keene did not have the information. It was part of the Proposed Budget.

Mayor Kniss requested Council Member Tanaka leave questions about rates to an appropriate time.

Council Member Tanaka advised that Staff informed him the question would be answered during the meeting.

Mayor Kniss reiterated that rates were not the agenda topic.

Council Member Tanaka explained that the City was contemplating a water rate increase while giving away water assets that could be used to defray utility rates. Rather than raise its water rates, Mountain View sold water rights to East Palo Alto.

Mr. Shikada stated that Mountain View's rates were set to cover the costs of water. Palo Alto's proposed transfer of water to East Palo Alto did not affect the City's costs.

Mr. Keene indicated Staff did not include the 0.5 mgd in the calculation of the City's water rates. No report had established the value of the water proposed for transfer; any purchase amount was negotiable. The proposed rate increase of 4 percent would not convert to hundreds of dollars of value. The Council should consider the optics of a city with sufficient water selling

water to a neighboring city with less than sufficient water, so that the first city could reduce its water rates. The second city would pay for the water twice, once to the first city and once to SFPUC.

Mayor Kniss recommended Council Member Tanaka continue his questions during a Finance Committee meeting.

Council Member Fine requested Staff address water entitlement versus water right versus an actual use of that water.

Mr. Shikada was not clear on the distinction Council Member Fine was making. The operable point in the current situation was the right to buy water for the purpose of distributing it to customers within the City.

Council Member Fine asked Staff to explain East Palo Alto's low water allocation.

Mr. Shikada indicated it was a historical artifact of the way prior water supply agreements were struck among agencies.

Council Member Fine requested Staff describe how fixed costs could potentially be reduced as more consumers shared the use of water.

Karla Dailey, Senior Resource Planner, clarified that SFPUC set its rates by dividing its sales into its revenue requirement. As sales increased among BAWSCA agencies and the City of San Francisco, the cost for all users decreased.

Council Member Fine asked if the transfer could result in a small savings for Palo Alto ratepayers.

Ms. Dailey replied yes.

Council Member Holman inquired about the East Palo Alto Urban Water Management Plan and East Palo Alto's plans to conserve water.

Mr. Shikada suggested East Palo Alto Council Members comment on strategies for meeting their water supply needs.

Ruben Abrica, East Palo Alto Mayor, reflected on East Palo Alto's inherited structural inequalities. He appreciated the Council's consideration of the proposed water transfer. Because of the need for additional affordable housing, the East Palo Alto City Council focused on strategies to increase its water supply and, as a result, developed a Groundwater Management Plan. The City of East Palo Alto was entirely reliant on purchasing water from SFPUC. The value of East Palo Alto could be found in the web of

interdependent relationships with nearby cities. East Palo Alto staff was available to answer questions.

Tom Francis, BAWSCA Water Resources Manager, supported Staff's recommended action. The transfer would provide water necessary for East Palo Alto to proceed with sustainable growth plans; serve as an example for constructive, responsible, and negotiated intercity actions; and illustrate Palo Alto's willingness to act in the interest of the broader community.

Cybele LoVuolo Bhushan commended Staff for their work on this item. Being a good neighbor and sharing resources were logical. The City should do the right thing.

Peter Drekmeier urged the Council to support Staff's recommendation with no strings attached. East Palo Alto had the lowest per capita water usage in the region; yet, it was constantly bumping against its allocation. In a drought, the proposed transfer would not adversely affect Palo Alto's water supply. Groundwater underneath East Palo Alto was more suitable for emergencies than daily drinking water.

Rita Vrhel reiterated that the City was not paying for water for East Palo Alto's use or giving water to East Palo Alto that the City had paid for. She supported Mr. Drekmeier's comments. An alternative to East Palo Alto's pumping groundwater for daily use was desirable.

Pat Burt thanked Staff for providing information regarding Mountain View's transaction. Council Member Tanaka's comments proposed East Palo Alto subsidize Palo Alto's water rates. East Palo Alto provided affordable housing for a great portion of Palo Alto's service workers and City employees. The proposed transfer was fair, just, and the right thing to do.

Carol Lamont respected East Palo Alto's efforts to meet its housing needs.

Court Skinner as an East Palo Alto Planning Commissioner was aware of development projects not being built because of the lack of water. He was heartened by comments encouraging the City Council to be a good neighbor.

Stephanie Munoz felt the Council should make Stanford University house its workers. East Palo Alto seemed to be the only place for hospital workers to live.

Regina Wallace-Jones agreed that reappropriating a natural resource was the right thing to do. Transferring water would support the people of and development in East Palo Alto.

MOTION: Vice Mayor Filseth moved, seconded by Council Member DuBois to:

A. Approve the Addendum, together with the Negative Declaration for the Transfer of Individual Supply Guarantee under the San Francisco Public Utility Commission Water Supply Agreement (ND) adopted by the City of East Palo Alto as the California Environmental Quality Act (CEQA) lead agency on June 20, 2017, as adequate and complete under CEQA for the project described below; and

B. Approve and authorize the City Manager or his designee to execute the Permanent Transfer of a Portion of an Individual Supply Guarantee (ISG) from the City of Palo Alto to the City of East Palo.

Vice Mayor Filseth felt the City making a profit on the proposed transfer was insupportable and offensive. The City of East Palo Alto would transfer water if Palo Alto needed it.

Council Member DuBois reiterated the small water allocation and historical inequities for East Palo Alto. Mountain View was transferring water along with its payment obligation to East Palo Alto. He would not have proposed a transfer of water if the City needed it. The primary benefits of the water transfer were social equity, being a good neighbor, and doing the right thing. The alternative to transferring water to East Palo Alto was East Palo Alto pumping out groundwater, which could affect Palo Alto. This was an opportunity to set a precedent for other cities with large water allocations. Because water demand did not exceed supply, the water right may not have any value.

Council Member Fine reiterated comments from other Council Members and the public. Mountain View's situation was not comparable to Palo Alto's situation. This was an opportunity for all SFPUC customers to benefit.

Council Member Wolbach stated the City of Palo Alto did not have a right to the water except in a legal sense. Addressing an inequity without incurring any cost seemed the least Palo Alto could do.

Council Member Kou appreciated Council Member Tanaka's fiscal caution and Staff's information on the item. She looked forward to working with East Palo Alto regarding other issues.

Council Member Tanaka did not object to the City assisting East Palo Alto. His concern was the lack of benefit for Palo Alto. Options and water rights had value. The City giving away $2.5 million in water rights was improper, especially when City water rates were increasing. Much of East Palo Alto's

payment to Mountain View was paid by developers. Mountain View had a budget surplus, while Palo Alto had a budget deficit. The interests of Palo Alto residents should be above all other interests.

Council Member Holman supported Council Member Tanaka in raising issues that the community may hold. The Colleagues' Memo requested a transfer or sale of water be referred to the Policy and Services Committee or presented to the City Council in a Study Session. The Council moved to refer the matter to the Finance Committee. None of that happened. She did not recall the Council being advised that the Mitigated Negative Declaration was available for review. She questioned whether the City Council directed the City Attorney to prepare the agreement. The majority of issues raised during the meeting could have been addressed in a meeting of the Finance Committee or the Policy and Services Committee or in a Study Session. The City had nothing in writing that assured or confirmed representations of East Palo Alto's Municipal Code water conservation section or the East Palo Alto Urban Water Management Plan. These concerns did not affect her support for East Palo Alto.

Mayor Kniss believed in regional cooperation, and Palo Alto had worked with East Palo Alto on other issues.

MOTION PASSED: 7-1 Tanaka no, Scharff absent

7. PUBLIC HEARING: Finance Committee Recommends Adoption of the Fiscal Year 2018-19 Action Plan and Associated 2018-19 Funding Allocations and Resolution 9755 Entitled, "Resolution of the Council of the City of Palo Alto Approving the use of Community Development Block Grant Funds for Fiscal Year 2018-19 Consistent With the Human Relations Commission's Recommendation."

Jonathan Lait, Planning and Community Environment Assistant Director, reported Staff had received notification that more Community Development Block Grant (CDBG) funding would be available than Staff had anticipated when preparing the Staff Report. The Human Relations Commission (HRC) proposed a contingency plan to address receipt of additional funding, and the Finance Committee supported the plan.

Erum Maqbool, CDBG Staff Specialist, advised that the City received annual funding from the United States Department of Housing and Urban Development (HUD) as an entitlement city under the CDBG Program. CDBG funds could be used to improve the physical, economic, and social conditions for primarily persons of low and moderate income. Because there was uncertainty with the Federal budget process, Staff estimated the City's HUD entitlement grant based on a 10 percent reduction from the previous year.

The total funding estimated for Fiscal Year (FY) 2018-2019 was $578,296, which consisted of the estimated entitlement grant of $392,678, estimated program income of $136,049, and prior year resources of $49,569. HUD notified the City that its FY 2018-2019 CDBG entitlement would be $484,816. The total amount available for allocation was $670,434, which was $92,000 higher than the reported estimate. Within the Public Services category, the HRC recommended additional funding be distributed until an applicant was fully funded. If an applicant received its requested funding amount, then any remaining funds would be distributed to other applicants. Within the Planning and Administration category, the HRC recommended Project Sentinel receive an additional amount up to the total amount requested, and any remaining amount be distributed to the City for administration. Within the remaining two categories, the HRC recommended maintaining funding for the Downtown Streets Team and distributing additional funds to the Minor Home Repair Program. According to Federal regulations, the Public Services category had a maximum spending cap of 15 percent; therefore, the maximum amount that could be allocated was $100,898. Of the five agencies currently receiving funds, Catholic Charities, YWCA, and Silicon Valley Independent Living Center were allocated the full amount requested. The additional amount was distributed equally between Palo Alto Housing Corp. and LifeMoves. Similarly, the Planning and Administration category, which included administrative costs associated with managing the CDBG Program, had a 20 percent spending cap. The maximum that could be allocated under this category was $124,173. Project Sentinel and the City of Palo Alto administration were currently funded through the CDBG grant under this category. Per the HRC's plan, Staff allocated the full funding amount requested by Project Sentinel. The remaining amount was $90,475. Staff allocated the requested amount of $85,000 to program administration and $5,000 to the Minor Home Repair Program. Under the Economic Development and Housing rehabilitation categories, Staff distributed $86,000 to the Minor Home Repair Program. The next step was to submit the final 2018-2019 Action Plan to HUD by May 15.

Public Hearing opened at 8:31 P.M.

Cybele LoVuolo Bhushan indicated the funds would pay for much-needed exterior paint and flooring for the Opportunity Center. She looked forward to working with the City of Palo Alto to make the Opportunity Center facility a thriving part of the community.

Public Hearing closed at 8:32 P.M.

MOTION: Vice Mayor Filseth moved, seconded by Council Member Kou to:

A. Adopt a Resolution allocating Community Development Block Grant (CDBG) funding as recommended in the draft Fiscal Year 2018-2019 Action Plan and as described in the Staff Report;

B. Allocate CDBG funding as recommended in the draft Fiscal Year 2018-2019 Action Plan and as described in the Staff Report including the contingency plan policies recommended by the Finance Committee;

C. Authorize the City Manager to execute the Fiscal Year 2018-2019 CDBG application and Fiscal Year 2018-2019 Action Plan for CDBG funds, any other necessary documents concerning the application, and to otherwise bind the City with respect to the applications and commitment of funds; and

D. Authorize staff to submit the Fiscal Year 2018-2019 Action Plan to the United States Department of Housing and Urban Development (HUD) by the May 15, 2018 deadline.

Vice Mayor Filseth advised that the Finance Committee thought the plan made sense.

Council Member DuBois inquired about the rationale for not distributing the amount requested by the Downtown Streets Team.

Ms. Maqbool advised that the HRC and Finance Committee recommended the amount because the Downtown Streets Team received a great deal of funding from the City.

Council Member DuBois asked if there were reasons not to distribute the $5,000 to Downtown Streets Team.

Ms. Maqbool reported the Finance Committee was more interested in funding the Minor Home Repair Program. It was a pilot program, and Staff believed it would be very successful with residents.

Council Member DuBois commented that it seemed the Minor Home Repair Program was prioritized over other organizations.

Ms. Maqbool reminded Council Members that the Public Services category had a spending cap.

Mr. Lait suggested the Council could direct Staff to distribute the additional $5,000 to the Downtown Streets Team.

Council Member DuBois asked if the homeless population had changed. Mountain View's homeless population had tripled in the last four years.

Mr. Lait that's advised that those numbers were not consistent with his recollection.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part B, “reallocating $5,000 from minor home repairs to the Downtown Streets Team.”

Council Member Holman requested the date Staff received notification of the precise grant amount.

Mr. Lait replied Wednesday of the prior week. With the additional amount of $92,000, all programs could be funded through the proposed amendment to the Motion.

Council Member Holman inquired about the reason for distributing $44,933 to LifeMoves when it requested $50,000.

Mr. Lait noted LifeMoves was funded through the Public Services category, which had a cap.

Council Member Holman asked if applicants were aware of the spending cap when they applied.

Mr. Lait replied yes.

Council Member Holman noted only one applicant, the Minor Home Repair Program, under Housing Rehabilitation and inquired about Staff's efforts to encourage other entities to apply.

Mr. Lait did not have an answer; however, Staff recognized the need to encourage more applicants.

Council Member Holman requested the rationale for funding the City of Palo Alto administration application when the incremental difference could have been distributed to the Minor Home Repair Program.

Mr. Lait indicated the Council could change the distribution. The grant amount did not recover all City costs of administering the CDBG Program.

Council Member Holman revealed that the Downtown Streets Team received funding from the Human Services Resource Allocation Process (HSRAP) Program. She presumed the General Fund could subsidize the CDBG Program.

MOTION AS AMENDED RESTATED: Vice Mayor Filseth moved, seconded by Council Member Kou to:

A. Adopt a Resolution allocating Community Development Block Grant (CDBG) funding as recommended in the draft Fiscal Year 2018-2019 Action Plan and as described in the Staff Report;

B. Allocate CDBG funding as recommended in the draft Fiscal Year 2018-2019 Action Plan and as described in the Staff Report including the contingency plan policies recommended by the Finance Committee, reallocating $5,000 from minor home repairs to the Downtown Streets Team;

C. Authorize the City Manager to execute the Fiscal Year 2018-2019 CDBG application and Fiscal Year 2018-2019 Action Plan for CDBG funds, any other necessary documents concerning the application, and to otherwise bind the City with respect to the applications and commitment of funds; and

D. Authorize staff to submit the Fiscal Year 2018-2019 Action Plan to the United States Department of Housing and Urban Development (HUD) by the May 15, 2018 deadline.

MOTION AS AMENDED PASSED: 8-0 Scharff absent

8. Policy and Services Committee and Staff Recommendations on Next Steps Related to Airplane Noise (Continued From April 9, 2018).

Michelle Flaherty, Deputy City Manager, reported the community had experienced changes in airplane noise in recent years due to the Federal Aviation Administration's (FAA) implementation of the Next Generation Air Transportation System (NextGen); Federal policy prioritizing efficient routing of flights; and an increase in air traffic in the region. The Menlo waypoint, a point through which airplanes flew into San Francisco International Airport (SFO), was located near Palo Alto. Of the total number of airplanes arriving at SFO, 53-60 percent flew over or near the City of Palo Alto. Flights arriving at SFO utilized four routes: 40 percent or 242 flights on the DYAMD route, 30 percent or 181 flights on the SERFR route, 5 percent or 30 flights on the Oceanic route, and 25 percent or 151 flights on the BDEGA route. A third of flights flying the Oceanic route arrived between 4:30 and 6:30 A.M. Seventy percent of flights flying the BDEGA route traveled over Palo Alto. On average, 315 planes flew over or near Palo Alto on a typical day. Palo Alto was home to more noise reporters than any other community in the Bay Area. Flights from Norman Y. Mineta San Jose International Airport (SJC) did not intensely impact Palo Alto. Fifteen percent of the time, SJC utilized

its south flow flight pattern, which resulted in planes flying at low altitudes over Palo Alto. Since June 2017, Staff had reached out to and partnered with neighboring communities; researched noise monitoring options; sent letters to the FAA; analyzed the FAA Phase Two update; and presented the issue to the Policy and Services Committee. In response to the proposal to reduce congestion at the Menlo waypoint, the FAA could not endorse the position because moving air traffic would impinge on SJC or Oakland International Airport (OAK) airspace. The FAA did not endorse the proposal to relocate flights to the east because the DYAMD route was already highly congested and anything south of the DYAMD route would impinge on SJC airspace. The FAA did not endorse a proposal for flights to utilize higher altitudes at the Menlo waypoint because it would be inefficient and would invade SJC airspace. In response to the proposal to move more flights over the Bay, the FAA amended its procedures so that night flights could utilize the BDEGA east route. The FAA deemed the proposal to reduce vectoring feasible and indicated it could study the BDEGA east route. The FAA advised that the proposal to schedule and sequence flights to minimize impacts would be feasible in 2019 or later. The FAA had no policy direction to improve metrics. The City could consider regional committees and roundtables as a means to communicate with the FAA. The FAA had indicated it would not take action on solutions until local communities worked through regional committees to communicate with the FAA. No cities in Santa Clara County were represented on the San Francisco Roundtable. The Cities Association of Santa Clara County had formed an ad hoc roundtable committee to explore the development of a permanent South Bay Roundtable, which would potentially include representatives from Santa Clara County and Santa Cruz County. Council Member Scharff was chair of the ad hoc roundtable committee, which would make recommendations about forming a South Bay Roundtable to the Cities Association in June or July. Policy partners included the Quiet Skies Caucus in Congress and the National Association to Insure a Sound Controlled Environment (NOISE). With Council direction, the City could become a member of NOISE. The Policy and Services Committee recommended the City actively participate on available community roundtables; request noise monitoring in Palo Alto from SFO; pursue legislative priorities, including partnering with organizations such as NOISE; adopt Council positions for improvement of SFO's Fly Quiet Program, for the FAA to adhere to its agreement to increase altitudes over the Peninsula, for maximum use of the BDGEA east arrival route whenever possible, for collaboration on a regional position for system-wide solutions, for development of a noise-monitoring plan with other jurisdictions, for maximum sequencing and prioritization of air traffic control technology, for adoption of improved metrics; and for greater community engagement by the FAA, SFO, SJC. The Select Committee made additional recommendations related to the SERFR route, but Staff did not include those

in the recommendation because of technical complications. In its April report, the FAA indicated it would meet with a local roundtable within 90 days of finalizing design of the SERFR/BSR route. If the City wished to participate in meetings with the FAA, it should participate in a local roundtable. Use of either the SERFR or BSR route would impact the City of Palo Alto.

Mark Shull expressed concern about the City's decision not to pursue litigation and to focus on regional solutions. The claims made in the Los Angeles case were more applicable to Palo Alto's situation and should be examined. NextGen is noisy because of Optimized Profile Descents (OPD).

Rebecca Ward did not believe regional cooperation on its own would obtain relief from airplane noise. The City should file suit so that the FAA would work with the City.

Marie-Jo Fremont disagreed with Staff's recommendations regarding advocacy for a previous noise agreement and use of the BDEGA east route in the future.

Karen Porter felt the City needed to take bold actions. The FAA had not provided any substantive information regarding the SERFR3 amendment.

Thomas Rindfleisch strongly urged the Council to engage energetically in the Staff recommendations and to learn about or engage experts in airplane noise. The FAA had not provided real-world data.

Darlene Yaplee recommended the Council implement a fast-track process by the end of June, hire a technical expert, respond to the April FAA report, and lobby Senators regarding the FAA reauthorization.

Chet Sandberg supported the City filing a lawsuit.

Susan Thomsen emphasized the worsening airplane noise and the need to respond within the 60-day window.

Carl Thomsen urged the Council to take legal action.

Jennifer Landesmann concurred with Ms. Fremont's and Mr. Rindfleisch's comments.

Kerry Yarkin advocated for the Council to file a petition for review.

John Eaton encouraged the Council to take as much action as possible.

Stewart Carl noted the lack of regional cooperation from the City and County of San Francisco and encouraged Mayor Kniss to request their cooperation.

Robert Finn wished not to express his hope for a more courageous response to immediate events than the Council had until now evinced.

Rita Vrhel felt airplane noise would worsen if the Council did not file a lawsuit or a petition. She requested the Council take dramatic action.

Carrie Snyder did not believe the FAA considered or studied the health impact of moving flight paths to millions of people. The Council should take legal action against the FAA.

Ms. Flaherty clarified that the Council letter was submitted in anticipation of the November FAA report rather than in response to the November report. Staff would draft letters in response to current and future FAA reports at Council direction. Cities on the San Francisco Roundtable may have some involvement in OPD and SFO landing systems, but the City was not involved in that. On March 29TH, the FAA posted a number of proposals online but did not communicate directly with the City of Palo Alto. Public comment inquired about the City filing suit regarding the March 29TH action.

Molly Stump, City Attorney, advised that in each case attorneys would need to look for an actionable action by the FAA. Often a communication did not amount to that. A lawsuit filed to challenge a public agency's administrative action had to identify the action, its actionability, and a procedural or substantive right or obligation or error on the part of the agency. If the plaintiff prevailed in such a situation, typically the court would invalidate the action and refer it to the agency for a redo. The court would not make a different decision, and it would not address a wider group of issues.

Mayor Kniss reported that the Council met with an attorney approximately a month prior, and the attorney was rather adamant that the City did not have a case at that point. The attorney felt the Council should continue to look for opportunities.

Ms. Stump explained that the Council received legal counsel in confidence so that it could obtain a frank assessment of the strengths and weaknesses of various courses of action in a way that did not prejudice the City or anyone else who might file a legal action in the future. The Council reported that a legal action was not timely at that time.

Mayor Kniss requested Staff comment on the Newport Beach lawsuit.

Ms. Stump recalled that the Council's special counsel advised that the folks at John Wayne airport had been involved in litigation with the FAA for approximately 20 years. That lawsuit did not concern NextGen. Special counsel described a scenario in Newport Beach where the FAA had an option to place noise over an unpopulated area.

Council Member Fine felt the Staff recommendation incorporated much of the public's feedback. No one wanted airplane noise. Working with the FAA had been difficult, to say the least. The proposed motion focused on monitoring, regional cooperation, and work with Congressional leadership in an effort to solve the problem. The proposed motion directed Staff to provide support to Council Members who served on bodies addressing airplane noise. The proposed motion's sub-bullet points were incorporated from concerns voiced by the community at the Policy and Services Committee meeting. The Council's role was to provide strategic and policy direction for solving the problem. The Council had to be careful that it did not provide direction so specific or technical that it was unhelpful to the greater strategy.

Council Member Kou inquired about the difference between the National Environmental Policy Act (NEPA) and a categorical exemption. SERFR3 was implemented because of the categorical exemption. She inquired whether the City had any grounds for action on that basis.

Ms. Stump explained that Congress allowed the use of a categorical exemption, which was part of the NEPA process. A categorical exemption was a tool available to the FAA for that type of thing.

Council Member Kou asked at what point a categorical exemption was used.

Ms. Stump responded that it could be used when the FAA decided to use it.

Council Member Kou inquired about the rights of communities or citizens in that case.

Ms. Stump reiterated that one had to identify a procedural error before filing a legal action. She did not see a procedural error in the current situation.

Council Member Kou asked if a petition to review could be filed.

Ms. Stump clarified that Congress had stated the FAA made the decisions as long as the FAA followed certain procedures. The procedures were deferential to the FAA. While the community supported a petition for review or a lawsuit, Staff had not heard a basis for a petition or lawsuit. Federal law did not provide a right to be free on the ground from aircraft noise.

Council Member Kou reported during a meeting of the San Francisco Roundtable staff mentioned constant outreach to the community to obtain feedback and input. As liaison to the San Francisco Roundtable, she would provide reports to the community of its meetings. She did not believe the FAA would notify the City of Palo Alto or any city of any new procedure; cities would have to search for new procedures.

MOTION: Council Member Kou moved, seconded by Council Member DuBois to direct the Mayor to regularly assign one or more Council Members to actively participate on available community roundtables related to aircraft impacts; and direct Staff to:

A. Request temporary noise monitoring from San Francisco International Airport (SFO);

B. Provide support to Palo Alto Council Members participating on available community roundtables related to aircraft impacts;

C. Continue to include the health impacts of aircraft noise and emissions in the City's regional, state and federal legislative priorities and engage with policy makers and associated advocacy groups as appropriate;

D. Include in the above efforts Palo Alto's support for:

   i. Improvements to SFO's Fly Quiet Program;

   ii. Adherence to the agreement to, whenever able, increase the altitude of aircraft over the Peninsula;

   iii. Maximizing the use of the BDEGA East Arrival route to SFO when possible;

   iv. Collaboration with other jurisdictions to develop a regional position in support system-wide solutions by the Federal Aviation Administration (FAA);

   v. Development of a noise-monitoring plan in concert with other jurisdictions;

   vi. Maximizing sequencing under current conditions and prioritizing the application of air traffic control technology to improve sequencing and aircraft management to minimize community impacts;

   vii. Adoption of improved metrics for airplane noise and related impacts;

viii. Greater community engagement by the FAA, SFO and the San Jose International Airport (SJC); and

E. Hire a technical consultant to assist with a fast-track process by the end of June 2018 to include both a qualify phase and a legal filing phase and to allow the City, if necessary, to file a complaint within 60 days of FAA implementing a change;

F. Draft a letter to the FAA and congressional representatives in response to the FAA Update on Phase Two report from November 2017 and April 2018 and correct the Staff Report that the City follow Anna Eshoo's 2000 agreement regarding the 5,000 foot minimum height for MENLO; and

G. Remove from the Staff Report, "therefore, while this solution demonstrates a willingness on the part of the FAA to mitigate impacts on the Peninsula, it is not likely to produce any improvement from the current state (since it is already being utilized) and, instead, will likely shrink in value over time as a mitigating solution – at least with respect to daytime noise."

James Keene, City Manager, remarked that some items in the Motion were easier to fulfill with existing Staff capacity, and other items in the Motion needed to be more intentional without being prescriptive. For example, Staff's ability to meet a fast-track process by the stated date may be precluded by City procurement rules or something else. Staff needed to discuss its response to the Motion and provide a report to the Council. There could be some significant cost implications, which the Council would have to authorize.

Mayor Kniss asked if the City Manager was referencing a technical consultant.

Mr. Keene wanted the Motion to reflect the Council's intent without wordsmithing it.

Vice Mayor Filseth inquired whether language such as "direct Staff to develop a fast-track process" would be more appropriate.

Mr. Keene was attempting to think of a way to revise the Staff Report as Staff Reports were not typically revised. The language should signal intention or direction to the Staff to return to the Council with feedback.

Mayor Kniss noted the Council did not have information regarding a technical consultant, a budget, or a fast-track process.

Council Member Kou advised that the date was needed because the FAA or Congressional members could provide more actions, of which the City might not be aware. The City could not wait to hire a technical consultant. She was not firm on a June 2018 date, but she wanted to know when a consultant could be hired.

Mr. Keene suggested the language state "as quickly as possible," and Staff would consider the matter and provide the Council with a date.

Council Member Kou asked when Staff could report to the Council.

Mr. Keene answered as soon as possible.

Mayor Kniss needed to know if the Council was including the last three items in the Motion.

Council Member DuBois noted the Policy and Services Committee vote included Items 1, 2, and 3 shown on Packet Page 205, which included the fast-track process and a letter to the FAA. The Policy and Services Committee moved the Staff Report with inclusion of three items from Marie-Jo Fremont's letter.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace Motion Parts E-G with, “plan a litigation strategy in support of legislative change and investigate the best approach for filing a timely lawsuit within 60 days of an appropriate new event:

i. Work on forming a multi-city legal alliance;
ii. Define a process to monitor FAA flight path changes; and
iii. Evaluate retaining Kaplan Kirsch or another legal expert.”
(New Part E)

Ms. Stump requested the opportunity to evaluate a legal expert. Kaplan Kirsch were expert attorneys, but they might not be the most cost-effective. The intent of the Motion seemed to be the identification of various items that the FAA might bury in the *Congressional Record* or the *Federal Register*. Once Staff was aware of a potentially actionable item, they had a process in place to work with expert attorneys. If an item came up, she could place an item on the Agenda with only 72 hours' notice as required by the Brown Act.

Vice Mayor Filseth indicated Council Member Kou's question was how did the Council give Staff direction to close that gap as soon as possible.

Ms. Stump understood the intent. The legal team and the City Manager's team should consider options for doing that. It could involve some consulting dollars, whether for lawyers or non-lawyers.

Vice Mayor Filseth stated Ms. Stump was asking the Council to let her investigate and determine whether the City hired Kaplan Kirsch or someone else.

Ms. Stump advised that Staff could provide at least a status update, if not more, before the Council break.

Council Member Kou did not want to miss an opportunity for filing comments or complaints or a lawsuit. The City needed an expert to notify the City of those opportunities.

Ms. Stump had opened conversations with City Attorneys for cities in Santa Clara County and could contact cities on the new South Bay Roundtable. She requested clarification of "plan a litigation strategy in support of legislative change." The City's legislative effort was a direct effort through lobbyists.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, “develop a system to evaluate and respond to the FAA Update on Phase Two, November 2017 and April 2018 and future FAA Reports.” (New Part F)

Council Member DuBois was impressed by the City of Newport Beach's lawsuit against the FAA and the results it obtained. He inquired whether the Kirsch memorandum was public information.

Ms. Stump replied yes.

Council Member DuBois noted the Kirsch letter stated they could not identify any NEPA documentation to support the action. That could have been an opening for the City.

Ms. Stump advised that community members had identified more specific items. That issue was not the determining factor for the Council's decision not to pursue litigation.

Council Member DuBois believed future changes should consider environmental impacts to Palo Alto's Baylands and parks and highlight impacts to historic districts and historic buildings. The City needed a system to respond quickly. The intent of the Motion was to monitor the current

situation and find a means to put legal pressure on the FAA in the event of an actionable action.

Mr. Keene requested clarification of "direct staff as fast as possible to plan a litigation strategy."

Council Member DuBois explained that other cities had legal strategies that resulted in legislative change.

Ms. Stump disclosed that litigation in other cities resulted in administrative-level changes. The FAA may have made changes to its procedures. Legislation implied acts of Congress.

Vice Mayor Filseth requested Staff provide language.

Mr. Keene offered "to support procedural changes to improve the situation in Palo Alto and investigate the best approach for filing timely lawsuits within 60 days of an appropriate or relevant new event."

Council Member Kou inquired about revising the Staff Report.

Ms. Stump encouraged Council Member Kou not to include that in the Motion. The Staff Report was prepared at a moment in time and was not intended to be the perfect statement of any situation or analysis of a complex issue. The Council could inform Staff of its view on the issue by noting its view in the Motion.

Mr. Keene indicated the Council's direction superseded Staff's opinion offered in a Staff Report.

Council Member Kou was not comfortable with the Staff Report stating it was not likely to produce any improvements from the current state and would shrink in value.

Ms. Stump reported the language should reflect direction for Staff to resist any shrink in value.

Council Member Kou did not want to say "not likely to produce any improvement."

Ms. Flaherty reported Staff's intent was to manage expectations and to underscore disappointment with limitations of the FAA's offer.

Council Member Kou wanted the record to reflect the City of Palo Alto's concurrence with Congresswoman Eshoo's original 2000 agreement. The baseline was 5,000 feet, and changes should be higher than 5,000 feet.

Ms. Flaherty clarified that the Staff Report sought to point out the FAA's decision not to honor that.

Council Member Wolbach believed the Council's and Staff's view of the issue had substantially changed in the last few months. The FAA providing relief was not likely. Monitoring FAA decisions for changes in flight paths was important. Council Members had attempted to address the misinformation that Palo Alto did not want to work with other cities. He inquired about Staff's work with lobbyists on legislation.

Ms. Flaherty reported the City's Federal lobbyists were monitoring the FAA reauthorization bill and poised to notify the City when it was ready for a vote. Lobbying would be more effective closer to a vote on the bill.

Council Member Wolbach felt it was important for the City to implement systems that could detect an opportunity for the City to take action.

Council Member Tanaka wanted to seek a political solution as well as a legal solution and inquired about possible political action.

Ms. Flaherty reported the City had a history of partnering with its legislative delegation at the Federal level on the issue. The political activity around airplane noise had been substantial.

Council Member Tanaka was referring to people extremely familiar with the FAA and with ways to have the FAA follow Palo Alto's views. He asked if lobbyists followed issues other than airplane noise.

Ms. Flaherty reported the City's primary contact within the lobbying firm was the former head of Congressional relations for the Department of Transportation.

Council Member Tanaka inquired about the preeminent lobbyist for the FAA. Perhaps the City could partner with other cities to hire a lobbyist renowned for his work with the FAA.

Ms. Flaherty advised that the City hired its current lobbyist because of their connections to the Department of Transportation. The Staff recommendation included working with NOISE, a Federal advocacy group on airplane noise.

Council Member Tanaka asked if the current lobbyist had achieved a change in a flight path for a community.

Ms. Flaherty indicated a change in a flight path was not achieved through legislation.

Council Member Tanaka wanted someone influential with the FAA to effect a change.

Ms. Flaherty stated no single lobbying firm carried that kind of power with any Federal agency in her experience as Deputy Chief of Staff for the U.S. Department of Transportation.

Council Member Tanaka asked if there was anything else the City could do politically to sway the FAA.

Ms. Flaherty believed the City was doing everything possible.

Mr. Keene suggested it was much easier for the FAA to ignore efforts as long as the cities were fractured in their viewpoints. The Council was the City's representative to other political bodies.

Council Member Tanaka asked politically why did airplane noise get pushed into Palo Alto.

Mayor Kniss suggested Council Member Tanaka meet with Ms. Flaherty to learn the background to airplane noise.

Ms. Flaherty explained that part of the issue resulted from the FAA's efforts to become more efficient, which was driven politically by competing interests. To increase economic benefits and to increase efficiency, flights were moved into more refined paths, which impacted fewer people. Fewer communities were impacted, but the impacted ones were impacted more deeply.

Vice Mayor Filseth was struck by Congresswoman Speier's amendment to elevate the priority of residential concerns over efficiency. He asked if the City should be a member of advocacy groups.

Ms. Flaherty remarked that NOISE was the one advocacy group that attempted to unite communities across the country, their legislative representatives, and their lobbyists to strengthen the cumulative voice on issues.

Mayor Kniss commented that airplane noise began with the implementation of NextGen, and the City had no role in NextGen. The situations for Newport Beach and Phoenix were different from Palo Alto's situation. The City attempted to gain a seat on the San Francisco Roundtable, but it was not invited to participate.

MOTION AS AMENDED PASSED: 8-0 Scharff absent

9. ~~PUBLIC HEARING: Finance Committee Recommends Adoption of an Ordinance Amending Title 16 of the Palo Alto Municipal Code by Establishing an Updated Citywide Transportation Impact Fee and Indefinitely Suspending Application of the Existing Area-specific Transportation Impact Fees for the Stanford Research Park/El Camino Real CS Zone and the San Antonio/West Bayshore Area, and Amending the Municipal Fee Schedule to Update the City's Transportation Impact Fees in Accordance With These Changes, all in Furtherance of Implementation of the Comprehensive Plan. The Citywide Transportation Impact Fee is a One-time fee on new Development and Redevelopment Throughout Palo Alto to Fund Transportation Improvements to Accommodate and Mitigate the Impacts of Future Development in the City. 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.~~

This Agenda Item continued to August 13, 2018.

State/Federal Legislation Update/Action

None.

Council Member Questions, Comments and Announcements

None.

Adjournment: The meeting was adjourned at 11:17 P.M.