



CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting
December 9, 2019

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

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

Absent:

Special Orders of the Day

1. Proclamation Honoring Donatus "Dee" Okhomina.

Council Member Cormack recognized City Staff for providing support to Mr. Okhomina's family, commended the Fire Department Honor Guard and read the Proclamation into the record.

Ed Shikada, City Manager received the Proclamation and the Council's condolences on behalf of the family.

2. Proclamation Honoring Project Safety Net's 10 Year Anniversary.

Council Member Kou read the Proclamation into the record.

Council Member DuBois showed appreciation for their work over the past ten years.

Rail Communications Update

3. Rail Grade Separation Updates: Report and Possible Direction on Communications and Community Engagement and Previously Proposed Rail Blue Ribbon Commission, and Verbal Update from the Expanded Community Advisory Panel (XCAP).

Ed Shikada, City Manager reported Staff recommended the Council no longer consider forming a Rail Blue Ribbon Commission (RBRC). Town Hall meetings with Council participation were being scheduled for the spring. He thought the Council may wish to discuss its continued interaction with the Expanded Community Advisory Panel (XCAP).

Meghan Horrigan-Taylor, Chief Communications Officer advised that Connecting Palo Alto had moved into the community communication phase.

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The goal of the phase was to provide community-wide awareness and engagement. A community meeting was held in early November, 2019, and more than 160 members of the community participated in the meeting. A new website and blog series had been launched. A fact sheet discussing each alternative and a flyer highlighting community engagement were now available. Community meetings were to work in conjunction with XCAP meetings.

Nadia Naik, XCAP Co-Chair indicated the XCAP had formed small groups to review options in detail and prepare requests for additional information and clarification. The XCAP had recruited four civil engineers from the community to assist it. The XCAP had invited new iterations/ideas from the public and had received six new ideas/iterations. Grade separation alternatives under consideration in Mountain View and Sunnyvale were more complicated and more expensive than first thought and could have implications for Measure B funding. Caltrain had begun the Request for Proposal (RFP) process for replacing the San Francisquito Creek bridge. Palo Alto Avenue alternatives included closure and a hybrid, but early drawings for the hybrid demonstrated it was going to impact the San Francisquito Creek bridge. Caltrain's RFP was going to affect the City's timetable for the Downtown Coordinated Area Plan. XCAP continued to gather information and had not begun any deliberations. The Council needed to agendize a discussion of the interplay between the Palo Alto Avenue and Churchill intersections and impacts to the XCAP process and the Downtown Coordinated Area Plan. On December 18, 2019, the XCAP was going to review the new ideas and determine whether they wanted to recommend any of them to the Council in January, 2020.

Vice Mayor Fine asked if the XCAP was on track to meet its April, 2020 deadline.

Ms. Naik stated the XCAP was working toward the deadline and would need some help to meet the deadline.

Vice Mayor Fine suggested the XCAP approve or deny the new ideas quickly and effectively. He requested comment regarding a Council liaison to the XCAP.

Ms. Naik did not believe a liaison would benefit from attending each XCAP meeting. It was more helpful for a liaison to meet with the Co-Chairs and Staff.

Council Member Kniss asked if the XCAP planned to utilize any consultants.

Ms. Naik replied no. The four engineers were working with the XCAP to evaluate ideas for obvious flaws.

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Mayor Filseth noted discussion of the various alternatives was not agendized.

Barbara Hazlett remarked that closure of Churchill would have an adverse impact on Embarcadero Road and the Professorville neighborhood. Construction of an underpass for pedestrians and bicyclists was the logical alternative to closure of Churchill. The Churchill crossing needed to remain open and at-grade.

Rachel Kellerman addressed Professorville residents' lack of awareness of grade separation issues. The neighborhood requested more thoughtful and productive public engagement.

Tom Kellerman believed a dialog between experts and community members would be an important element of community members providing feedback. He requested Staff or the XCAP host a community workshop with the experts so that community members could ask questions and provide input.

Dexter Girton inquired about the appropriate time for him to comment regarding the impacts of closing Churchill.

Mr. Shikada suggested Mr. Girton present his comments during a Town Hall.

Council Member DuBois proposed Mr. Girton comment during Oral Communications.

Michael Chacon did not support either alternative under discussion for Churchill. He challenged the Council to reduce and alleviate all long-term impacts and to extend the Traffic Study beyond 2030.

Hamilton Hitchings felt the process did not incorporate macro decisions. A cost of \$2-4 billion was simply too high for the value.

Winter Dellenbach assumed the Council would protect El Palo Alto during Caltrain's replacement of the San Francisquito Creek bridge. The explanatory handouts at the community meeting were fabulous.

Kathy Jordan related that grade separations rather than electrification would mean more frequent train service. Residents were being asked to finance grade separations and subsequent increased train service, all resulting in bifurcation of the community.

Roland LeBrun commended the Council for setting up the XCAP process and Ms. Naik for engaging community experts. He recommended the Council utilize the XCAP process for the station advisory group.

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Keith Bennett, Save Palo Alto's Groundwater noted that tunnels and trenches would act as dams to groundwater flows and could require the pumping of tremendous amounts of groundwater. Groundwater needed to be carefully analyzed in all planning for grade separations.

Mr. Girton commented that the proposal for four traffic lights on Embarcadero would cause massive traffic congestion. The best solution for both safety and traffic was elevated trains over Churchill.

Council took at break at 5:58 P.M. and returned at 6:03 P.M.

AT THIS TIME COUNCIL TOOK UP AGENDA ITEM NUMBER 4.

Study Session

4. Study Session with Santa Clara County Supervisor Joe Simitian.

Supervisor Joe Simitian reported the annual conversations had been helpful in illuminating the City's main concerns. Council Members had expressed interest in hearing about funding for the Highway 101 Bike Bridge, next steps for Stanford University development, the status of homeless initiatives and services, and an update regarding the Alcove space for teens. The most recent adopted budget totaled approximately \$8 billion.

Council Member Kniss inquired about services the County of Santa Clara (County) provided to the City of Palo Alto.

Supervisor Simitian remarked that a concentration of greater need in other parts of the County had resulted in few County facilities located in the North County. He had worked to retain County facilities. The County had purchased property for a permanent, year-round homeless shelter in Sunnyvale. A County grant had funded half of the kitchen at Avenidas.

Vice Mayor Fine inquired regarding the County's approach to long-term funding for transit and proposed ballot measures for new taxes.

Supervisor Simitian clarified that the Santa Clara Valley Transportation Authority (VTA) was not a County agency. In 2016, he sought meaningful congestion relief throughout the county and a 25 percent cap on funds provided to Bay Area Rapid Transit (BART) in exchange for support of Measure B. He had opposed an increase in bridge tolls because it would be inherently regressive. He was to review the Faster Bay Area and the Caltrain Tax measures when more information was available. Two proposals for sales tax increases had been presented to the Board of Supervisors on behalf of the County, and he had not supported either proposal.

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Council Member DuBois appreciated Supervisor Simitian's work on the Stanford University General Use Permit (GUP). He requested Supervisor Simitian comment regarding funding for affordable housing and a safe parking program.

Supervisor Simitian indicated he last spoke with a representative of Stanford University on November 1, 2019, when the application was withdrawn. County Planning Staff had spoken with Stanford University representatives regarding development under the existing GUP. Under the existing GUP, approximately 175,000 square feet of development capacity remained. If Stanford University demolished an existing structure, they were to receive a replacement credit for the square footage demolished. Under the Community Plan, Stanford University had to submit an application for a new GUP once the 175,000 square feet was consumed. A condition of approval for the existing GUP required Stanford University to pay a Housing Mitigation Fee to create affordable housing within a 6 mile radius of the campus. Over the past 19 years, all of the housing mitigation fees had been dedicated to projects in Santa Clara County. Development of the remaining 175,000 square feet were to generate funds for affordable housing projects; however, some of the funds had already been committed to the Teacher Housing Project.

Council Member DuBois inquired about the level of the Impact Fee.

Supervisor Simitian explained that the Housing Mitigation Fee was linked to Palo Alto's Development Impact Fee. The County had provided funding for services and support of the Lots of Love parking program in Mountain View. The challenge had been identifying parking lots for the program. In March 2020, his office was to work with the City of Mountain View to promote safe parking lots. The City of Palo Alto was welcome to join the effort.

Council Member Cormack appreciated Supervisor Simitian's support of La Comida and Planned Parenthood and the County's work with Catholic Charities on the house sharing program. She inquired about the Alcove program for teens.

Supervisor Simitian advised that the Alcove program was a different model for the delivery of mental health services to teens. A site on Middlefield Road had been leased for the program and should begin providing services in the middle of 2020. Alum Rock Counseling would coordinate services. Teenagers did not need an appointment or insurance to receive services.

Council Member Tanaka inquired about County actions and programs around vaping.

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Supervisor Simitian related that the County had prohibited the sale of e-cigarettes in the unincorporated portions of the County. He thought the City may want to review the County's Ordinance as a model for a City Ordinance.

Council Member Tanaka noted the difficulty of enforcing prohibitions against online sales.

Supervisor Simitian did not recall whether the Ordinance addressed online sales.

Council Member Tanaka inquired about enforcement of the Ordinance.

Supervisor Simitian explained that the structure for fines accelerated the increase in fines due to past violations.

Council Member Tanaka asked about fines for selling tobacco products to minors.

Supervisor Simitian advised that there was little interest in fining minors for possessing tobacco products.

Council Member Tanaka asked if Supervisors had discussed other methods that might reduce the number of minors using e-cigarettes.

Supervisor Simitian stated the discussion included the importance of awareness and education and engaging the kids who were difficult to reach.

Council Member Kou inquired about Supervisor Chavez's initiative to work more closely with San Mateo County regarding the GUP.

Supervisor Simitian believed Supervisor Chavez had gained an understanding that the impacts of substantial development were regional in scope. Supervisor Chavez was interested in developing a compact for development. He had convened a meeting of all six jurisdictions affected by Stanford University development, and the meeting was well received. Those meetings were expected to continue on an ad hoc basis. For the recent GUP application, 11 governments from two counties provided feedback and were represented in the hearings.

Council Member Kou asked if Supervisor Chavez's work might include transportation issues.

Supervisor Simitian felt it was too early to speculate because the range of issues could be wide.

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Mayor Filseth remarked that the challenge of affordable housing was funding. VTA was gradually reducing service in the North County. The Palo Alto shuttle was possibly going to replace some of the VTA service, but funding for the shuttle program was an issue. He requested an update regarding the Teacher Housing Project.

Supervisor Simitian reported the proposed site could accommodate 60-120 units. The Board of Supervisors had agreed to set the site aside for teacher housing. He had spoken with five school districts, and each expressed interest in the Project. Facebook had offered a grant of \$25 million for the Project. Mercy Housing, the County's development partner, had indicated 93 units were possible on the site. A rough estimate of the cost was \$54 million. County funding of \$4 million was possible for the Highway 101 Bike Bridge.

Herb Borock suggested Stanford University's next GUP application should cover adjoining property in the City of Palo Alto. The Alcove program needed to be considered medical office rather than personal services. The property needed to be added to the lease adopted October 22, 2019.

Roland LeBrun recalled that Santa Clara County residents paid 1.625 percent in Transportation Taxes. With tax measures for Caltrain and Faster Bay Area, the tax was going to reach 3 percent. The use of a Faster Bay Area Tax needed to be determined first.

AT THIS TIME COUNCIL RESUMED DISCUSSION OF AGENDA ITEM NUMBER 3.

Rail Communications Update

3. Rail Grade Separation Updates: Report and Possible Direction on Communications and Community Engagement and Previously Proposed Rail Blue Ribbon Commission, and Verbal Update from the Expanded Community Advisory Panel (XCAP).

Council Member DuBois asked if the Town Hall meetings would focus on grade separations.

Meghan Horrigan-Taylor, Chief Communications Officer replied yes. If members of the community had questions regarding other matters, Staff was going to contact them at a later time.

Council Member DuBois noted a liaison to the Expanded Community Advisory Panel (XCAP) would not be able to set policy or state the view of the Council.

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Ed Shikada, City Manager explained that Staff's recommendations were meant to provide the Council with options to stay connected to the XCAP.

Council Member DuBois hoped the Office of Transportation would be involved. He thought the historic San Francisquito Creek bridge could be preserved as a pedestrian bridge and preferred the XCAP provide updates to the Council.

Mayor Filseth reiterated that the purpose of the XCAP was to provide the Council with information to make a decision.

Council Member Cormack agreed to eliminate a Rail Blue Ribbon Commission (RBRC) from consideration. She expected Council Members would attend the Town Hall meetings. Summaries of the Town Hall meetings were incredibly helpful. A Council Ad Hoc Committee or liaison was not necessary given the detail of the XCAP's Report to Council.

Council Member Kniss expressed concern that the XCAP had made no decisions when the deadline was three months away. Costs were still unknown. The alternatives were concerns for the community. An Ad Hoc Committee was a good idea.

Council Member Kou asked if XCAP members and experts would be available during the Town Hall meetings to answer questions from the community.

Ms. Horrigan-Taylor advised that the Town Hall meetings would include a Staff or consultant presentation, an opportunity for questions and answers and breakout groups to discuss specific issues with alternatives. The remaining three meetings were to be informal with Staff available to answer questions.

Council Member Kou inquired regarding communications with the Palo Alto Unified School District (PAUSD).

Mr. Shikada clarified that the PAUSD representative had planned to attend XCAP meetings as a member of the audience. In addition, he communicated with the PAUSD Superintendent regularly.

Council Member Kou asked if Staff would present information to school Parent Teach Associations (PTA).

Mr. Shikada agreed to speak with PAUSD and obtain its recommendation for addressing PTAs.

Vice Mayor Fine noted points of consensus among the Council. A Council liaison to the XCAP was not necessary. He requested copies of the traffic reports.

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Mr. Shikada clarified that Caltrain continued to address the historic bridge and consider options for alignment.

Vice Mayor Fine encouraged Staff to provide different perspectives during the Town Hall meetings. He requested details of the surveys and questionnaires.

Ms. Horrigan-Taylor explained that the surveys would be provided by social media platforms with a longer online survey regarding alternatives and options. The current survey was designed to gauge the community's current understanding of grade separations.

Vice Mayor Fine inquired regarding the pros and cons of an RBRC.

Mr. Shikada suggested community concerns regarding another committee could be alleviated with Council action to dispense with the RBRC. An RBRC was not necessary to proceed with the XCAP and community engagement.

MOTION: Vice Mayor Fine moved, seconded by Council Member Cormack to eliminate consideration of the Rail Blue Ribbon Commission (RBRC).

Vice Mayor Fine noted more work was needed. The XCAP was making progress.

Council Member Cormack was comfortable with the XCAP process and Staff's ability to work with the Finance Committee.

MOTION PASSED: 7-0

Mayor Filseth noted the Mayor could form an Ad Hoc Committee at any time.

Molly Stump, City Attorney reported Council Members should primarily listen at the Town Hall meetings.

Council took a break at 7:40 P.M. and returned at 7:48 P.M.

Agenda Changes, Additions and Deletions

Ed Shikada, City Manager noted the revised Agenda included Agenda Item Number 8A.Oral Communications

Inder Monga felt the Traffic Report did not accurately represent the traffic situation. The Traffic Report seemed to indicate traffic congestion could be mitigated. No on-street parking would create even more problems. Bikes were not considered in the Report.

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Reshma Singh requested a revised Traffic Report that addressed Stanford University, Palo Alto Avenue, University Avenue and Castilleja plans for expansion. Neighbors needed a way to provide comments.

Mark Weiss advised that the City should be celebrating the fifth anniversary of the Mitchell Park Community Center. Interesting events were scheduled in the ballroom.

Mark Shull read from a University of Washington Study of the dangers of ultrafine aircraft exhaust particles.

Ken Horowitz suggested the Council prioritize Cubberley Community Center and stop trying to work with the Palo Alto Unified School District (PAUSD).

Dave Epstein asked the Council to consider the effects of grade separations on all neighborhoods. Traffic studies were woefully inadequate.

Keith Bennett, Save Palo Alto's Groundwater reported the City's dewatering regulations were not working as intended.

Greg Zicarelli advised that the Project at 2151 Byron did not comply with dewatering regulations. Construction with secant walls was effective.

Roland LeBrun presented information about the construction of a tunnel and shoefly tracks within the right-of-way at a cost of \$250-\$300 million.

Jay Hashmi expressed concern about the safety of students biking to school at all grade crossings. The simulation model used in the Traffic Report did not consider many variables.

Fred Balin commented that the Council's process for selecting candidates for Board and Commission interviews should be changed. Candidates needed a general baseline of knowledge.

Consent Calendar

Council Member Kniss advised she would not be participating in Agenda Item Number 8A due to owning an apartment property.

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

Anil Babbar, addressing Agenda Item Number 8A expressed concern about the impact of the retroactive provision on landlords who had filed a lease termination.

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Jennifer Liu, addressing Agenda Item Number 8A opposed the Urgency Ordinance because it was not necessary and would cause landlords to expend additional funds.

MOTION: Council Member DuBois moved, seconded by Council Member Kou to approve Agenda Item Numbers 4-8A.

5. Approval of a License Agreement with PTI US Towers II, LLC for Continued Operation of Telecommunications Facilities on a City-owned Property Located at 2675 Hanover Street.
6. Approval of Amendment Number 2 to Contract Number S16161854 With Tandem Creative Inc. for Graphic Design and Public Outreach Services to Extend the Contract Term With no Increase in Maximum Compensation.
7. Approval of Amendment Number 2 to the Agreement with Palo Alto Unified School District (PAUSD) for PAUSD Athletic Field Brokering and Maintenance Cost-sharing to Extend the Term to December 2021 With an Optional Mutual Extension for an Additional Two Years.
8. Approval of an Agreement with the Peninsula Corridor Joint Powers Board in the Amount of \$112,176 for the 2020 Caltrain Go Pass Program.
- 8A. Colleagues' Memo From Council Members DuBois and Kou Regarding Potential Adoption of an Urgency Ordinance 5486 Entitled, "Ordinance of the Council of the City of Palo Alto to Provide Just Cause Eviction Protections to Tenants Until California State Assembly Bill 1482 Takes Effect on January 1, 2020 (Continued From December 2, 2019)."

MOTION PASSED FOR AGENDA ITEM NUMBERS 5, 7, and 8: 7-0

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

MOTION PASSED FOR AGENDA ITEM NUMBER 8A: 6-0 Kniss recused

Council Member Tanaka noted the rates for graphic design in Agenda Item Number 6 were high.

City Manager Comments

Ed Shikada, City Manager reported the National Citizens Survey was now the National Community Survey. Staff was going to provide a Report to the Council in January, 2020. Rain had delayed tree maintenance work on the bike path off Arastradero Road. Work was scheduled to begin on

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December 10, 2019 and was going to extend for two weeks. The Utilities Department had been honored with a Smart Energy Provider Award by the American Public Power Association. The next Expanded Community Advisory Panel (XCAP) meeting was scheduled for December 18, 2019.

Action Items

9. Council Direction on Scope of Review for Procedures and Protocols Related to Boards and Commissions.

Monique Le Conge Zieshenne, Assistant City Manager requested Council direction regarding the scope of review of the Procedures and Protocols for Boards and Commissions. Topics for review included the role of Council liaisons, the relationship between Boards and Commissions and the Council, Commissioner conduct and terms and other administrative processes.

Mayor Filseth advised that Council Member DuBois and Council Member Cormack were members of an Ad Hoc Committee that were going to work with Staff.

Council Member Kniss commented that the Boards and Commissions Ad Hoc Committee would review essentially the same topics as the Policy and Services Committee.

Mayor Filseth asked if the Ad Hoc Committee and the Policy and Services Committee discussing the same topics could be managed in terms of the Brown Act.

Molly Stump, City Attorney indicated the Council should determine which body would review the Procedures and Protocols.

Council Member Kniss related that review of policies was a standard assignment for the Policy and Services Committee.

Mayor Filseth explained that he appointed the Ad Hoc Committee because the Council had not adequately considered the Policies and Procedures. The Council needed to discuss whether the Policy and Services Committee should review the Policies and Procedures.

Council Member Kniss asked if the Policy and Services Committee should have taken up the issue earlier in the year.

Mayor Filseth felt the Policies and Procedures needed some focus.

Council Member Kniss asked if there were more problems than the one addressed by a member of the public.

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Mayor Filseth believed there were a number of problems.

Ed Shikada, City Manager noted Section 2.4 of the Policies and Procedures addressed the interaction between the Council and Boards and Commissions. Several sections of the Municipal Code addressed Commissions. The Policy and Services Committee was reviewing the Policies and Procedures. The relationship between the Council and Boards and Commissions was able to be described better. He was aware of several instances of friction between Staff and Commissioners about issues raised by Commissions and presented to the Council. A number of Commissions had identified issues they wanted to address and had begun work on the issues without any indication that the Council was interested in the issues. Staff was caught in the middle because Commissions did not assign work to Staff.

Council Member Kniss understood the Ad Hoc Committee of two Council Members was not required to meet in public but would present its work to the Council. The Ad Hoc Committee was substituting for the Policy and Services Committee. The purpose of the Policy and Services Committee was to obtain public input. She was troubled by the role of the Ad Hoc Committee.

Valerie Stinger believed Commissioners wanted to discuss the work of the Boards and Commissions with the Council rather than the function or mechanics of the Boards and Commissions. Specific direction from the Council was more productive for Boards and Commissions' work than wide latitude. Boards and Commissions were more effective with established ground rules and a process for the Council to review or approve annual priorities for Boards and Commissions.

Bob Moss suggested Boards and Commissions should be allowed to evaluate topics brought to their attention by the community, Staff and the Council.

Fred Balin remarked that there was valid reasoning and public support for removal of Mr. Alcheck from the Planning and Transportation Commission (PTC). The Municipal Code authorized removal of Commissioners, and the Policies and Procedures provided a mechanism for removal. Term limits for Commissioners were appropriate. All Board and Commission meetings needed to be open to the public. Rules for Boards and Commissions needed to be standardized and to align with Council rules and procedures.

Rebecca Eisenberg suggested an Independent Review of Policies and Procedures was appropriate. The Municipal Code contained answers to many of the questions posed about Policies and Procedures. There was no excuse for Commissioners not to disclose potential conflicts of interest.

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Mayor Filseth commented that the topic was a review of Board and Commission processes. He requested Council Members discuss the content of review, which could inform the structure of the review.

Council Member Cormack expressed surprise at the range of meeting management techniques employed by Boards and Commissions. Commissioners had contacted her with concerns about working with the Council and their colleagues. Her goal was to create a better working environment for the dozens of Commissioners who volunteered their time. The Council was responsible for providing a clear structure for the work of Boards and Commissions. Topics for potential Council review included policy versus operations; the use of Ad Hoc Committees; attendance of Council liaisons; roles and responsibilities for Commissioners; attendance; appropriate behavior with colleagues and Staff; the neutral role of the Chair; agenda development; recusals and disclosures; options for Boards and Commissions to regulate behavior; and options for the Council to handle violations of rules and responsibilities. Term limits and student representatives were appropriate topics for consideration. Current and former Commissioners had to be interviewed as to their experiences on Boards and Commissions.

Vice Mayor Fine noted the PTC, Architectural Review Board (ARB), and the Historic Resources Board (HRB) had requirements mandated by State law.

Ms. Stump clarified that the ARB and HRB may not be required by State law.

Vice Mayor Fine indicated a statement or goal should be developed for Boards and Commissions. He concurred with interviewing current and former Commissioners. The Council needed to address the conflict between Staff and Boards and Commissions. Potential topics for discussion included expectations of Boards and Commissions; qualifications for Commissioners; term limits; recusals and disclosures; attendance; and rules of conduct and behavior. He inquired whether the Municipal Code provided a procedure to remove Commissioners.

Ms. Stump answered yes.

Mayor Filseth clarified that the Municipal Code indicated the Council may remove a Commissioner but did not provide a process.

Vice Mayor Fine added that Staff support and Council liaisons' roles should be defined. He thought the Council may want to address public awareness of Board and Commission meetings, training for Commissioners, Boards and Commissions utilized by other cities and agenda development.

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Mayor Filseth agreed that agenda setting was an issue for Boards and Commissions.

Council Member Kou suggested applications include a question about length of residency in Palo Alto. Decorum for Boards and Commissions needed to be defined. Boards and Commissions needed to form Ad Hoc Committees to work on particular topics without Staff assistance. She inquired whether the oath of office was the same for Commissioners and Council Members.

Beth Minor, City Clerk replied yes.

Council Member Kou agreed that training was important for Boards and Commissions. All Commissioners needed to serve as Chairs and Vice Chairs. A removal process had to be defined. She questioned whether anyone reviewed Form 700s submitted by Commissioners. Rules of order had to be the same for Boards and Commissions. Staff needed to utilize equipment to assist Commissioners with Motions. Council liaison roles were important for Council Members.

Council Member Tanaka commented that the Council could delegate more work to Boards or Commissions, and items from Boards and Commissions could be placed on the Council's Consent Calendar. Commissioners were appointed by Council Members.

Council Member DuBois proposed creation of a Board and Commission handbook. Recommendations needed to be brought to the Council in the next few months.

Mayor Filseth asked if Council Member comments had met Staff's expectations.

Mr. Shikada answered yes. The next question was the process for addressing Council comments.

Council Member Kniss suggested an Ad Hoc Committee be created at the beginning of 2020 if the Policy and Services Committee did not take up the issue. She inquired about the rights of a Commissioner being considered for removal from a Board or Commission.

Ms. Stump advised that local law clearly stated the Council as the appointing body may remove Commissioners. In the past, removals had been handled informally and cooperatively. Staff was able to assist the Council with preparing procedures in the Council rules or the Municipal Code if the Council wished.

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Council Member Kniss related that she had not seen a Council vote to remove a Commissioner.

Vice Mayor Fine suggested Commissioners had resigned when presented with the fact that the Council could vote to remove them.

Council Member Kniss questioned whether the relationship between the Council and Boards and Commissions needed to be structured and clarified.

Mayor Filseth felt the work and function of Boards and Commissions should be clarified.

Council Member Kniss preferred the Policy and Services Committee handle the issues in public hearings.

Mayor Filseth reported the Policy and Services Committee was busy, and the current process was slow. An Ad Hoc Committee was able to accomplish the task quickly. Work was able to begin before the first of the year.

Vice Mayor Fine proposed additional topics of former Council Members serving on Boards and Commissions and adding or eliminating any Boards or Commissions. The Council was able to consider the purpose of Boards and Commissions, Board and Commission alignment with Staff and/or the Council; expectations for Staff support; the need for Boards and Commissions; and the mechanics of Boards and Commissions. He had no preference with respect to the Policy and Services Committee or an Ad Hoc Committee taking up the issues. Either reported to the Council.

Council Member Cormack advised that Council Member DuBois and she had met and begun work. The objective of the Ad Hoc Committee was to review and revise the purpose, process, and standards for Boards and Commissions to work with the Council. The Ad Hoc Committee had outlined questions for a survey of current and former Commissioners. The Ad Hoc Committee was able to consider adding or eliminating Boards and Commissions.

Council Member DuBois indicated the Ad Hoc Committee could return to the Council with recommendations in early February, 2020. The survey was going to be emailed to Commissioners for comment.

MOTION: Council Member DuBois moved, seconded by Mayor Filseth to direct the ad hoc committee to work with Staff on the issues listed in the Staff Report, including additional items raised by Council, for processes from recruitment through serving and working with Council.

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Vice Mayor Fine proposed Council Members submit requests for the Ad Hoc Committee to address specific topics.

Council Member Kniss asked if the Policy and Services Committee Agenda should be revised.

Council Member DuBois clarified that the Ad Hoc Committee would address Board and Commission work, most of which was referenced in the Municipal Code.

Council Member Kniss as Chair of the Policy and Services Committee needed to understand the specific work of the Ad Hoc Committee.

Council Member DuBois understood the Policy and Services Committee was scheduled to review the Council Protocols and Procedures.

Council Member Kniss reiterated concerns about the lack of public hearings for the Ad Hoc Committee.

Council Member Tanaka wanted to bifurcate the Motion so that he could support development of procedures for Boards and Commissions.

MOTION PASSED: 5-2 Kniss, Tanaka no

10. Colleagues' Memo from Council Members Cormack, Fine, and Tanaka Regarding Anti-Vaping Measures.

Council Member Cormack considered vaping a public health issue. The City needed to be part of the solution. She proposed removing "urgency" from the recommendation so that the public could participate holistically. She concurred with the Staff recommendation to return with a suggestion for funding sources.

Vice Mayor Fine noted the Palo Alto Youth Council had conducted a survey about youth vaping. The Colleagues' Memo sought an Ordinance banning the sale of electronic cigarettes and avenues to support State and Federal legislation. An Ordinance prohibiting the purchase of vaping products was not going to solve the problem. He concurred with Council Member Cormack's proposed revisions.

Council Member Tanaka suggested the Council discuss other actions that might stop youth vaping.

Brad Eggleston, Public Works Director reported the administration of the City's Retail Tobacco Ordinance was a collaboration among the Public Works, Community Services and Police Departments.

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Phil Bobel, Public Works Assistant Director advised that the Ordinance prohibited the sale of e-cigarettes and flavored tobacco products at non-adult stores such as convenience stores and gas stations. Tobacco retailers were required to be located 500 feet from other retail businesses and 1,000 feet from schools. The City of Palo Alto conducted undercover operations to enforce the ban on sales to people under 21 years of age. The County of Santa Clara (County) issued permits for tobacco sales and verified compliance with other requirements. Usually, the County found only minor problems when conducting compliance reviews, and the issues were typically corrected during the review. The City's undercover operations would begin in 2020. The County had recently revised its Ordinance, and the Council was able to amend the City's Ordinance to be consistent with the County's Ordinance. If the Council chose not to amend the City's Ordinance to be consistent with the County's Ordinance, the City may have to implement its own permitting and compliance program and identify resources for such a program. The Council was able to delay action on the proposed Ordinance in order to learn about State actions around vaping.

Kristin O'Kane, Community Services Director related that the Healthy City Healthy Community working group and the Palo Alto Medical Foundation (PAMF) were going to host a community leaders forum in January 2020 and subsequently provide information and recommendations to the Council.

Mayor Filseth asked if the County's Ordinance banned the sale of all e-cigarette and flavored tobacco products.

Mr. Eggleston replied yes.

Enoch Choi remarked that youth vaping was an epidemic and an entryway to the use of illicit substances. Vitamin E, a vape additive, caused serious and irreparable harm to human lungs.

Diana Pang supported a ban on the sale of e-cigarettes. E-cigarettes were marketed to youth.

Grace Mah supported the Colleagues' Memo for an Urgency Ordinance consistent with the County's Ordinance. According to the Centers for Disease Control (CDC), vaping had caused 2,300 lung injuries and 48 deaths.

Jan Parcel referred to CDC findings that Vitamin E acetate, a black-market thickener added to THC vapes, was present in lung injuries. E-cigarettes that complied with FDA requirements had not caused injuries or deaths. The exaggeration of the ill effects of vaping damaged adults' credibility with teens.

FINAL MINUTES

Eileen Kim supported a prohibition on the sale and distribution of electronic cigarettes and urged the Council to enforce restrictions on public vaping. Vaping created a chemical addiction in humans.

Marc Prensky commented that vaping was difficult to detect, but second-hand smoke from vaping was as dangerous as second-hand smoke from cigarettes.

Erwin Morton encouraged the Council to align the City Ordinance with the County Ordinance.

Divya Ganeson, Palo Alto Youth Council President advised that the Youth Council was surveying teens about effective solutions to vaping and working to educate parents about vaping.

Scott Andersen remarked that a wholesale prohibition of tobacco products was not a solution to youth vaping. Technology was able to track and trace the distribution of products and the use of e-cigarette devices. Vape products were legal under Federal law and reduced the risk of cigarettes.

MOTION: Council Member Tanaka moved, seconded by Council Member Cormack to direct Staff to return to Council with the following:

- A. An ordinance prohibiting the sale and distribution of all electronic cigarettes, in alignment with the County of Santa Clara's recent approach, with as few exemptions as possible;
- B. Avenues identified to support legislation making it harder for minors to successfully order electronic cigarette products online (e.g. needing a signature of a 21-year-old at delivery);
- C. An update on the County's recent enforcement activities of the existing Tobacco Retail Permit Ordinance; and
- D. Suggested funding as needed after the Community Meeting in January 2020.

Council Member Tanaka did not believe banning distribution solved the vaping problem. He proposed instituting a fine or other penalty for vaping in public.

Council Member Cormack was reluctant to support a penalty without further information.

Mayor Filseth suggested language of disincentives for minors' use of vaping products.

FINAL MINUTES

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion a new Part E to state, "investigate possible disincentives and/or fines for vaping in public."

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to change Motion Part C to state, "provide a yearly update on the enforcement activities of the existing Tobacco Retail Permit Ordinance".

Mayor Filseth inquired whether vaping in public was illegal.

Mr. Bobel indicated vaping was illegal in the same areas where smoking had been banned, such as the University Avenue and California Avenue, commercial areas, inside condominiums and multifamily dwellings.

Council Member Tanaka expressed concern about vaping in schools specifically.

Mayor Filseth asked if it was illegal for someone under 21 years of age to vape.

Mr. Bobel answered no. The sale of products to someone under 21 years of age was illegal.

Mr. Shikada reported Staff could consult with Palo Alto Unified School District (PAUSD) regarding options for schools.

Council Member Tanaka reiterated his intent to reduce the use or demand for vape products.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to change the language in the Motion Part A to state, "electronic cigarettes and flavored tobacco products"

Council Member Cormack considered the effects of vaping on youth with adult use of vaping to reduce smoking and believed it was more important to protect youth and public health. Working with lobbyists, the Council was able to make online purchases more difficult for youth. A regular update of enforcement activities was good.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion a new Part F to state, "work with PAUSD through the City/School Liaison Committee to reduce youth vaping."

Council Member DuBois inquired regarding the date the County implemented a ban on vaping.

FINAL MINUTES

Nicole Coxe, Santa Clara County Public Health Department indicated the County implemented the ban in November, 2019.

Council Member DuBois hoped the second reading could occur in January, 2020. He inquired whether the City had to provide some time period for retailers to remove products.

Molly Stump, City Attorney explained that the Ordinance would become effective 30 days following a second reading except that the Ordinance provided an effective date of July, 2020. Staff was able to begin outreach to retailers in early 2020.

Mr. Bobel advised that six stores would be affected by the Ordinance.

Council Member DuBois asked about potential Staff actions under Subparts B-F of the Motion.

Mr. Shikada related that Staff could return to the Council or a Council Committee as the Council wished.

Council Member DuBois proposed Staff return to the Policy and Services Committee.

Ms. Stump indicated a Proposed Ordinance typically would not be referred to a Council Committee. If an Ordinance was developed under Subpart E, it had to be presented to the Council for adoption.

Mr. Shikada recommended Staff return to the Council with information and for further direction.

Vice Mayor Fine asked if any retailers had had their permits suspended.

Mr. Bobel replied no.

Vice Mayor Fine asked if Police Officers took any action against youth under 18 years of age found vaping or smoking.

Robert Jonsen, Police Chief reported in 2016 the State decriminalized minors' use of tobacco products. School Resource Officers (SRO) and Police Officers typically confiscated vaping products being used by minors. School staff usually addressed vaping issues in schools.

Vice Mayor Fine asked how Police Officers would handle fines for vaping in public.

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Mr. Jonsen related that fines were typically imposed for infractions, but the State had decriminalized the use of tobacco products.

Ms. Stump added that Staff was able to explore whether the Council could impose a civil fine.

Mr. Jonsen clarified that the Council had to develop a procedure for collecting and appealing civil or administrative fines.

Council Member Tanaka suggested fines would garner parents' attention.

Council Member Kou had learned that the disposal of vaping products was becoming a problem because of the toxins and batteries.

Mr. Bobel reported vaping products were accepted at the household hazardous waste facility. The battery had to be removed from the waste stream. The website had been updated to reflect the acceptance of vaping products at the facility.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion a new Part G to state, "recommend appropriate disposal methods and education for electronic cigarettes."

MOTION AS AMENDED RESTATED: Council Member Tanaka moved, seconded by Council Member Cormack to direct Staff return to Council with the following:

- A. An ordinance prohibiting the sale and distribution of all electronic cigarettes and flavored tobacco products, in alignment with the County of Santa Clara's recent approach, with as few exemptions as possible;
- B. Avenues identified to support legislation making it harder for minors to successfully order electronic cigarette products online (e.g. needing a signature of a 21-year-old at delivery);
- C. A yearly update on the enforcement activities of the existing Tobacco Retail Permit Ordinance;
- D. Suggested funding as needed after a Community Meeting in January 2020;
- E. Investigative results of disincentives and/or fines for vaping in public;
- F. Work done with PAUSD through the City/School Liaison Committee to reduce youth vaping; and

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- G. Recommendation of appropriate disposal methods and education for electronic cigarettes.

MOTION AS AMENDED PASSED: 7-0

Council Member Questions, Comments and Announcements

None.

Closed Session

11. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code Section 54956.8

Properties: (1) 2416-2460 Park Boulevard (APN 124-29-002); and
(2) 249-251 California Avenue (APN 124-29-007);

Negotiating Parties: City of Palo Alto; and (1) Marthe Raymann,
as Successor Trustee of The Alois and Marthe Raymann Trust
Dated July 17, 1991; and (2) Duca and Hanley Properties, Inc.,
a Corporation;

City Negotiators: Ed Shikada, Monique le Conge Ziesenhenné,
Brad Eggleston, Kiely Nose, and Sunny Tong

Subject of Potential Negotiations: Price and Terms of Payment for
Subsurface Easements Related to Construction of the Public Safety
Building at 250 Sherman Avenue.

MOTION: Council Member Cormack moved, seconded by Vice Mayor Fine to go into Closed Session.

MOTION PASSED: 6-0 Kou absent

Council went into Closed Session at 10:49 P.M.

Council returned from Closed Session at 11:00 P.M.

Mayor Filseth announced no reportable action.

Adjournment: The meeting was adjourned at 11:01 P.M.