



# CITY COUNCIL SUMMARY MINUTES

Special Meeting  
February 01, 2021

The City Council of the City of Palo Alto met on this date in virtual teleconference at 5:03 P.M.

Participating Remotely: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Absent:

## Agenda Changes, Additions and Deletions

NONE

## Oral Communications

Roger Smith asked the Council to change the name of Foothills Park to Foothills Preserve because it was a preserve.

Aram James requested the video footage taken by the body-worn camera of the officer involved in the dog incident. Police Department command staff had a history of not being transparent. He proposed renaming Foothills Park in honor of LaDoris Cordell.

Jonathan Brown urged the Council to fully fund the renovation of Boulware Park. Funding was approved for the project in 2017, but the Birch Street property needed to be integrated into the space.

Rebecca Eisenberg commented that Vice Mayor Burt did not clarify his potential conflicts of interest. The City and Palo Alto Unified School District (PAUSD) were sponsoring the Equity Challenge. She encouraged the City to discuss Black History Month, communities of color, white supremacy, and reparations.

Roberta Alquist inquired about the City's accountability for building extremely low and moderate-income housing. Several affordable housing units were replaced with market rate housing.

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## Minutes Approval

1. Approval of Action Minutes for the January 19, 2021 City Council Meeting.

**MOTION:** Council Member Cormack moved, seconded by Mayor DuBois to approve the Action Minutes for the January 19, 2021 City Council Meeting.

**MOTION PASSED:** 7-0

## Consent Calendar

Ed Shikada, City Manager, summarized the at-places memorandum regarding the Parks and Recreation Commission's (PARC) discussion of an annual pass and the number of visitors for Foothills Park. A PARC special meeting was scheduled for February 11, 2021 to continue the discussion.

Mayor DuBois asked about the method of distributing the at-places memorandum.

Beth Minor, City Clerk, reported it was emailed to Council Members and posted to the online Agenda.

Council Member Cormack requested the date the email was sent.

Ms. Minor indicated approximately 4:15 or 4:30 P.M. the day of the meeting.

Council Member Kou related that Ms. Brettle sent the email at 4:29 P.M.

Aram James, addressing Agenda Item Number 3, shared the data he received from Community Services Staff regarding Foothills Park. He opposed the implementation of entrance fees.

Anne Cribbs, PARC Chair, addressing Agenda Item Number 3, advised that the PARC supported changing the name of Foothills Park to Foothills Nature Preserve, implementing a vehicle fee and an annual pass, and limiting the number of visitors to 600-650 at any one time.

Jeff Greenfield, speaking as an individual and addressing Agenda Item Number 3, noted the PARC expressed concern regarding the unintended consequences of the Ordinance and suggested a second Ordinance to address issues.

Rebecca Eisenberg, addressing Agenda Item Number 3, related that she informed the PARC regarding the permanent injunction applicable to Foothills Park. She opposed the implementation of a parking or vehicle fee.

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Ardan Michael Blum, addressing Agenda Item Number 3, opposed a business tax and proposed Foothills Park visitors make a donation rather than pay a fee.

**MOTION:** Council Member Cormack moved, seconded by Vice Mayor Burt, third by Council Member XX, fourth by Council Member XX to pull Agenda Item Number 3 to be heard on a date uncertain.

## **MOTION FAILED DUE TO THE LACK OF A THIRD AND FOURTH**

Council Member Cormack registered a no vote on Agenda Item Number 3.

**MOTION:** Mayor DuBois moved, seconded by Council Member Cormack to approve Agenda Item Numbers 2-3.

2. Finance Committee Recommends the City Council Adopt Resolution 9946 Entitled, "Resolution of the Council of the City of Palo Alto Approving the Execution of Contract 20-SNR-02365 United States Department Of Energy Western Area Power Administration, Sierra Nevada Region, Contract For Electric Service Base Resource With City Of Palo Alto to Preserve the City's Options to Maintain, Terminate, or Reduce its Allocation Until June 30, 2024."; and Approve the 2025 Base Resource Power Supply Contract for the Central Valley Project With the Western Area Power Administration to Preserve the City's Options to Maintain, Reduce, or Terminate the City's Allocation Until June 30, 2024.
3. Ordinance 5514 Entitled, "Ordinance of the Council of the City of Palo Alto Amending the Municipal Fee Schedule to add Vehicle Entrance Fees for Foothills Park, and Amending the Palo Alto Municipal Code (PAMC) Section 22.04.150(k) to Adjust Attendance Limits at Foothills Park" (FIRST READING: January 19, 2021 PASSED: 6-1 Cormack no); Adoption of Emergency Ordinance 5515 Entitled, "Ordinance of the Council of the City of Palo Alto Amending the Municipal Fee Schedule to add Vehicle Entrance Fees for Foothills Park, and Amending PAMC Section 22.04.150(k) to Adjust Attendance Limits at Foothills Park"; and Adoption of Resolution 9940 Entitled, "Resolution of the Council of the City of Palo Alto Adding a Penalty for Nonpayment of Foothills Park Entry Fee to the Administrative Penalty Schedule."

**MOTION PASSED FOR AGENDA ITEM NUMBER 2:** 7-0

**MOTION PASSED FOR AGENDA ITEM NUMBER 3:** 6-1 Cormack no

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Council Member Cormack expressed dismay that the Council corrected its previous action without data and created a situation that harmed residents.

## City Manager Comments

Ed Shikada, City Manager, reported Santa Clara County remained in the purple tier of the State's COVID-19 Blueprint. Sunday was the one-year anniversary of the first confirmed case of COVID-19 in Santa Clara County. Individuals traveling outside of Santa Clara County were required to quarantine for ten days. Safety protocols were important to stop the transmission of COVID-19. California Avenue was closed to vehicle traffic and open to outdoor dining. Staff continued to work with Downtown businesses regarding University Avenue. Vaccination information was available at [sccfreevax.org](http://sccfreevax.org). The County of Santa Clara Public Health Department and private healthcare providers were offering vaccination appointments for individuals aged 65 years and older. COVID-19 testing was available February 2, 3, and 5, 2021 at Mitchell Park. The online Community Survey was open to all residents through February 10, 2021. The next community check-in meeting was scheduled for February 19, 2021. The 21-day Race and Equity Challenge was underway. Highway 101 was scheduled for partial closure on February 13 and full closure on February 14 to install the Bike Bridge structure. A Study Session with the Expanded Community Advisory Panel (XCAP) for rail separations and public comment on the Castilleja School expansion project were planned for March 8, 2021. An Agenda Item regarding Homelessness Services was scheduled for March 15, 2021.

## Action Items

4. Approval of: 1) Construction Contract Number C21178123B With Swinerton Builders in the Amount of \$83,953,000; 2) Authorization for the City Manager to Negotiate and Execute Related Change Orders With Swinerton Builders for a Not-to-Exceed Amount of \$8,395,300 for a Total Not-to-Exceed Contract Amount of \$92,348,300; 3) Amendment Number 4 to Contract C16163034 With Nova Partners, Inc. in the Amount of \$3,071,978 for Construction Management Services; 4) Amendment Number 1 to Contract C17165953 With RossDrulisCusenbery Architecture, Inc. in the Amount of \$1,746,206; 5) Waterproofing Inspection Services Contract Number C2118074 With Consolidated Engineering Laboratories in the Amount of \$106,317; 6) Authorization to Execute a Short-term Lease for a Portion of the Courthouse Parking lot From the County of Santa Clara; 7) Authorization to Negotiate and Execute a Month-to-Month Lease of Parking Stalls From Caltrain; and 8) Approve the Surveillance Policy

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and use of a Construction Video Camera for the Public Safety Building Project (PE-15001).

5. Resolution 9941 Entitled, "Resolution of the Council of the City of Palo Alto Authorizing the Delivery and Sale of Certificates of Participation (COPs) in a Principal Amount Not-to-Exceed \$120 Million to Finance the Construction of the Public Safety Building; Declaring the Intention to Reimburse Expenditures Related to the Public Safety Building From Proceeds of the COPs; Approving, Authorizing, and Directing the Execution of Certain Lease Financing Documents; Approving a Preliminary Official Statement; and Authorizing and Directing Certain Related Actions."

Mayor DuBois advised that Agenda Item Numbers 4 and 5 would be heard together.

Ed Shikada, City Manager, reported an at-places memorandum was distributed on Friday in response to Council Member questions and with links to prior Staff Reports.

Vic Ojakian, Former Mayor and Blue Ribbon Task Force (BRTF) Co-Chair, advised that the BRTF met from January to June in 2006. A BRTF subcommittee discussed in great detail the proposed size of the Public Safety Building (PSB) with Staff and determined the appropriate size. The existing PSB lacked sufficient square footage and was not compliant with multiple regulations and common practice.

Geo Blackshire, Fire Chief, indicated the proposed PSB increased community resiliency, integrated Public Safety teams, was centrally located, and provided a Communications Center with windows and natural light for dispatchers. Coordination of departmental stakeholders in an Emergency Operations Center (EOC) that provided the required space and technology was paramount for citizens' safety during a large-scale emergency or planned event.

Ken Dueker, Office of Emergency Services (OES) Chief, remarked that Public Safety personnel could not function in a facility that was inadequate for day-to-day operations and lacking in resiliency. The proposed PSB was more spacious, ergonomic, and efficient and designed for the vast amount of technology it needed to function in an emergency. The proposed PSB was eventually going to be powered by solar panels located on the adjacent California Avenue parking garage. Benefits of a new PSB included community engagement, civic pride, support of recovery efforts, and community safety.

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Robert Jonsen, Police Chief, reiterated that the existing PSB lacked structural integrity, workplace safety, and reliability. The PSB was noticeably outdated, inadequate, and out of alignment with the City of Palo Alto. The City needed to provide adequate work facilities for personnel. Studies found that workplace design and environment affected organizational and employee outcomes. Employees with a high level of job satisfaction were more committed to the organization and more interested in delivering high-quality work.

Brad Eggleston, Director of Public Works, reviewed the Staff recommendations and the history of the PSB project and sites for the PSB. Staff proposed the Council redefine the multipurpose room in the PSB as a community meeting room and consider changing the design to increase openness and to provide an exterior entrance. In March 2020, Staff identified two pre-qualified contractors, reopened the pre-qualification process, and identified two additional pre-qualified contractors. An Invitation for Bids (IFB) was released twice and garnered three bids, which Staff rejected due to technical issues. Staff released the IFB again in December 2020 and received two bids in January 2021. Swinerton's base bid was \$82.1 million. With the recommended alternate bid items, the bid increased to \$84 million, which was 5 percent below the engineer's estimate. Swinerton had an excellent reputation and a long history in California and constructed the California Avenue parking garage. The Swinerton bid compared favorably to the costs of other similar projects in the Bay Area. While construction costs decreased as a result of the pandemic, Staff did not believe they were going to decrease further. In fact, Staff believed bid prices were going to increase in 2021.

Tarun Narayan, Manager Treasury, Debt & Investments, reported the financing arrangements included the issuance of tax-exempt Certificates of Participation (COPs) in an amount not to exceed \$120 million. The tax-exempt status placed limits on private use of the PSB, but the City's private use of the facility fell within the limits. Staff proposed utilizing City Hall as the leased property during construction and the new PSB following construction.

Chris Lynch, Bond Counsel, summarized the financial transaction, which included a lease agreement between the City and the Palo Alto Public Improvement Corporation (PIC), an assignment of the agreement, the sale of COPs, and a trust agreement.

Mr. Narayan estimated proceeds at \$109 million, which was going to pay PSB construction costs of \$102 million, capitalized interest of \$4.9 million, the first three interest-only lease payments, and bond issuance fees and

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related costs of \$2 million. A lease service reserve fund was not required due to the City's high credit rating. The total financing cost was estimated at \$151.5 million.

Bob Gamble noted interest rates were unusually low.

Kiely Nose, Administrative Services Director/Chief Financial Officer, provided forecasts for lease payments and estimated Transient Occupancy Tax (TOT) revenues under Scenarios A, B, and C. TOT projections were sufficient to satisfy debt service payments over the 30-year horizon. The projections included the opening of two new Marriott Hotels in 2022.

Council Member Filseth requested the BRTF's alternative to a new PSB.

Mr. Ojakian explained that a PSB had to provide certain functions, and remodeling the existing PSB was not an option. Therefore, the BRTF considered four alternate sites for a new PSB.

Council Member Filseth asked if remodeling the existing PSB with unlimited funding still resulted in an inadequate facility.

Mr. Ojakian replied yes. The existing PSB was too small and had many other issues.

Council Member Filseth asked if issuing a AAA bond debt at 1 percent was possible at the current time.

Mr. Gamble advised that one-year debt at 1 percent was possible, but the interest rate for 30-year debt was higher.

Council Member Filseth requested the effect on the interest rate of calling the COPs after one year.

Mr. Gamble related that the scenario was not possible.

Council Member Cormack inquired regarding the legal and financial risks of failure to comply with federal seismic, holding facility, and Americans with Disabilities (ADA) regulations.

Mr. Shikada explained that the existing conditions of the PSB were not a concern unless and until a disaster occurred, and the City was not able to provide services. Cosmetic repairs were also problematic.

Mr. Eggleston advised that Public Works' emphasis was designing a new facility that complied with regulations and Code requirements.

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Council Member Cormack requested the rationale for a 10-percent contingency.

Mr. Eggleston indicated it was the City's typical contingency. A high contingency was generally utilized in projects involving renovation of older buildings with more uncertainties.

Council Member Cormack inquired regarding integrating the City Auditor in the process.

Mr. Shikada understood the City Auditor's workplan included possible review of project controls.

Council Member Cormack requested clarification of the \$120 million amount.

Mr. Narayan related that construction costs, capitalized interests, and issuance costs totaled approximately \$109 million.

Mr. Gamble added that many of the numbers were conservative estimates. Flexibility was important to encourage a competitive environment.

Council Member Cormack asked if the total costs ranged from \$109 million to \$120 million.

Mr. Gamble replied yes.

Council Member Cormack inquired whether some of those funds would reimburse the \$8.6 million in costs previously incurred.

Ms. Nose answered no.

Mr. Narayan clarified that the standard practice was to reimburse previous costs once the total construction amount was disbursed.

Ms. Nose added that the City funded a component of the project with cash on hand, i.e., the previous costs, and the remaining component with financing.

Vice Mayor Burt inquired whether reducing the two-level underground garage to one level was feasible.

Mr. Eggleston recalled that the plan in 2014 was to build the California Avenue parking garage and the PSB on Lots C-6 and C-7 such that the two structures provided 150 net new parking spaces. The California Avenue garage as constructed contained 630 spaces. In 2018, Staff developed a PSB concept plan with a much larger one-level underground garage. The



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underground garage accommodated service vehicles but not employees, who needed 99 spaces in the California Avenue garage.

Vice Mayor Burt asked about the feasibility of modifying the design to accommodate new considerations for indoor air flow and quality.

Mr. Eggleston advised that Staff had not updated or modified the design since its completion. Modifications were possible during construction.

Council Member Stone asked if a seismic analysis of the PSB was conducted at some point.

Mr. Eggleston reported that analyses as late as 2010 pertained to retrofitting the existing PSB to comply with Codes.

Council Member Stone understood that the existing PSB was grandfathered as an essential services building. Any alterations or modifications to the PSB would result in seismic retrofitting.

Mr. Eggleston related that adding a story to the building increased the weight and triggered the need to seismically retrofit the PSB.

Mr. Shikada clarified that seismic retrofitting the PSB did not address the functionality of the facility.

Council Member Tanaka requested the total interest cost of financing a new PSB.

Ms. Nose replied \$151.5 million.

Council Member Tanaka requested the details of the call feature.

Mr. Narayan reported the City decided whether to refinance the debt after ten years.

Council Member Tanaka requested the purpose of the PIC.

Mr. Lynch explained that California cities were not allowed to issue bonds without two-thirds of registered voters approving the financing.

Mr. Shikada added that the PIC established a separate framework through which the lease payments were made.

Council Member Tanaka suggested a measure to obtain voter approval might be more transparent and democratic than forming a PIC and issuing COPs.

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He inquired regarding the consequences of TOT revenues not meeting projections.

Ms. Nose clarified that voters twice approved measures to raise funding for infrastructure projects. Staff outlined at least three opportunities, such as deferring capital projects and increasing financing, to plan for TOT revenues not meeting projections.

Mayor DuBois asked if the Council had the option of increasing the financing and using the excess cash in a different way.

Ms. Nose answered yes.

Mayor DuBois requested an explanation of the interest rate increasing from 1.4 percent to 2.3 percent.

Mr. Gamble explained that 1.4 percent was what the investor paid for a 30-year bond. The difference was mostly the transaction costs.

Mr. Narayan added that the highest possible rating for COPs was AA+ while the chart pertained to a AAA rating.

Mayor DuBois inquired whether Palo Alto residents were allowed to purchase COPs.

Mr. Narayan responded no. In a competitive sale, underwriters bid on the bonds. The underwriter with the lowest interest rate won. The underwriter purchased the bonds and was free to resell them as he chose. Bonds with special features involved a negotiated sale with a pre-selected underwriter. The terms of a negotiated sale could include a preference to resell bonds to Palo Alto residents or businesses.

Mayor DuBois requested clarification of \$3.6 million in other costs and \$3 million in additional design costs.

Mr. Eggleston believed additional design costs were architect costs for construction. Other costs included inspection fees and costs, building permits, and tie-back easement agreements.

Council Member Kou asked how the lease amount for City Hall was determined.

Ms. Nose indicated the real estate team assessed the facility and prepared an amount.

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Mr. Narayan clarified that real estate Staff utilized the market rate and the insured value of the building and lot to determine a reasonable amount. If the City failed to make the lease payments, the bondholders were allowed to foreclose and sell City Hall.

Daryl Savage, speaking as an individual, remarked that the PSB was a hazard and a calamity waiting to happen. She hoped the Council approved the project.

Aram James opposed the PSB project because the voters needed to approve it, the process was not transparent, and the City's fiscal outlook was poor.

Dennis Burns commented that five studies addressed the problems and potential solutions for the PSB.

Patrick Dwyer noted the PSB was too small and outdated, failed to meet legal and operational standards, and lacked current technology, a dedicated training area, a public meeting area, and adequate interview space.

Mary Jane Marcus opposed a new PSB and suggested renovating it for a community arts building.

Linda Lenoir believed City Staff needed a healthy, safe, and welcoming environment. Natural light was essential for mental and physical health. Now was the time to build a new PSB.

Ardan Michael Blum stated the Police were not going away, and they needed a proper facility.

Hamilton Hitchings noted the possibility of losing the Dispatch Center, the EOC, and the Police Department fleet if a large earthquake occurred. The PSB did not accommodate the technology needed to fight high-tech crime. In Staff's recommendation, the lease payments were scheduled to begin in fiscal year (FY) 2023. Delaying construction of a new PSB was going to be costly.

William Ross questioned the City's ability to pay the debt service on the bond when it was not able to pay \$800,000 for an adequate number of Firefighters. He suggested increasing the financing amount to pay for more Firefighters. A new PSB was useless if there was not sufficient personnel and apparatus to respond to emergencies.

Rebecca Eisenberg commented that the PSB included a jail, and it was the most expensive component of the facility. The proposed bond was regressive in that 80 percent of Palo Alto property owners were not paying

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for the PSB. The Police Department was a hazard to communities of color. She opposed a new PSB.

Joe Landers related that the PSB was inadequate and substandard and not good for Staff or the community. Public Safety teams needed to be co-located to address the community's needs. A new PSB was critical for the citizens of Palo Alto.

Judy Kleinberg remarked that a state-of-the-art PSB was an operational strategy to maintain a safe environment and a linchpin strategy to provide a professional and effective Public Safety workforce. Approving a new PSB was the best way to honor critical City professionals.

Roger Smith advised that the business community was going to help pay for the PSB. The Council approved and promised the community a new PSB in 2014. A new PSB was much needed.

Jay Boyarsky strongly supported the construction of a new PSB. The need was more profound after decades of study. Public health and safety made a new PSB an essential expenditure.

Kevin Ma remarked regarding the many facilities and services the City was not providing. If the Council approved a new PSB, it needed to use innovative funding for housing, sustainability, and other services.

Council took a break at 8:14 P.M. and returned at 8:24 P.M.

Council Member Cormack noted other building projects that were delayed and the only result was increased costs. The PSB was a big problem, and construction of a new PSB was dangerously delayed. She supported the Staff recommendation.

Vice Mayor Burt indicated the project was critical. The question was how to balance the cost with critical services. Pushing the lease payments out a few years benefited the City. The return of TOT revenues was likely to be exceptionally slow. COPs for this project were discussed many times. The net new parking spaces in the California Avenue garage were a subsidy for commercial landowners in the area. Reducing the PSB's underground garage to one level saved approximately \$10 million. PSB employees needed only one-third of the net new spaces provided in the California Avenue garage.

Council Member Filseth requested Staff's opinion regarding reducing PSB parking. Delaying the project in hopes of higher revenues in a few years

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was not realistic. One option was to proceed with the COPs and refinance the debt in a few years with a hopefully lower interest rate.

Mr. Eggleston advised that the lower level of PSB parking housed storage and support facilities. Public Safety personnel previously expressed concerns regarding the configuration of a larger single level of parking. The concept for a single level of parking included expanding the footprint to cover the entire block. Redesigning the PSB with one level of parking delayed the project by at least a year.

Mr. Shikada recalled the Council's discussion of design options in September 2018. A redesign at this time was going to incur a significant additional cost. In January 2018, the Council directed Staff not to remove a level of the California Avenue parking garage. In 2020, the Council discussed use of parking garage spaces for a variety of purposes.

Council Member Stone wanted a seismic analysis of the existing PSB to aid his decision-making. Based on public testimony from former Public Safety personnel, he believed the City needed a new PSB. He inquired whether the TOT projections considered telecommuting trends.

Ms. Nose reported Staff attempted to consider everything. Given the drastic changes caused by the pandemic, most trends were unknown. Because of the two new hotels, the growth rate of TOT revenue for the Infrastructure Plan was faster.

Council Member Stone questioned whether the Palo Alto market was saturated with hotels such that TOT revenues from the new hotels were not going to meet the projections.

Ms. Nose remarked that the new demand for hotel rooms was unknown. Visitors to Stanford University and the hospital as well as business travelers affected hotel demand. In projecting TOT revenues, Staff significantly decreased room rates and occupancy rates for existing and new hotels.

Council Member Stone requested clarification of outer years in the statement that TOT revenue in the outer years was going to be more than sufficient to pay for the California Avenue garage and the PSB.

Ms. Nose explained Scenario B as travel and TOT revenue returning to prior levels in 2024. Scenario C considered five to ten years for travel and TOT revenue to return to prior levels.

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Mr. Narayan added that the annual debt service amount was not going to change after the first two or three years while TOT revenues were going to increase over 30 years.

Council Member Kou objected to considering reducing the PSB garage without input from residents and merchants located near the California Avenue garage because the residents and merchants supported the garage based on a promise that it was going to reduce parking in the neighborhoods. She was not confident that TOT revenue was going to return as projected and preferred to utilize General Fund revenues for essential services.

Council Member Tanaka inquired regarding the amount of the Library Bond.

Mr. Eggleston answered \$76 million.

Council Member Tanaka requested the rationale for using a bond rather than COPs for the Library.

Mr. Narayan explained that the use of COPs or a General Obligation (GO) Bond for the Library was allowed. GO bonds provided the best interest rate.

Mayor DuBois accepted the need for a new PSB. The estimated cost of the PSB decreased a bit in the last year. Interest rates were attractive, and the developer was trustworthy. An option was to remove furnishings from the financing and furnish the new building slowly.

**MOTION:** Mayor DuBois moved, seconded by Council Member Cormack to:

- A. Approve and authorize the City Manager or his designee to execute the attached Construction Contract C21178123B with Swinerton Builders in an amount not to exceed \$83,953,000;
- B. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with Swinerton Builders for related, additional but unforeseen work which may develop during the project, the total value of which shall not exceed \$8,395,300;
- C. Approve and authorize the City Manager or his designee to execute Amendment Number 4 to Contract C16163034 with Nova Partners, Inc. to add construction management services for the new Public Safety Building to the scope of services and increase compensation by \$3,071,978 for a total contract amount of \$8,880,906;
- D. Approve and authorize the City Manager or his designee to execute Amendment Number 1 to Contract C17165953 with RossDrulis

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Cusenbery Architecture, Inc. to increase compensation by \$1,746,206 for a total contract amount of \$8,754,198;

- E. Approve and authorize the City Manager or his designee to execute Contract C21180741 with Consolidated Engineering Laboratories for waterproofing inspection services in an amount not to exceed \$106,317;
- F. Authorize the City Manager or his designee to execute a short-term lease for a portion of the Courthouse parking lot from the County of Santa Clara;
- G. Authorize the City Manager or his designee to negotiate and execute a month-to-month lease agreement for up to 44 parking stalls at the California Avenue Caltrain Station parking lot; and
- H. Approve the surveillance policy and use of a construction video camera for the Public Safety Building project, which will be used to visually record and share progress on the construction with Staff and residents and create a time-lapse video at the end of the project;
- I. Adopt a Resolution Approving, Authorizing, and Directing Execution of Certain Lease Financing Documents, Approving a Preliminary Official Statement, Declaring the Intention to Reimburse Expenditures, and Authorizing and Directing Certain Actions with Respect Thereto; and
- J. Authorize execution and delivery of one series of Certificates of Participation (COPs) in an amount not to exceed \$120 million to finance the Public Safety Building construction.

Mayor DuBois felt the need, financing, and time were right for the PSB project. The project was analyzed many times over the past years.

Council Member Cormack commented on the previous Council Members and members of the public who had analyzed and supported this project.

Vice Mayor Burt stated the PSB was needed, but the time was not right. He reiterated his proposal to remove one level of parking from the PSB underground garage. He seemed to recall that the single-level garage was larger because the facilities in the eliminated level were relocated to the single-level. The Council needed to discuss the Capital Improvement Program (CIP) and the Long Range Financial Forecast before making a decision on the PSB.

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**SUBSTITUTE MOTION:** Council Member Tanaka moved, seconded by Vice Mayor Burt to delay decision on the Public Safety Building until there is a chance to review all Capital Improvement Projects.

Council Member Tanaka did not believe revenues were going to return as projected. The Council made a lot of cuts in the Budget.

Vice Mayor Burt recommended the Council look at the PSB in the context of the Long Range Financial Forecast and the CIP.

Council Member Kou expressed concern that changing the PSB was going to jeopardize the Council's good-faith dealings with merchants and residents.

Council Member Filseth cautioned Council Members about confusing capital and General Fund expenditures. The two were not interchangeable.

Mr. Shikada clarified that another review of the CIP was not scheduled for the Council prior to the Budget process. If the Council wanted another review in the next 30-60 days, Staff needed to know the scope of the review.

Vice Mayor Burt wanted Staff to clarify the current CIP regarding projects erroneously listed as underway and projects considered essential. In November 2020, Staff promised to schedule a mid-year review.

Mayor DuBois indicated the mid-year review occurred at last week's meeting.

**SUBSTITUTE MOTION FAILED:** 3-4 Cormack, DuBois, Filseth, Kou no

Council Member Kou did not believe the time was right for this project, but neither did she want to renege on the Council's promise to merchants and residents.

Council Member Stone proposed removing all furniture, fixtures, and equipment (FFE) not practically necessary at the time of completion from the budget, eliminating the surveillance video, and forming an oversight committee composed of building and financial professionals to ensure public funds were appropriately spent during construction.

Molly Stump, City Attorney, explained the purpose of a bond oversight committee. For the PSB, Staff negotiated a detailed contract that defined the expenditure of funds.



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Mr. Eggleston indicated the Library Bond Oversight Committee's charge was to ensure expenditures were consistent with the voter-approved bond measure.

Kyle O'Rourke, City Auditor, reported an audit of controls for monthly invoices and change orders was going before the Policy and Services Committee the following week. The audit may result in some cost savings.

Mr. Eggleston advised that Information Technology (IT) and communication systems totaled \$2.4 million, dispatch consoles \$140,000, and office furnishings \$1.2 million of the \$4.3 million FFE budget. The majority of FFE was equipment and communication systems.

Mr. Shikada agreed to scrutinize the extent to which expenditures were necessary and cost-effective. Because a PSB was in constant use, wear and tear on furnishings was more extensive than expected.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER**, "Direct Staff to examine the fixtures, furniture, and equipment (FFE) budget and remove all that are not necessary at time of completion." (New Part J)

Council Member Cormack inquired whether Subpart H was to be eliminated entirely or Staff was to return with information.

Council Member Stone did not believe a time-lapse video and a live stream were worth \$25,000 given the City's financial situation.

Council Member Cormack requested Staff's opinion.

Mr. Eggleston concurred with removing Subpart H from the Motion.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to remove from the Motion, Part H, "Approve the surveillance policy and use of a construction video camera for the Public Safety Building project, which will be used to visually record and share progress on the construction with Staff and residents and create a time-lapse video at the end of the project."

Mr. O'Rourke advised that the City Auditor was planning to conduct a construction project overview for all capital projects immediately upon Council approval of the audit plan. In addition, auditors planned to conduct a construction audit of the PSB project.

Mayor DuBois believed the auditor's oversight was likely to be more extensive than that of an oversight committee.

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Vice Mayor Burt commented that in the race for the City Council, all candidates supported slowing the pace of capital projects in order to retain more essential services.

Council Member Kou recalled the candidates agreeing to defer projects in favor of providing essential services. She inquired whether an increase in the financing amount could be used to fund Public Safety employees.

Ms. Nose advised that generally financing operating costs was not allowed. The \$8.6 million for design of the PSB was paid from the General Capital Fund, and reimbursement of that amount from the proceeds was going to be deposited into the General Capital Fund.

Council Member Tanaka clarified his concern as pertaining to the timing of the project, not the need for a new PSB.

**MOTION AS AMENDED:** Mayor DuBois moved, seconded by Council Member Cormack to:

- A. Approve and authorize the City Manager or his designee to execute the attached Construction Contract C21178123B with Swinerton Builders in an amount not to exceed \$83,953,000;
- B. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with Swinerton Builders for related, additional but unforeseen work which may develop during the project, the total value of which shall not exceed \$8,395,300;
- C. Approve and authorize the City Manager or his designee to execute Amendment Number 4 to Contract C16163034 with Nova Partners, Inc. to add construction management services for the new Public Safety Building to the scope of services and increase compensation by \$3,071,978 for a total contract amount of \$8,880,906;
- D. Approve and authorize the City Manager or his designee to execute Amendment Number 1 to Contract C17165953 with RossDrulis Cusenbery Architecture, Inc. to increase compensation by \$1,746,206 for a total contract amount of \$8,754,198;
- E. Approve and authorize the City Manager or his designee to execute Contract C21180741 with Consolidated Engineering Laboratories for waterproofing inspection services in an amount not to exceed \$106,317;

# SUMMARY MINUTES

- F. Authorize the City Manager or his designee to execute a short-term lease for a portion of the Courthouse parking lot from the County of Santa Clara;
- G. Authorize the City Manager or his designee to negotiate and execute a month-to-month lease agreement for up to 44 parking stalls at the California Avenue Caltrain Station parking lot;
- H. Adopt a Resolution Approving, Authorizing, and Directing Execution of Certain Lease Financing Documents, Approving a Preliminary Official Statement, Declaring the Intention to Reimburse Expenditures, and Authorizing and Directing Certain Actions with Respect Thereto;
- I. Authorize execution and delivery of one series of Certificates of Participation (COPs) in an amount not to exceed \$120 million to finance the Public Safety Building construction; and
- J. Direct Staff to examine the fixtures, furniture, and equipment (FFE) budget and remove all that are not necessary at time of completion.

**MOTION AS AMENDED PASSED:** 5-2 Burt, Tanaka no

The meeting was temporarily adjourned at 9:57 P.M. and reconvened at 10:05 P.M.

- 6. Approval of Contract Number C20175026 With JC Decaux San Francisco, LLC in the Amount of \$1,053,924 for a Five-year Term to Provide the Rental and Servicing of two Automatic Public Toilets; Approval of a Fiscal Year 2021 Budget Amendment in the General Fund; and Approval to Remove the Automatic Public Toilet Located at Hamilton Ave and Waverley Street (Continued From November 16, 2020).

Aram James supported the installation of toilets at parks for the aid and convenience of seniors and homeless persons.

Rebecca Eisenberg reported the vendor was involved in a financial scandal in San Francisco and did not understand the Council considering a contract with the vendor. Funding for this contract was better used to house the homeless.

Chris Robell felt the price was high, and a lower-end version provided better value.

Vice Mayor Burt inquired whether the terms allowed the City to cancel the contract for both locations.

# SUMMARY MINUTES

Brad Eggleston, Director of Public Works, seemed to recall a termination provision that imposed a penalty for cancelling the contract.

Vice Mayor Burt indicated the cost was exorbitant. He preferred permanent structures.

Mr. Eggleston advised that the previous contract expired two years ago, but the vendor continued to provide services. The effective date of the contract was January 2019. While the contract was in effect, Staff intended to explore options.

Ed Shikada, City Manager, noted the penalty for canceling the contract in the last three years was 15 percent of remaining rents.

Mr. Eggleston clarified that the City was allowed to cancel the contract for the toilet located on Hamilton without penalty.

Council Member Stone requested clarification of the retroactive date of the contract.

Mr. Eggleston related that the vendor provided the services without payment for the past two years. If the Council approved the contract, Staff planned to pay for the prior two years of services.

Molly Stump, City Attorney, recommended the Council approve the contract for the two years that elapsed.

Council Member Stone acknowledged the need for toilets. He inquired about a program that provided free use of the toilets.

Mr. Eggleston indicated there was a program, but he was not aware of the details.

Council Member Stone asked if a non-automatic toilet, cleaning, and installation costs were lower or comparable to the cost of the contract.

Mr. Eggleston stated toilets installed in parks cost around \$400,000, and the cleaning cost was another \$50,000 per year per toilet.

Council Member Kou requested information about the advertising option.

Mr. Eggleston indicated the Municipal Code precluded that type of advertising. Therefore, Staff did not pursue the option.

Mr. Shikada added that signage and outdoor advertising was a significant issue for the community.

# SUMMARY MINUTES

Council Member Filseth believed Staff needed to find a more cost-effective option.

Council Member Tanaka inquired regarding use of the toilet.

Mr. Eggleston reported one was located at the Caltrain station, and it averaged 78 uses per day. The toilet located at Hamilton and Waverley was averaging 21 uses per day.

Council Member Tanaka concurred with the preference for permanent structures. He requested the rationale for signing a contract rather than continuing without one.

Mr. Eggleston advised that the vendor was not amenable to a month-to-month arrangement.

Council Member Tanaka supported paying amounts due for the past two years only and placing ads on the toilets.

Council Member Cormack asked if park restrooms were cleaned following each use.

Mr. Eggleston answered no.

Council Member Cormack noted Staff recommended this type of toilet because they felt cleaning after each use was particularly appropriate during the pandemic. She requested the location of a public restroom nearest the toilet at Hamilton and Waverley.

Mr. Eggleston believed the nearest location was the Bryant Street garage.

Mayor DuBois noted the Staff Report addressed the allegation of fraud against the vendor.

**MOTION:** Mayor DuBois moved, seconded by Council Member Kou to:

- A. Approve and authorize the City Manager or his designee to execute contract C20175026 with JCDecaux San Francisco, LLC ("JCDecaux") for an amount not to exceed \$1,053,924 for the continued rental of two Automatic Public Toilets (APT) for five years, with two options to extend the term for five (5) additional years each, by mutual agreement of the parties, to be exercised by future contract amendment(s) that would be brought back to Council for approval;
- B. Amend the Fiscal Year 2021 Budget Appropriation for the General Fund by 2/3 Council approval by:

# SUMMARY MINUTES

- i. Increasing the Public Works Department, Public Services Division operating budget by \$100,608;
  - ii. Decreasing the budget stabilization reserve by \$100,608;
- C. Discuss directing Staff to initiate the process to remove the Automatic Public Toilet located at Hamilton Avenue and Waverley Street as soon as practical. The removal of this APT would save approximately \$105,000 per year and is planned for removal if the proposed parking garage for this location is approved; and
- D. Direct Staff to evaluate alternatives before this contract expires.

Council Member Tanaka proposed a three-year contract rather than a five-year contract.

Mayor DuBois asked if renegotiating the contract to remove the termination penalty was possible.

Council Member Tanaka preferred a shorter term or removal of the termination penalty.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER,** "Direct Staff to evaluate options to remove the penalty for a shorter-term contract." (New Part E)

Vice Mayor Burt reiterated the terms of the contract.

**MOTION AS AMENDED:** Mayor Dubois moved, seconded by Council Member Kou to:

- A. Approve and authorize the City Manager or his designee to execute contract C20175026 with JCDecaux San Francisco, LLC ("JCDecaux") for an amount not to exceed \$1,053,924 for the continued rental of two Automatic Public Toilets (APT) for five years, with two options to extend the term for five (5) additional years each, by mutual agreement of the parties, to be exercised by future contract amendment(s) that would be brought back to Council for approval;
- B. Amend the Fiscal Year 2021 Budget Appropriation for the General Fund by 2/3 Council approval by:
  - i. Increasing the Public Works Department, Public Services Division operating budget by \$100,608;
  - ii. Decreasing the budget stabilization reserve by \$100,608;

# SUMMARY MINUTES

- C. Discuss directing Staff to initiate the process to remove the Automatic Public Toilet located at Hamilton Avenue and Waverley Street as soon as practical. The removal of this APT would save approximately \$105,000 per year and is planned for removal if the proposed parking garage for this location is approved;
- D. Direct Staff to evaluate alternatives before this contract expires; and
- E. Direct Staff to evaluate options to remove the penalty for a shorter-term contract.

## **MOTION AS AMENDED PASSED:** 6-1 Tanaka no

- 7. Formation of Working Group and Council Subcommittee for the 2023-2031 Housing Element Update Process. (Continued From January 19, 2021).

Jonathan Lait, Director Planning and Development Services, reported many issues around housing were identified at the Council Retreat. Staff recommended the Working Group be composed of 15 members and 2 alternates and proposed a list of stakeholder categories. If approved, Staff planned to begin outreach and open the application period immediately and return to the Council for selection of members on April 5, 2021. Staff proposed the Council form a Housing Element Subcommittee to review and direct the Working Group's work product.

William Ross suggested the Council include a fire inspector in the Working Group. The Safety Element needed to be updated as well.

Aram James suggested unhoused people be included in the Working Group.

Rebecca Eisenberg remarked that formation of the Working Group appeared to be a tactic to delay the production of housing.

Vice Mayor Burt proposed Stanford Research Park and Stanford Land Development as stakeholders. Stanford Research Park was a possible housing site. He supported including unhoused stakeholders.

Council Member Cormack supported the Policy and Services Committee supervising the Working Group. She requested an example of a program that affirmatively furthered fair housing.

Mr. Lait explained that such a program was intended to break down barriers of entry and discrimination within zoning regulations to address social equity. This was a new requirement of State law.

# SUMMARY MINUTES

Tim Wong, Planner, added that the law required jurisdictions to take proactive measures to engage with under-represented groups.

Council Member Cormack noted the communications plan was robust. She suggested stakeholders of graduate students and current employees. She encouraged Staff to translate the application into multiple languages and provide translation services at meetings. The invitation did not provide enough information.

Mayor DuBois inquired regarding the selection process.

Mr. Lait related that Staff intended to provide the Council with a matrix of applicants.

Mayor DuBois reviewed the recruitment process for the prior Housing Element Working Group. The list of stakeholders did not capture parents and neighborhoods. The form needed a question about the applicant's work with advocacy groups and neighborhood associations. To limit the size of the Working Group, members were going to have to fill multiple stakeholder categories. The Council needed to create a Regional Housing Mandate Ad Hoc Committee.

Council Member Stone concurred with the suggestion for Council Members to appoint a few of the Working Group members. He requested clarification of the requirements for someone to fill the renter category.

Mr. Lait indicated a renter was likely an apartment dweller in a multifamily building.

Council Member Filseth noted the Comprehensive Plan provided some guidance for the Housing Element Update. School, neighborhood, and senior representatives were needed.

Council Member Stone suggested someone from the environmental community for the Working Group.

Mr. Lait reported Staff planned to reach out to many different stakeholders, and individual stakeholders were going to fit in several categories. Council Members needed to provide their suggestions for stakeholders to him.

Council Member Kou inquired about updating the Safety Element.

Mr. Lait clarified that additional elements of the Comprehensive Plan may need amending concurrent with the Housing Element.



# SUMMARY MINUTES

Council Member Kou asked if the Working Group was going to identify sites for 6,086 housing units.

Mr. Lait replied more than that.

**MOTION:** Mayor DuBois moved, seconded by Council Member Kou to:

- A. Establish and provide direction to Staff regarding recruitment of a Working Group to assist with the development of the 2023-2031 Housing Element Update with the addition of two more neighborhood association representatives, a Parent Teacher Association representative, a PAUSD Board Member, and a senior organization;
- B. Direct Staff to solicit recommendations from City Council Members; and
- C. Form an ad-hoc committee.

Council Member Cormack requested clarification of the categories labeled special needs and neighborhood.

Mr. Wong advised that the stakeholders would have disabilities or other special needs. Originally, seniors were included in the category. Previously, neighborhood associations provided a representative to the Working Group.

Council Member Cormack interpreted the special needs category as unique populations rather than persons with disabilities.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, Part A, "...an additional Stanford Research Park representative".

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, Part A, "...and an environmental representative".

**MOTION AS AMENDED:** Mayor DuBois moved, seconded by Council Member Kou to:

- A. Establish and provide direction to Staff regarding recruitment of a Working Group to assist with the development of the 2023-2031 Housing Element Update with the addition of two more neighborhood association representatives, a Parent Teacher Association representative, a PAUSD Board Member, a senior organization, an additional Stanford Research Park representative, and an environmental representative;

# SUMMARY MINUTES

- B. Direct Staff to solicit recommendations from City Council Members; and
- C. Form an ad-hoc committee.

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

Council took a break at 11:25 P.M. and returned at 11:32 P.M.

- 8. Colleagues' Memo Proposing Adoption of Resolution 9942 Entitled, "Resolution of the Council of the City of Palo Alto Expressing Support for Actions to Further Strengthen Local Democracy, Authority, and Control as Related to Local Zoning and Housing Issues."

Council Member Kou reported the number of proposed bills increased each year. Legislators did not consider schools, infrastructure, funding, or cumulative impacts. State legislation often usurped local control.

Aram James requested clarification of local control. Housing had to bring more people of color into the community.

Terry Holzemer felt it was imperative for all jurisdictions to participate in the Resolution.

Rebecca Eisenberg disparaged the proposed Resolution and urged the Council to create affordable housing.

Council Member Stone advised that State housing mandates created market-rate housing and did not provide funding mechanisms for affordable housing. Local jurisdictions knew what was right for the community.

Council Member Filseth requested the recommended action for the Council.

Council Member Kou asked the Council to approve the Resolution reflecting the City's position.

Molly Stump, City Attorney, advised that a draft Resolution was attached to the memo.

Council Member Filseth noted a number of surveys found that voters overwhelmingly preferred local jurisdictions enact zoning regulations.

Mayor DuBois related that the Resolution does not mention affordable housing or any other particular issue. The State eroded the rights provided to local jurisdictions.

# SUMMARY MINUTES

Vice Mayor Burt shared the history and purpose of the Affirmatively Furthering Fair Housing (AFFH) law.

**MOTION:** Council Member Kou moved, seconded by Council Member Stone to Adopt a Resolution "Expressing Support for Actions to Further Strengthen Local Democracy, Authority, and Control as Related to Local Zoning and Housing Issues".

**MOTION PASSED:** 6-1 Cormack no

## Council Member Questions, Comments and Announcements

Mayor DuBois encouraged Council Members to participate in the 21-day Equity Challenge.

Adjournment: The meeting was adjourned at 11:51 P.M.