



# CITY COUNCIL SUMMARY MINUTES

Special Meeting  
May 10, 2021

The City Council of the City of Palo Alto met on this date in virtual teleconference at 5:00 P.M.

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

Absent:

## Agenda Changes, Additions and Deletions

Vice Mayor Burt advised that Agenda Item Number 1 was going to be heard after Agenda Item Number 7.

Ed Shikada, City Manager, noted an at-places memorandum regarding Agenda Item Number 5 clarified the use of a portion of funding.

## Oral Communications

Rebecca Ward asked the Council to agendize a discussion of a strategy to deal with jet traffic. The priority strategy, membership in the Santa Clara/ Santa Cruz Roundtable, was suspended. The City was not powerless, but it was meek and ineffective in its approach to dealing with aircraft traffic.

Shani Kleinhaus, Santa Clara Valley Audubon Society, advised that the diesel spill into Matadero Creek affected birds at the height of the nesting season. She requested the City participate in the investigation of the spill, require monitoring of remediation, and ensure the offending party was fined.

Weijia Cheng shared his observation of Police Officers and a terrified Chinese woman interacting on the street. He questioned the presence of the K-9 unit and the lack of a Chinese-speaking officer.

Jeremy Erman expressed dismay about the funding cuts for arts and education programming. He urged Staff to provide the full proposed budget to the Council and public so that they understood the costs of programs. The Finance Committee and Council did not schedule sufficient time to discuss the proposed budget.

Rebecca Eisenberg remarked that proposed budget cuts eliminated programs that attracted families to Palo Alto and any chance to mitigate climate change. The Council was heading in the wrong direction.

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Douglas Moran urged the City to ensure government agencies were aware of the complex geology of Matadero Creek before the agencies attempted to remediate the recent fuel spill.

Hamilton Hitchings proposed the Council utilize the majority of federal stimulus funding during the first year and contingency funding in the second year and continue salary and hiring freezes to reduce the Budget deficit. Perhaps, the Utilities Department needed to be charged for internal services to help make up the transfers from Enterprise Funds to the General Fund.

Winter Dellenbach commented that an unknown amount of diesel fuel was spilled into Matadero Creek, which was a wildlife habitat. The fuel escaped containment and was found 500 yards downstream of the containment booms. She inquired regarding efforts to prevent the public and pets from accessing the creek and impacts on the creek's ecosystem. The public, Council, Staff, and Parks and Recreation Commission needed regular updates on the situation.

Becky Sanders asked the Council to reconsider its tentative approval of rezoning the property at 2951 El Camino Real. The Council did not treat the Ventura neighborhood equitably.

Jonathan Erman opposed budget cuts that affected costumes and staffing for the Children's Theatre. In some instances, volunteers were appropriate replacements for outside contractors.

## Minutes Approval

2. Approval of Action Minutes for the April 19, 2021 City Council Meeting.

**MOTION:** Mayor DuBois moved, seconded by Vice Mayor Burt to approve the Action Minutes for the April 19, 2021 City Council Meeting.

**MOTION PASSED:** 7-0

## Consent Calendar

Council Member Tanaka registered a no vote on Agenda Item Number 7.

Rebecca Eisenberg, addressing Agenda Item Numbers 3 and 5, expressed disappointment with the City utilizing a contract auditor. Other cities were using Citizens Options for Public Safety (COPS) funding to improve body-worn camera programs and to provide radio communications to the public.

**MOTION:** Council Member Cormack moved, seconded by Council Member Stone to approve Agenda Item Numbers 3-7.

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3. Finance Committee Recommends the City Council Approve the Macias Gini & O'Connell's Single Audit Report for the Year Ended June 30, 2020.
4. Policy and Services Committee Recommends the City Council Accept the City Auditor's Quarterly Status Report (Q3 of Fiscal Year 2021), and Approve Additional Task Orders for Approved Audit Activities.
5. Approval of the Acceptance and Appropriation of State of California Citizens Options for Public Safety (COPS) Funds; and Approval of a Budget Amendment (Requires 2/3 Approval) in the Supplemental Law Enforcement Services Fund.
6. Parks and Recreation Commission and Staff Recommend the City Council: 1) Adopt an Ordinance Amending the Fiscal Year (FY) 2021 Municipal Fee Schedule to Include Foothills Nature Preserve Daily Vehicle Entrance Fees Based on Passenger Capacity and Free Vehicle Entrance for Certain Students and on Certain Days; 2) Prohibit the use of Certain Entrances to Foothills by Horse and Bicycle Users; and 3) Direct Staff to Permanently Remove Nine Hillside Barbecues at Foothills to Improve Fire Safety.
7. Resolution 9954 Entitled, "Resolution of the Council of the City of Palo Alto to Extend the Temporary Closures of Portions of California Avenue, University Avenue, and Certain Downtown Streets Intersecting University Avenue; and Extending the Pilot Parklet Program as First Authorized by Resolution Number 9099."

**MOTION PASSED FOR AGENDA ITEM NUMBERS 3-6:** 7-0

**MOTION PASSED FOR AGENDA ITEM NUMBER 7:** 6-1 Tanaka no

Council Member Tanaka felt metrics were essential to measure the program's impact on businesses.

## Special Orders of the Day

1. Appointment of Candidates to the Human Relations Commission, Public Art Commission, Stormwater Management Oversight Committee, and the Utilities Advisory Commission.

[While Council Members voted, the Council heard City Manager Comments and returned to this item.]

First Round of voting for three positions on the Human Relations Commission with terms ending May 31, 2024.

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Voting For:

Sunita de Turreil (Incumbent)	Cormack, Tanaka, Kou
Adriana Eberle	Burt, Cormack, DuBois, Filseth, Stone, Tanaka, Kou
Michelle Kraus	Burt, DuBois, Filseth, Stone
Kaloma Smith (Incumbent)	Burt, Cormack, DuBois, Filseth, Stone, Tanaka, Kou

Beth Minor, City Clerk, announced that Adriana Eberle with seven votes, Kaloma Smith with seven votes, and Michelle Kraus with four votes were appointed to the Human Relations Commission.

First Round of voting for three positions on the Public Art Commission with terms ending May 31, 2024.

Voting For:

Shiraaz Bhabha	Cormack, Tanaka
Loren Gordon (Incumbent)	Burt, DuBois, Filseth, Kou, Stone, Tanaka
Mette Huberman	
Emily Meyer	Cormack
Ben Miyaji (Incumbent)	Burt, Stone, Tanaka
Cleia Muggler	DuBois, Filseth, Kou
Harriet Stern	
Lisa Waltuch	Burt, Cormack, DuBois, Filseth, Kou, Stone

Mark Weiss

Ms. Minor announced that Loren Gordon with six votes, and Lisa Waltuch with six votes were appointed to the Public Art Commission.

Second Round of voting for one position on the Public Art Commission with terms ending May 31, 2024.

Voting For:

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Shiraaz Bhabha

Mette Huberman

Emily Meyer

Ben Miyaji (Incumbent)

Cormack, Burt, Stone, Tanaka

Cleia Muggler

DuBois, Filseth, Kou

Harriet Stern

Mark Weiss

Ms. Minor announced that Ben Miyaji with four votes was appointed to the Public Art Commission.

First Round of voting for four positions on the Storm Water Management Oversight Committee with terms ending May 31, 2025.

Voting For:

Stephanie MacDonald

Cormack, Stone, Tanaka

Hal Mickelson (Incumbent)

Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Dena Mossar (Incumbent)

Burt, Cormack, DuBois, Filseth, Kou, Stone

Catherine Perman

Burt, DuBois, Filseth, Kou, Tanaka

Bob Wenzlau (Incumbent)

Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Ms. Minor announced that Hal Mickelson with seven votes, Bob Wenzlau with seven votes, Dena Mossar with six votes, and Catherine Perman with five votes were appointed to the Storm Water Management Oversight Committee.

First Round of voting for two positions on the Utilities Advisory Commission with a term ending May 31, 2024.

Voting For:

John Bowie

Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

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Carol Guthrie

Cormack, Tanaka

Don Jackson (Incumbent)

DuBois, Filseth, Kou

Phil Metz

Burt, Stone

Rajmohan Rajagopalan

Ms. Minor announced that John Bowie with seven votes was appointed to the Utilities Advisory Commission.

Second Round of voting for one position on the Utilities Advisory Commission with a term ending May 31, 2024.

Voting For:

Carol Guthrie

Tanaka

Don Jackson (Incumbent)

DuBois, Filseth, Kou

Phil Metz

Burt, Cormack, Stone

Rajmohan Rajagopalan

Ms. Minor announced that a third round of voting was needed for the Utilities Advisory Commission.

Third Round of voting for one position on the Utilities Advisory Commission with a term ending May 31, 2024.

Voting For:

Carol Guthrie

Don Jackson (Incumbent)

DuBois, Filseth, Kou

Phil Metz

Burt, Cormack, Stone, Tanaka

Rajmohan Rajagopalan

Ms. Minor announced that Phil Metz with four votes was appointed to the Utilities Advisory Commission.

## City Manager Comments

Ed Shikada, City Manager, reported COVID-19 vaccinations continued to be important. COVID-19 testing was available on Tuesdays and Wednesdays and

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on May 21, 2021. Opportunities for public comment regarding the Proposed Budget were available online and at Finance Committee hearings and Council discussions. On May 6, 2021, the Fire Department responded to the Veterans Administration (VA) Hospital's call regarding an oil spill. A third-party contractor to the VA was leading the cleanup effort. The Fire Department, Public Works Department, and several agencies were involved in the situation. The City Manager's Office contacted Congresswoman Eshoo's Office and Assembly Member Berman's Office to request assistance with following up with State and Federal agencies. The Utilities Department received reports of scam callers pretending to be Utilities Department Staff. May was Affordable Housing Month, National Police Week was May 9-15, 2021, and National Police Officers Memorial Day was May 15, 2021. Race and equity events were scheduled throughout May 2021. Upcoming Council items were a report from the Finance Committee, a Study Session regarding the National Community Survey, land use proposals, an appeal of the Regional Housing Needs Allocation (RHNA), a Fiber to the Home (FTTH) update, and a contract with GreenWaste.

## Action Items

8. Joint City Council/Planning and Transportation Commission Meeting, Followed by Council Action to Kick Off the Housing Element Update; and Provide City Council Endorsement of the City's Approach to Fulfill State Housing Element Certification Requirements and Approval.

Jonathan Lait, Planning and Development Services Director, advised that the meeting was intended to launch efforts to prepare a Housing Element. Many challenging policy issues needed to be addressed, but there were future opportunities for input on the issues.

Tim Wong, Senior Planner, introduced himself as the project manager for the Housing Element Update. The Housing Element Working Group (Working Group) held its first meeting the prior week, and a community meeting was scheduled for May 15, 2021. Information about the Housing Element Update was available at [paloaltohousingelement.com](http://paloaltohousingelement.com).

Della Acosta, Rincon Consultants, reported the Housing Element was a mandatory element of the Palo Alto Comprehensive Plan and was required to be updated every eight years and certified by the California Department of Housing and Community Development (HCD). The deadline to submit the Housing Element for certification was January 31, 2023. The Housing Element was composed of a community profile, housing constraints, housing resources, and a community plan. Objectives for the Housing Element were to provide housing to all sectors, to provide affordable housing for those who

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needed it most, to streamline affordable housing permitting, and to ensure equal housing opportunities. Failing to achieve certification resulted in a four-year update cycle, monetary fines, the Comprehensive Plan being deemed inadequate and invalid, and ineligibility for grant and funding programs. The Regional Housing Needs Assessment (RHNA) addressed future housing needs caused by population, employment, and housing growth. The planning period or sixth cycle for the Housing Element was January 2023 to January 2031. HCD determined the housing allocation for the Association of Bay Area Governments (ABAG), and ABAG distributed housing units across jurisdictions within its region. Each jurisdiction prepared a Housing Element that provided future development of the allocation. Very-low-income housing was affordable for persons earning 31 percent to 50 percent of Area Median Income (AMI). Low-income housing was affordable for persons earning 51 percent to 80 percent of AMI. Moderate-income housing was affordable for persons earning 81 percent to 120 percent of AMI. Above-moderate-income housing was affordable for persons earning more than 120 percent of AMI. Palo Alto's RHNA allocation for the sixth cycle was 6,086 total units or 1,556 very-low-income units, 896 low-income units, 1,013 moderate-income units, and 2,621 above-moderate-income units. The first step to meeting the RHNA allocation was a sites inventory or analysis. Recent housing legislation increased the complexity of developing a Housing Element. A wide variety of community engagement was planned for 2021 and 2022. Site selection was scheduled for Planning and Transportation Commission (PTC) review in January 2022 and Council review in March 2022. PTC review of housing programs was scheduled for April 2022 with Council review in early May 2022. A draft of the Housing Element was scheduled for release to the public in late May 2022. Staff planned to submit the draft Housing Element for HCD's initial review in June 2022. The PTC was going to review the final Housing Element in September 2022 with Council adoption scheduled for November 2022.

[The Council returned to Agenda Item Number 1 to receive the results of the first round of voting.]

Kathy Jordan highlighted the effects of population declines in California and Santa Clara County in 2020 and the number of small businesses remaining closed compared to those operating in January 2020. The State had a \$75 billion surplus.

Jeremy Erman questioned the need for a lengthier discussion of the Housing Element Update than the Proposed Budget and the need for consultant services at this time.

Jeffrey Hook asked if climate change was a factor in the RHNA calculation and if rezoning commercial parcels to residential reduced the City's RHNA



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allocation. The timeframe for planning needed to be 60 to 100 years because the lifespan of housing was 60 to 100 years.

Rebecca Eisenberg felt the Council needed to understand that housing helped the environment. Infill housing removed cars from the street and reduced pollution and water usage. The height limit for housing was a big problem.

Kelsey Banes commented that infill housing impacted climate change more than anything else. The process for the Housing Element Update and site identification needed to be inclusive.

Salim Damergji believed the City needed to focus on its role in affirmatively furthering fair housing. The Working Group did not represent all economic segments of the community.

Jordan Grimes, Peninsula for Everyone, remarked that populations did not grow without housing. No credible group posed questions about the accuracy of the RHNA numbers.

Arthur Keller noted that the City had to build low-income housing.

Council took a break at 6:30 P.M. and returned at 6:40 P.M.

Mayor DuBois noted the discussion concerned the process and the schedule for the Housing Element Update.

Doria Summa, Planning and Transportation Commissioner, asked if deficiencies in the draft Housing Element were going to be corrected between June 2022 and January 2023.

Ms. Acosta related that HCD was going to review the draft Housing Element and provide Staff with comments. Staff and the consultants were going to address the comments and submit a corrected Housing Element for PTC and Council review.

Breanna Weatherby, Rincon Consultants, added that HCD had 60 days to review the draft Housing Element, provide notice of any deficiencies, and request inclusion of additional information. HCD and Staff were likely to communicate regarding the notice before the draft was revised and a final Housing Element was presented to the PTC for review and Council for approval.

Ms. Summa asked if revisions to the final Housing Element were allowed after January 31, 2023.

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Ms. Weatherby explained that revisions typically were not made once the Council adopted the final Housing Element and it was submitted for certification. HCD was allowed to request a minor revision to text.

Veronica Tam, Rincon Consultants, added that there was a grace period from the statutory deadline if the City was eligible for it. Consequences were more significant if the deadline was missed.

Ed Lauing, Planning and Transportation Commissioner, noted the Work Group's concern that the end of the timeline was quite compressed. As the process evolved, the timeline needed to be reviewed. Perhaps, the beginning of the process needed to advance more quickly.

Mr. Lait related that Staff focused on touchpoints with the PTC and Council. Staff intended to guide the Working Group, the Council Ad Hoc Committee, PTC, and Council altogether through the process.

Michael Alcheck, Planning and Transportation Commissioner, remarked that the preparation of the Housing Element was going to be far more complex and involved than prior ones. A Working Group with diverse membership was going to significantly improve community acceptance of the final Housing Element. Because of the number of new legal requirements and the magnitude of the City's RHNA allocation, planning professionals needed to develop an outline for the Housing Element prior to involving the Working Group to help focus the Working Group's efforts. A limited number of paths were available for achieving certification of the Housing Element. Planning Staff and the City Attorney's Office needed to do some of the heavy lifting with the Housing Element.

Bart Hechtman, Planning and Transportation Commission Chair, liked the organization outlined in the Staff Report, and the reasonable schedule. The Environmental Impact Report (EIR) for the 2017 Comprehensive Plan probably addressed the then-current RHNA allocation of approximately 2,000 units. The draft Housing Element needed to analyze the new RHNA numbers. Environmental review was scheduled to begin after completion of site selection in March 2022 and to be complete in November 2022. Staff anticipated preparing a Supplemental EIR, for which they scheduled sufficient time. If a Subsequent EIR was required, more time was going to be needed.

Mr. Lait agreed to review the timeline for the EIR process. The Comprehensive Plan EIR studied a housing increase of approximately 4,500 units, which was closer to 6,000 units. Rincon Consultants was going to prepare the Supplemental EIR.

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[The Council returned to Agenda Item Number 1 to hear the results of the second round of voting.]

Council Member Cormack asked if the Working Group was going to be trained as other Boards and Commissions were.

Mr. Lait advised that the Working Group received training regarding the Brown Act, but Staff agreed to underscore the need to identify themselves.

Council Member Cormack asked if the Council Ad Hoc Committee was going to meet with the Working Group during regular public meetings or if Working Group leaders were going to meet with the Ad Hoc Committee.

Mr. Wong explained that Staff was going to present the Working Group's work product to the Ad Hoc Committee, and the Working Group's co-chairs were welcome to join Ad Hoc Committee meetings. Staff was going to report any direction from the Ad Hoc Committee to the Working Group.

Bryna Chang, Planning and Transportation Commissioner, commented that the content needed to address constraints and hoped a significant amount of time was scheduled for discussing constraints and funding for affordable housing.

Cari Templeton, Planning and Transportation Commissioner, inquired regarding a requirement for new housing to be distributed across the City

Ms. Weatherby advised that HCD was going to ensure housing was spread across the community and housing for one income level was not located in one particular area, especially with the affirmatively furthering fair housing requirement.

Ms. Templeton asked if equitable distribution was defined as some affordable housing located in every neighborhood, ZIP Code, or something else.

Ms. Weatherby explained that several things played into equitable distribution, such as existing development and the location of suitable sites. There were no specific rules for equitable distribution. HCD was going to consider the City as a whole when reviewing the distribution of sites.

Mr. Lait added that the Housing Element was going to respond to the technical requirement set forth in State law, but policy considerations were going to be presented to the Working Group, the PTC, and Council.

Ms. Templeton recalled discussions of the North Ventura Coordinated Area Plan (NVCAP) hitting many roadblocks and inquired whether lessons learned from the NVCAP were going to be applied to the Housing Element process.

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Mr. Lait advised that Rachel Tanner resolved many of the NVCAP issues and participated in developing the timeline and process for the Housing Element Update.

Giselle Roohparvar, Planning and Transportation Commissioner, asked how an appeal of the City's RHNA allocation and the grace period affected the timeline for the Housing Element Update and whether the City appealed the RHNA allocation to ABAG or provided commentary to ABAG who appealed the allocation to HCD.

Mr. Lait indicated the appeal was scheduled for a Council discussion on May 18, 2021. Staff and the consultants were going to proceed with the Housing Element Update using the current RHNA allocation because the results of an appeal were not going to be known for some time.

Mr. Wong explained that ABAG, not HCD, was going to decide any appeals.

Mayor DuBois requested the names of other jurisdictions that Rincon was representing.

Ms. Weatherby related that Rincon was working with approximately 26 jurisdictions throughout the state but primarily jurisdictions located in the Southern California Association of Governments (SCAG) region and San Diego County.

Mayor DuBois inquired whether any of the cities were similar to the City of Palo Alto in land costs and other characteristics.

Ms. Weatherby reported the City of Carlsbad and its Housing Element process and demographics were similar to Palo Alto.

Mayor DuBois requested Staff's vision for choosing sites prior to a policy discussion.

Mr. Lait commented that input from the Working Group, Ad Hoc Committee, PTC, and Council was going to guide Staff in drafting an initial list of sites that met objectives. As policies formed, the list could be modified. The site selection needed to be drafted first because it was subject to environmental review.

Mr. Wong added that frequent conversations with the Ad Hoc Committee and the PTC were likely to help refine the list of sites and raise policy issues.

Mayor DuBois inquired about a process for cities in Santa Clara County to exchange allocations.

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Mr. Lait was not aware of any recent discussion of such a process, and it did not appear to be viable at the current time.

Mayor DuBois asked if there was a process for exchanging allocations or if jurisdictions simply agreed to exchange allocations.

Mr. Lait did not believe there was a formal process. When the City appealed its RHNA allocation in the past, it negotiated the allocation during the appeal process.

Mr. Wong added that the exchange process was no longer viable because of legal changes.

Mayor DuBois wanted to pursue multiple paths if there was an opportunity to do so. Demonstrating the potential for development was likely to drive the distribution of sites. Sites in single-family neighborhoods were probably not viable since the potential for redevelopment was negligible.

Mr. Lait reported Staff utilized a tiered approach to focus on projects that came online during the upcoming cycle and sites supported by the existing Comprehensive Plan. If those sites did not provide sufficient housing units, Staff was going to approach the Working Group and Ad Hoc Committee with a conversation.

Mayor DuBois challenged Commissioners and Council Members to think outside the box and consider expanding housing into areas such as Stanford Research Park and Stanford Mall and annexing areas outside Palo Alto.

Council Member Stone concurred with previous comments regarding the timeline and NVCAP.

Vice Mayor Burt requested clarification of eligibility for the grace period.

Mr. Lait did not believe the grace period was intended for policy discussions.

Ms. Weatherby advised that the grace period was intended for jurisdictions making meaningful efforts to complete their Housing Elements. To be eligible for a grace period, HCD's initial review needed to be complete, and a jurisdiction had to demonstrate progress toward completing its Housing Element.

Vice Mayor Burt was not interested in including the grace period in the Housing Element Update process but in having time to revise the final Housing Element if HCD did not certify it.

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Mr. Lait reported the Rincon team had extensive experience in preparing Housing Elements and extensive working relationships with HCD. Once the Housing Element was drafted, staff and the consultants were going to consult with HCD to ensure the Housing Element aligned with HCD guidelines.

Mr. Wong added that discussions with HCD were going to include policy parameters acceptable to HCD so that the Council was able to make informed decisions.

Vice Mayor Burt noted that one approach to defining the missing middle was income levels, and the City had the greatest difficulty in achieving housing units for the missing middle because of extremely high land values. Subsidies may be needed to provide housing for the missing middle. He inquired whether Assembly Bill (AB) 725 was intended to define missing middle housing as moderate in density and scale.

Mr. Lait related that missing middle housing was a topic that the Working Group and the Ad Hoc Committee was going to help Staff navigate so that housing complied with State requirements and City needs.

Ms. Weatherby reported according to AB 725, jurisdictions adopting Housing Elements on or after January 1, 2022 needed to fulfill 25 percent of their moderate-income and above-moderate-income RHNA allocations with developments of multifamily housing of four-plus units but not on sites that accommodated four-plus units of single-family homes or duplexes.

Vice Mayor Burt stated the City was able to zone for and achieve construction of those units, but the market was not going to price the units for those income levels.

Rachel Tanner, Planning and Development Services Assistant Director, concurred that AB 725 addressed the type and design of housing. Missing middle also referred to a mid-rise scale and an income level. A duplex or small-scale apartment building was not necessarily affordable for middle-income groups. Staff planned to explore financing opportunities for missing middle housing.

Vice Mayor Burt asked how accessory dwelling units (ADU) were going to be treated under the Housing Element Update.

Ms. Weatherby explained that HCD was looking for trends in ADU development. In the SCAG region, HCD allowed jurisdictions to base their ADU projection on the number of permits approved in 2020.

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Vice Mayor Burt inquired regarding HCD's handling of jurisdictions that did not have a trends for ADU production.

Ms. Weatherby advised that the City was allowed to project a greater number of ADUs than trends justified if it supported the projection with policies and programs that included monitoring, timeframes, objectives, and action items should projections not be realized after the second year of the cycle.

Council Member Kou asked if the City was allowed to utilize AB 686 and the Fair Housing Act to require low-income housing units to be comparable to other units in a development and to accommodate families.

Ms. Weatherby related that a requirement for comparable housing units was going to be a City policy.

Ms. Tanner reported the City currently required below-market-rate (BMR) units in a market-rate building to be comparable in quality. One way to address BMR units for families was through the bedroom mix of a development.

Mr. Wong added that Staff worked with developers to choose the proposed units. The only allowed difference between market-rate and BMR units was finishes.

Council Member Kou inquired whether Senate Bill (SB) 166 addressed no net loss in rents for affordable units.

Mr. Lait replied no. SB 166 addressed a unit-for-unit replacement.

Mr. Wong explained that the no net loss provision was going to require the City to provide a small surplus of units.

Council Member Kou asked if contaminated sites were allowed to be selected for the Housing Element.

Mr. Lait did not believe contaminated sites were excluded from selection based on permitted redevelopment of sites located in the existing plume.

Ms. Weatherby clarified that some contaminated sites were too expensive to redevelop because of the required mitigation measures. That was addressed in the environmental analysis rather than the Housing Element.

Council Member Kou inquired about a planning collaborative.

Mr. Lait indicated the City was a member of the planning collaborative where members shared information and resources.

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Commissioner Alcheck suggested Staff and the consultants provide the PTC and Council with information about the tools that other jurisdictions utilized to demonstrate the likelihood of a site being redeveloped and about HCD's acceptance or rejection of sites.

Mayor DuBois closed the joint session with the PTC.

[The Council returned to Agenda Item Number 1 to receive the results of the third and final round of voting.]

Vice Mayor Burt asked if mandates incentivized cities to provide extremely small units without a demographic balance for new units.

Mr. Lait did not believe that was the stated intent of mandates. The State was attempting to advance a number of policy objectives. The City needed to advance its own interests and demographics by providing a mix of housing types.

Mr. Wong commented that policies and programs encouraging that type of housing was not likely to obtain HCD approval.

Vice Mayor Burt stated providing a demographic balance conflicted with meeting the numerical demand for housing.

Mr. Lait interpreted Vice Mayor Burt's comments as highlighting the conflict between State law and local jurisdiction needs to produce housing numbers, which were extraordinarily high.

Council Member Stone asked if there was any legislation to fund the production of low-income housing.

Mr. Lait indicated many of the bills noted no funding was associated with them or there was no need to reimburse the local jurisdiction.

Ms. Tanner advised that the State Housing Bond and the Governor's proposed budget provided funding for housing. The County of Santa Clara (County) also passed measures to provide funding for housing projects.

Council Member Stone requested Staff's priority for seeking funding opportunities and government grants.

Ms. Tanner related that most funding was project-specific.

Council Member Stone appreciated social justice requirements for the Housing Element. Legislation typically mandated the construction of market-rate housing and penalized jurisdictions for not doing so. The City needed to



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advocate for affordable housing funding with State elected officials and to adopt policies targeting construction of affordable housing.

Council Member Filseth noted the complexity of housing legislation and the possibility of additional housing legislation in the future. Two challenges the City needed to resolve in order to submit a compliant Housing Element were affordable housing whether through an Inclusionary Ordinance or subsidies and large mixed-use projects that provided significant housing and created even more housing demand.

Council Member Cormack inquired whether the Working Group was expected to address funding for affordable housing.

Mr. Lait answered no.

Mayor DuBois proposed the Council pursue paths of drafting the Housing Element Update, advocating for a more balanced approach, exploring a trade of allocations, and investigating and preserving legal protections. He suggested the Council consider an anti-displacement policy and a neighborhood in Stanford Research Park with schools and services. Mandates were potentially going to freeze housing in the short term. The City may be forced to consider zoning open space for housing. He inquired whether HCD was likely to accept sites converted from short-term rentals to longer-term housing stock through a new Airbnb Ordinance.

Mr. Wong agreed to explore the concept, but he was unsure how tenure played into RHNA credit versus production.

**MOTION:** Mayor DuBois moved, seconded by Council Member Filseth to accept the overall project schedule and approach, as well as the roles and responsibilities of the Housing Element Working Group, Council Ad Hoc Committee and Planning and Transportation Commission, as detailed in this report, with an attempt to spread the workload as evenly as possible over the schedule.

Vice Mayor Burt suggested adding a Council check-in to the timeline if significant zoning changes were needed to create housing sites.

Mr. Lait indicated the Ad Hoc Committee was able to direct Staff to schedule a check-in with the Council. Staff intended to present any major policy shift or new policy to the Council.

**MOTION PASSED:** 7-0

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## Council Member Questions, Comments and Announcements

Council Member Kou requested the City Manager report to the Council regarding the incident in Ventura mentioned in public comment.

Ed Shikada, City Manager, agreed to provide a report and to respect the privacy of any individuals involved in the incident.

Mayor DuBois recognized Peace Officers Memorial Day.

## Closed Session

9. Conference With the City's Cybersecurity Operations Managers (City Manager and IT Operations Management Staff) – Regarding Current Cyberthreat Environment and City Cybersecurity Programs Authority: Government Code Section 54957(a).

Rebecca Eisenberg commented that an overabundance of security worsened environmental damage caused by the diesel spill and reiterated Ms. Dellenbach's comments. She urged the Council not to fund any further encryption of Police Department communications.

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

**MOTION PASSED:** 7-0

Council went into Closed Session at 8:18 P.M.

Council returned from Closed Session at 10:00 P.M.

Mayor DuBois announced no reportable action.

Adjournment: The meeting was adjourned at 10:00 P.M. in honor of Peace Officer's Memorial Day on Saturday, May 15<sup>th</sup>.

NOTE: Action minutes are prepared in accordance with Palo Alto Municipal Code (PAMC) 2.04.160(a) and (b). Summary minutes (sense) are prepared in accordance with PAMC Section 2.04.160(c). Beginning in January 2018, in accordance with [Ordinance No. 5423](#), the City Council found action minutes and the video/audio recordings of Council proceedings to be the official records of both Council and committee proceedings. These recordings are available on the City's website.