



CITY COUNCIL SUMMARY MINUTES

Special Meeting
February 14, 2022

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

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

Absent: None

Special Orders of the Day

1. Select Applicants to Interview for the Architectural Review Board.

MOTION: Council Member Cormack moved, seconded by Vice Mayor Kou to interview all new applicants for the Architectural Review Board.

MOTION PASSED: 7-0

Public Comment

None

AA1. Friends of the Palo Alto Libraries.

Friends of the Palo Alto Libraries (FPAL) President Jenny Monroe shared that FPAL was established in 1938. The goal of FPAL was to maintain a group of people interested in enriching and publicizing resources for the library as well as support library activities in the interest of the community. The first annual book sale was held in 1969 and has since changed into monthly book sales. The gross sale total from the sales of books in the year 2000 exceeded \$100,000. In 2002, FPAL moved to Cubberley and began using online book sales platforms. The gross sale total for 2018/2019 was \$356,000, of which \$86,000 were high-value sales. During the year 2019/2022, when the Covid-19 Pandemic hit, sales totaled \$274,000, of which \$96,000 was from high-value items. In years 2020/2021, the gross sales from books sales was \$252,000, of which over \$100,000 were from high-value sales. Friends and family sales were implemented in the year 2020. Those sales along with online book sales and high values sales kept FPAL afloat during the Covid-19 pandemic. FPAL managed approximately 85,000 books with over 100 active volunteers. After a monthly sale, any books remaining in the bargain room are offered free to teachers and non-profits and then to the general public.

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FPAL continued to make annual grants to the library and pays \$25,000 to the City of Palo Alto in rent.

Mayor Burt thanked all the members of FPAL for the donation of their time and support.

NO ACTION TAKEN

Agenda Changes, Additions and Deletions

None

Public Comment

Winter Dellenbach remarked that a protected tree near the downtown post office was almost cut down. She was concerned that the City's Urban Forester was not aware that the tree was proposed to be cut down. A resident was made aware of the removal and stopped it. She wanted to understand how the City works with the federal government to protect and take care of protected trees located on federal land.

Deborah Simon, Chair of Friends of Cubberley, stated that the Friends are exhausted from waiting for action from Council and Palo Alto Unified School District. She urged Council to include Cubberley in the City's Infrastructure Plan and act now on making repairs for the Center.

Aram James mentioned that there are no people of color on the Palo Alto police force. He believed it was appropriate for the entire City Council to refute and commend the racial statements that were made at the prior City Council meeting. He recommended that Council share the video of the meeting with the District Attorney to decide if the comments were a terrorist threat.

Alexander Stein stated that moving to Palo Alto was a huge regret because a relationship when south and he now cannot afford to live in the City. He recommended that the City work with Google to identify fraud persons through BitCoin scandals.

Liz Gardner announced she resides at 2500 El Camino Real in the new low-income complexes. There have been unlivable conditions for residents at the complex. She requested Council allow the recreation scholarship program to be increased to 80 percent for low-income folks. She wanted to know what the City spent the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act funds on and if there are still funds available. Also, she wanted to know if those funds could be used for affordable housing or recreational services for low-income persons and youth.

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Mayor Burt invited Ms. Gardner to email City Manager Shikada to address her living condition concerns.

Consent Calendar

Vice Mayor Kou moved, seconded by Council Member Stone, third by Mayor Burt to pull Item 5 from the Consent Calendar to be heard as Item 8A tonight.

Council Member Tanaka registered a no vote on Agenda Item Numbers 6, 7.

Elizabeth Alexis supported the Council Members who recommended pulling the AECOM contract from the Consent Calendar. She felt that the next step for Charleston Avenue was not to keep working in the same direction but do a design that meets community concerns. She recommended that Council support any efforts made by Caltran for grade separations.

MOTION: Council Member DuBois moved, seconded by Council Member Cormack to approve the Consent Agenda items 2-4, 6-7.

2. Approve Minutes from the January 31, 2022 City Council Meeting.
3. Approval of Construction Contract Number C22181645 with Legion Contractors Inc., in the Amount of \$494,723, and Authorization for the City Manager or their Designee to Negotiate and Execute Change Orders up to a Not-to-Exceed Amount of \$74,208, for the Magical Bridge Playground Rubber and Synthetic Turf Resurfacing Capital Improvement Program Project (PE-21003).
4. 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 June 30, 2022 with an Optional Extension for an Additional Two Years.
5. ~~Approval of Amendment #4 to Contract C18171057 with AECOM to Increase the Not to Exceed Compensation by \$722,170 for Additional Evaluation and Outreach of Railroad Grade Separation Alternatives for a Total Not to Exceed of \$3,596,828. This Item was pulled and heard as Item 8A.~~
6. Approval of Meter Data Management System (MDMS) Contract C22184319 With N. Harris Corporation (SmartWorks) in the Amount Not to Exceed \$1,804,055 Over a Five-Year Term.
7. SECOND READING: Adoption of **Ordinance 5543** Amending Palo Alto Municipal Code Section 9.68 (Relocation Assistance for No-Fault Evictions) by Reducing the Threshold for Applicability from 50 Units to

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10 Units or a Lower Threshold. Environmental Assessment: Exempt pursuant to CEQA Guidelines Section 15061(b)(3). (FIRST READING: January 31, 2022 PASSED: 5-1-1, Tanaka no, Stone abstain).

ITEMS 2 AS AMENDED, 3, 4, OF MOTION PASSED: 7-0

ITEM 6 OF MOTION PASSED: 6-1, Tanaka No

ITEM 7 OF MOTION PASSED: 5-1-1, Tanaka No, Stone Recused

ITEM 5 was pulled from the Consent Calendar to be heard as Item 8A.

Council Member Tanaka commented while he supports automatic metering infrastructure (AMI), the bid was on the higher end and had a \$250,000 termination penalty. There was no rationale why there was a high termination penalty. Regarding Item 7, his no vote was to be consistent with his prior votes.

City Manager Comments

City Manager Ed Shikada announced that the Mask Mandate will continue for Santa Clara County until there is an 80 percent vaccination rate, low hospitalizations, and a 7-day average of new cases per day or below 550 cases per week for at least a week. The U.S Food and Drug Administration has delayed the Covid-19 vaccination for kids 6-months to 5-years old. The City's library's service hours will be restored to pre-omicron service hours and free community Covid-19 testing continued. Upcoming events included the kick-off celebration for Neighbors Abroad and Sibling Cities on February 15, 2022. The next Housing Element Update Ad Hoc Committee meeting was scheduled for February 17, 2022, Palo Alto Fiber conversation was to be held on February 24, 2022, Objective Standards community meeting on March 22, 2022, and a Fiscal Sustainability conversation on March 29, 2022. The Art Center was holding a virtual meditation session on February 17, 2022. There will be a Palo Alto author event on February 23, 2022, a Palo Alto Junior Museum and Zoo event on February 27, 2022, emergency preparedness training on February 19, 2022, and Community Emergency Response Team (CERT) training on March 7, 2022. For the February 28, 2022 City Council meeting, Council will discuss weed abatement, the civil grand jury response on housing, and the street closures for California Avenue and Ramona Street.

Mayor Burt announced that Santa Clara County has exceeded the required 80 percent vaccination rate with 84 percent of the entire county being vaccinated.

8A. Approval of Amendment #4 to Contract C18171057 with AECOM to Increase the Not-to-Exceed Compensation by \$722,170 for Additional

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Evaluation and Outreach of Railroad Grade Separation Alternatives for a Total Not-to-Exceed of \$3,596,828.

Liz supported grade separations, but only in the way the City wants to do it. She stated it's critical to make the connections with transit to mitigate climate change and sea-level rise. She urged the City to move forward quickly with the project.

MOTION: Vice Mayor Kou moved, seconded by Mayor Burt to refer this item to the Rail Committee.

Vice Mayor Kou wanted to see more discussions regarding four tracks. She acknowledged the concern about a consultant hiring a consultant to do the work and then doing a peer review.

Mayor Burt mentioned many of the elements that are to be evaluated next will follow greater clarity from Caltrain regarding four-tracks. He agreed Council did not ask for a peer review in their previous motion. Council requested a second evaluation and study of the trench option by another party.

Council Member Cormack asked how much will the action delay work for grade separation.

Chief Transportation Official Philip Kamhi could not answer the question due to there being no Rail Committee meeting scheduled. He noted that the Rail Committee cannot authorize a contract and so the item would have to come back to Council.

Council Member Cormack wanted to know how often the Rail Committee will meet.

Vice Mayor Kou answered Staff and herself are discussing it but shared she would like the Committee to meet monthly.

Council Member DuBois recalled that Council voted and passed a motion to direct Staff to hire a consultant last year. He wanted to see some of the work in the item moved forward without delay and that the proposed motion was very broad. He inquired if the motion does not pass, was there funding available for AECOM to support Rail Committee meetings.

City Manager Ed Shikada confirmed that the first Rail Committee meeting would not have the support of AECOM. Based on the recommendations from the Rail Committee, new negotiations with AECOM may need to happen regarding scope.

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Council Member DuBois restated that seven of the items have already been voted on and he did not want to see the work redone. He asked if the scope is to revisit the trench alternatives with the Rail Committee and then bring it back to Council.

Mayor Burt restated it was to look at the alignment of the scope of work with the Work Plan and sequencing. He agreed that the geotechnical studies can proceed soon.

Council Member DuBois urged the Rail Committee not to overly delay or create work that Council has already voted on. He expressed concern about Council being involved in a level of detail that Staff should be doing.

Council Member Stone found the maker and seconder's arguments compelling. He supported the motion.

PASSED: 4-3, Cormack, DuBois, Filseth no

Action Items

8. Discuss and Provide Direction to Staff on: (1) Continuing the Cubberley Concept Plan; (2) the Temporary Relocation of Palo Verde and Hoover Elementary Schools to Cubberley; and (3) Potential Opportunity to Acquire Additional Land at Cubberley.

Community Services Director Kristen O'Kane reported that Cubberley is a 35-acre site. The City owns 8-acres and Palo Alto Unified School District (PAUSD) owns 27-acres. Historically, the City leased all of PAUSD's portion of Cubberley and included the buildings and fields. As part of the Fiscal Year (FY) 2021 Budget process, the amount of space leased by the City was reduced. The City leases the theatre, gym, pavilion, and athletic fields for community use. The Cubberley Concept Plan was completed in November 2019 after a community co-design process which the City and PAUSD jointly funded. A California Environmental Quality Act (CEQA) process began, but due to delays, the document has not been completed. PAUSD would like to reserve 20-acres of space for a future school but currently, there was no need for a school. Also, PAUSD was no longer interested in moving their administrative offices to Cubberley or building housing on the site. Staff was seeking direction from Council on how to move forward. If the CEQA document work is continued, Staff would return to Council with a recommendation to adopt the Cubberley Concept Plan as drafted and CEQA document. If Council directed Staff not to continue, the work will cease and be used as a resource for future use.

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Senior Management Analyst Sarah Duffy provided an update on the school relocations. Through the academic years of 2022-2023, 2023-2024, and 2024-2025 there will be two major construction projects that will occur at Palo Verde Elementary and Hoover Elementary. Students will be moved off-campus and over to the Greendell School campus while the projects are underway. PAUSD held many community meetings, school meetings, and public Board meetings regarding the projects. The existing Greendell School will hold grades kindergarten through 3rd grade. Portable structures will be placed in Greendell School's parking lot and will hold Grades 4 and 5, a bathroom, administrative offices and music/art. Adjacent parking lot areas will be used for safe pedestrian parking and access.

Transportation Director Philip Kami confirmed that the Office of Transportation's top concern was making sure traffic circulation patterns and student safety was addressed. PAUSD has been working with the City and the City School Traffic Safety Committee on the matter. PAUSD will be holding a bike audit of the route from Palo Verde Elementary to Greendell Elementary as well as hold multiple bike to school trainings in the fall. The proposed redesign of Hoover Elementary will require changes to the current street design at East Charleston Road, the entry and exit to the school and also the Waverley Bike Path. Hoover Elementary's redesign will be reviewed multiple times by the Office of Transportation, the City School Traffic Safety Committee and the Pedestrian and Bicycle Advisory Committee before the designs are finalized.

Ms. Duffy remarked that the City and PAUSD have reviewed the lease agreement between the City and PAUSD. Both parties have determined that the relocation will not impact City-owned or leased sections of Cubberley and no adjustments to the lease are needed. Students, staff and families will be utilizing common areas that are shared between PAUSD and the City. PAUSD will work with Palo Alto Utilities to establish electricity for the portables and afterschool programs will be held in PAUSD rooms in Cubberley. Starting in March 2022, PAUSD will begin preparing Greendell School to house Palo Verde Elementary. Portables will be moved during PAUSD spring break 2022 and teachers and staff will move to Greendell School in the summer of 2022. During the summer of 2023, Hoover Elementary will move to the Greendell School.

Council Member Filseth inquired if Staff has an indication of which 7-acres may be available to the City.

Ms. O'Kane answered not at this time.

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Council Member Filseth asked if the work on the CEQA document can be continued at a later time or would the entire document have to be done.

Ms. O'Kane remarked that it was work that could be built upon later.

Council Member DuBois wanted to know if there were any discussions about the playing fields that are used as a shared resource.

Ms. O'Kane confirmed the City owns the tennis courts. There have not been detailed discussions, but there was interest from PAUSD to continue the current agreement.

Council Member DuBois asked how much has the City paid in rent for the Cubberley property.

Ms. O'Kane mentioned she would provide the answer later.

Council Member Stone understood that Staff was not seeking any input from Council regarding the schools relocating to Greendell.

Ms. O'Kane stated that is correct.

Council Member Stone requested that Staff expand on PAUSD's interest in acquiring the land in Ventura Neighborhood.

Ms. O'Kane reported that the City identified City-owned land in the Ventura Neighborhood that may be of interest to PAUSD as a point of discussion. When the City purchased the land from PAUSD, the agreement included language that PAUSD has the First Right of Refusal to buy back the land.

Council Member Stone recalled that the City in prior years offered PAUSD the Ventura property, but the school had indicated that it was an inadequate size.

Ms. O'Kane agreed that both the buildings at Cubberley and in Ventura need improvements to house a school.

Council Member Stone inquired if there are any other City-owned parcels that PAUSD may be interested in.

Ms. O'Kane shared there was a brief discussion about the property on Gang Road, but that was determined later as not a feasible site.

Council Member Cormack asked how much will it cost to continue with the CEQA analysis.

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Ms. O’Kane confirmed the CEQA analysis is completely funded at approximately \$150,000.

Council Member Cormack wanted to know if the Cubberley Concept Plan never came to fruition, how useful would it be for the City to certify the plan.

City Attorney Molly Stump clarified that if discretionary projects are not approved immediately but time passes. New impacts may occur because of changed circumstances and those will need to be studied further.

Council Member Cormack wanted to know how Staff characterized the quality of the current City-owned spaces a Cubberley.

Ms. O’Kane agreed it was old, dated and needed improvement.

Council Member Cormack indicated that Charleston Road and Arastradero Road were currently under construction. She requested that Staff explain what the logistics will be when Palo Verde moves to Greendell.

Mr. Kamhi confirmed Staff was coordinating with the Public Works Department to make sure that there will be no impacts occurring at the same time.

City Manager Ed Shikada invited Mr. Kamhi to explain how the new traffic signal will support the change in traffic patterns.

Mr. Kamhi informed that the traffic signal on Montrose Avenue will be installed before the relocation of Palo Verde Elementary.

Council Member Cormack wanted to know if Staff has explored using a shuttle.

Mr. Kamhi remarked that was a question for PAUSD.

Council Member Cormack asked if Council can act now to place Cubberley on the City’s Infrastructure Plan.

Ms. Stump answered no, but Council can direct Staff to come back with more information.

Mr. Shikada confirmed it would be an appropriate referral to Staff.

Vice Mayor Kou understood the CEQA document would review the entire Cubberley Concept Plan along with PAUSD’s portion of the site.

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Ms. O’Kane answered that is correct, but the future school was not included in the analysis.

Vice Mayor Kou challenged that the Cubberley Concept Plan does not include housing.

Ms. O’Kane clarified that the plan included housing at 525 San Antonio Road and housing a Cubberley.

Vice Mayor Kou declared the proposal no longer included housing, but the CEQA document continued to evaluate it. She wanted to know the pros and cons of continuing to evaluate projects that are no longer being pursued.

Ms. Stump stated the primary con would be that it was not a useful use of time and funds. If completed, a pro was that the CEQA document could be used for any portion of the Cubberley Concept Plan in the future.

Vice Mayor Kou asked if PAUSD contributed funds for the CEQA document.

Ms. O’Kane answered PAUSD contributed \$50,000. The original agreement was the CEQA consultant would not exceed \$100,000 and PAUSD would pay half. Staff returned to Council to amend the consultant’s scope and Council approved the exceeded amount that was covered fully by the City.

Mayor Burt mentioned that the adult education program at Greendell would be moved to PAUSD’s portion of Cubberley. He inquired if that move would impact tenants who had to move from the City’s portion of Cubberley to PAUSD’s.

Eric Holm –Director of Facilities Palo Alto Unified School District confirmed that the building was currently vacant.

Mayor Burt inquired how much was currently in the fund for maintenance at Cubberley.

Ms. O’Kane answered that there was a roof replacement project happening currently.

Director of Public Works Brad Eggleston disclosed that he did not know the current total. Current and upcoming projects included roof replacements, turf and track maintenance, a new park restroom, parking lot improvements and ongoing repairs.

Mayor Burt requested that Staff acquire how much funding was in the maintenance fund for Cubberley. He asked if there have been discussions with PAUSD about the City-owned Terman parkland.

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Ms. O’Kane restated that Terman parkland is dedicated parkland and to undedicated the land would require a vote of the people.

Mayor Burt pressed how many acres are there.

Ms. O’Kane reported 7.7-acres.

Administrative Services Director Kiely Nose mentioned that the balance in the Capital Infrastructure Fund for Cubberley had \$2.4 million in unallocated funds.

Ken Horowitz stated the relationship between PAUSD and the City was insanity. He emphasized that it was time for a community center and that it was irresponsible to buy an additional 7-acres. He recommended that Council pause the Cubberley Concept Plan, not acquire new land, and build a community center on the City-owned 8-acres.

Phil Mast stated that was not a smart use of tax dollars if there are no longer City and PAUSD shared facilities at Cubberley. He supported an approach that included a Concordia-like vision for the overall development of the property, shared facilities and compensation to PAUSD for the City’s use of its land.

Liz Gardner supported the City working with PAUSD in cooperation. She commented that the surface parking lot off of Middlefield Road was unsafe with loose concrete and potholes. Also, the traffic on Middlefield Road was congested and dangerous for kids biking to and from school.

Peter Giles stated that it was painful to watch Cubberley continually being underutilized. He stated this was a strategic and transformative opportunity for the City of Palo Alto and urged Council to move forward with the Cubberley Concept Plan.

Penny Ellson spoke on behalf of herself and emphasized that small, high dense, housing structures need recreational space. She wanted to know how the intensified use of the combined schools will impact City streets and what measures have been set in place to protect children walking and biking to and from school. She urged the City and PAUSD to work together.

Mayor Burt invited PAUSD to share what the rationale was for not pursuing a collaborative development with the City for Cubberley.

Council Member DuBois shared that the Cubberley Ad Hoc Committee discussed the matter. It was identified that the current Super Intendant of PAUSD did not share the same vision of shared space as the previous Super

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Intendant. The Ad Hoc Committee recommended a joint School Board and City Council meeting to decide the next steps for Cubberley.

Mayor Burt recalled that PAUSD articulated a position that the use of the area as a school site was so far in advance that they would be investing in an uncertain purpose.

Council Member DuBois answered that was not how PAUSD stated their position. There was a division between the two School Board Members who were on the Ad Hoc Committee.

Council Member Cormack wanted to do a shared space that worked for the entire community but realized that the City should move forward alone at this time. She acknowledged that the facility is dilapidated. She did not support moving forward with a CEQA document that reviewed projects that most likely will not happen. There was not enough space for the Cubberley Concept Plan on the existing site and she advised the City to narrow down the items from the plan. Regarding the temporary relocation of the schools, she expected the City to work collaboratively with PAUSD regarding the logistics. Concerning the land acquisition, she urged the City to pursue purchasing the land.

Council Member Filseth agreed with Council Member Cormack's remarks. He stated there has been no compelling reason to continue work on the CEQA document. He supported the City exploring further the possibility of purchasing land from PAUSD.

Council Member DuBois concurred with the previous Council Members. He expressed disappointment in the wasted funds and time to draft the Cubberley Concept plan only to have staffing changes who have different visions. He asked how much the City pays in rent for Cubberley.

Ms. O'Kane shared before renegotiations, the City paid \$5.8 million but currently, the City paid \$2.7 million in rent.

Council Member DuBois acknowledged that the City has worked with PAUSD collaboratively in the past. He recommended that City Council and the School Board hold a joint session. He agreed the City should not pursue the CEQA analysis anymore. Regarding the temporary schools, he wanted to understand the impacts for the shared common spaces and whether the City should request a rent reduction.

Ms. Duffy indicated that there have been no discussions regarding rent.

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Council Member DuBois believed that the City should explore purchasing the land. He mentioned because the City has supported PAUSD for many years, PAUSD should not expect market rate for the land. He did not support using Ventura as a land swap option. He suggested using the maintenance fund for Cubberley to buy the land over time.

Council Member Tanaka articulated that the City and PAUSD have largely the same tax base. While normally he advocated for the best deal for the City. In this situation, he supported being more generous to PAUSD and helping support their operations. Regarding the land acquisition, he acknowledged the City does not monetize City-owned land and so he did not want the City to acquire the land just to acquire land. He recommended the City pause work on the CEQA document until there is an agreement with PAUSD.

Council Member Stone aligned his comments with Council Member Cormack. He was saddened to say that the City should move forward with the Cubberley Concept Plan on its own and that the City should not continue work on the CEQA document. He found the land acquisition possibility interesting but was concerned when the Staff report stated it would take significant Staff resources to advance forward the opportunity. He wanted a commitment from PAUSD before the City begins the process of acquiring the land. He acknowledged the frustration from residents regarding the lack of community resources in South Palo Alto. He asked if the 8-acres the City currently has is enough space for a community center.

Ms. O'Kane predicted it would fit a lot of the community's needs, but there were concepts that Council would have to prioritize.

Council Member Stone inquired if it was concrete that the acres labeled as City-owned were in fact the City's.

Ms. O'Kane confirmed that the City's 8-acres are clearly defined.

Vice Mayor Kou aligned her comments with Council Member Cormack, Filseth and Stone. She inquired if the cardiac therapy program will remain under the City's purview.

Ms. O'Kane explained that the program is housed on a PAUSD parcel but the City leases the building from PAUSD.

Vice Mayor Kou recommended when the City begins to explore the development of the 8-acres, it includes the cardiac therapy program. She reminded Council that the organizations who use the land provide benefits to the community because of the subsidized rent.

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Mayor Burt agreed with Council Member DuBois that it would be productive to have a joint meeting with PAUSD in the coming months. He reminded Council that if the funds are reallocated for land purchase, that would mean further deterioration of Cubberley. Regardless of PAUSD seeing a decrease in enrollment and increase in the tax base. The School District has two structural surpluses and will be using them for school purposes. He restated that the City is limited by the amount of land it has at Cubberley. The City owns land at Fletcher Middle School which the City allows PAUSD to use as playing fields and PAUSD has land that the City uses. He was interested in exploring those parcels.

Council Member DuBois clarified his suggestion was to acquire the land now but pay PAUSD over several years. He restated his concern regarding Ventura and how the loss of daycares in the vicinity may hurt the community. The Fletcher Middle School land proposal he found interesting but was not strongly supportive of un-dedicating parkland. He agreed with Council Member Stone that there have to be ground rules set and a commitment from PAUSD.

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

- A. Direct Staff to pause preparation of the Cubberley Concept Plan CEQA document until there is a plan for development of a new community center on the City-owned portion of Cubberley,
- B. Agendize a joint meeting with PAUSD School Board and City Council
- C. Ask Staff to begin development of framework for the

Council Member DuBois predicted that the City cannot afford to purchase 7-acres at market rates. If there was a commitment from PAUSD to allow community use of the facilities, the City may be able to make payments over a period of time.

Council Member Cormack recommended removing the second clause in Item A of the motion.

Council Member DuBois agreed.

Council Member Cormack suggested additional language to Item C of the motion.

Council Member DuBois did not want to limit the motion to only exploring a land swap. He felt it was premature to begin the design of a Cubberley

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Community Center and recommended that the design begin once the City has acquired the land.

MOTION RESTATED: Council Member DuBois moved, seconded by Council Member Cormack to:

- A. Direct Staff to pause preparation of the Cubberley Concept Plan CEQA
- B. Agendize a joint meeting with PAUSD School Board and City Council
- C. Ask Staff to return to Council with a work plan to include:
 - i. Exploring a land swap at Fletcher or financial framework for purchasing available land
 - ii. To Include scoping the design process for Cubberley Community Center that is City owned.

Mr. Shikada concurred Staff cannot scope a design process without knowing how much land there is.

Council Member Cormack withdrew Item C(i) from the motion but suggested the maker include a timeline.

Council Member DuBois suggested language for Item C(ii).

Council Member Cormack agreed.

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

- A. Direct Staff to pause preparation of the Cubberley Concept Plan CEQA;
- B. Request a joint meeting with the PAUSD School Board and City Council;
- C. Ask Staff return to Council with a work plan to include:
 - i. Exploring a land swap at Fletcher or financial framework for acquiring available land; and
 - ii. Scope the design process for Cubberley Community Center that is City owned once the acreage is determined.

Vice Mayor Kou inquired if there is a timeline of when the acres can be determined. She understood there was no land swap at Fletcher Middle School but rather the dedicated parkland near the school.

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Council Member DuBois confirmed that was the intention of the motion. He expressed concern about having a timeline because it may constrain the discussion between PAUSD and the City.

Vice Mayor Kou predicted that the community may be concerned that there is no timeframe.

Council Member Cormack recommended placing a timeframe on Item B of the motion.

Mayor Burt stated that Council cannot unilaterally insist on a timeframe but can seek within a certain timeframe.

Council Member Cormack suggested having a discussion with PAUSD before the summer of 2022.

Mr. Shikada inquired if the financial framework is related to a land swap or independent.

Council Member DuBois confirmed it was intended to be independent.

MOTION RESTATED: Council Member DuBois moved, seconded by Council Member Cormack to:

- A. Direct Staff to pause preparation of the Cubberley Concept Plan CEQA;
- B. Request a joint meeting with the PAUSD School Board and City Council prior to the June break;
- C. Ask Staff return to Council with a work plan to include:
 - i. Exploring a land swap at Fletcher or financial framework for acquiring available land; and
 - ii. Scope the design process for Cubberley Community Center that is City owned once the acreage is determined.

MOTION PASSED: 7-0

- 9. Provide Direction to Staff on Negotiations with Pets in Need for Operations and Capital Improvements at the City's Animal Shelter.

Mayor Burt called for a 10-minute break and announced the Council will reconvene at 7:51 P.M.

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Community Services Director Kristen O’Kane reported the current agreement with Pets in Need (PIN) was for 5-year which was to terminate on January 17, 2024. Included in the contract was a clause that either party can terminate the agreement without cause and PIN provided an early termination letter on November 15, 2021, to terminate the contract in 12-months’ time. Staff has been in discussions with PIN regarding a possible new agreement. The 5-year agreement included compensation from the City to PIN of \$3.4 million over the length of the agreement as well as \$200,000 in on contingency fund as well as \$60,000 in funding for renovation delays. Capital improvements included minor improvements to the existing kennels, modular building, medical suit, and a new kennel building. The 2019 total cost estimate for the capital improvements was \$3.4 million to be paid by the City. Completed projects included the medical suit design and construction; modular building purchase and site prep; and new kennel building design. One keynote was after the new kennel building was designed, the estimate for construction cost increased by \$650,000, which exceeded the total capital expenditure that was identified in the agreement. The prior Director of PIN and Staff discussed the short-fall and the prior Director of PIN requested that the City prioritize the renovation of the existing kennels. To date, the City has spent \$1.8 million on capital improvements. Through discussions, the City, Staff and PIN do have an interest in advancing an agreement that would support a long-term partnership. PIN’s proposed agreement terms included a long-term agreement, evaluation of the animal shelter database, a feral cat plan and scope of capital improvement. Staff does not know the scope and cost for additional capital projects. Staff identified potential funding for future capital improvements in the Infrastructure Reserve, Budget Stabilization Reserve (BSR), Unallocated Future Revenue Growth, Impact Fee Fund and the Stanford University Medical Center Fund (SUMC). Regarding the timeline, the existing contract is to expire in November 2022 and Staff needed sufficient time to negotiate a new agreement with PIN or develop an alternative mode of service delivery. Staff sought direction from Council on how to pursue forward.

Council Member Cormack inquired if PIN has withdrawn the termination letter.

Ms. O’Kane answered no.

Council Member Cormack asked if PIN is fully staffed at Palo Alto Animal Shelter.

Ms. O’Kane answered no.

Interim Executive Director Valerie McCarthy confirmed that there are five vacant positions out of 24 Staff.

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Council Member Cormack asked how long does it take to receive an appointment to spay or neuter an animal.

Ms. McCarthy answered she was not sure.

Council Member Cormack indicated Council has received a fair amount of communication about that service.

Ms. McCarthy noted that the shelter has been understaffed in medical since she took over the position. Currently, the shelter did not have a Registered Veterinary Technician which has crippled the shelter from performing surgeries.

Council Member Cormack asked what changes have been implemented since the death of the puppies.

Ms. McCarthy reiterated that was a devastating event and never should have happened. Since the incident, PIN has put in place best-in-class transport protocols.

Council Member Stone wanted to know if there will be any remedies if PIN reneges on the agreement after the City invests in the recommended proposed improvements.

Ms. O'Kane restated Staff and PIN are very early in discussions and there has been no negotiation of agreement terms.

Council Member Stone encouraged to explore it when negotiations begin. He inquired if there is a variety of agencies in the area that can provide similar services as PIN.

Ms. O'Kane confirmed that two Requests for Proposals (RFP) were sent out. PIN responded to both RFPs and another organization responded to the second time. She agreed that a new RFP would be the least successful because there are few shelter operators.

Council Member Stone asked if a California Environmental Quality Act (CEQA) would be needed if Council changed the policy to a Trap-Neuter-Return (TNR) Program.

Ms. O'Kane mentioned that Los Angeles County did a CEQA review when they changed their policy, but she did not know the details.

Council Member Stone wanted to know if the analysis performed to determine if contracting services are better than in-house services still applied.

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Ms. O’Kane agreed that there are different scenarios for how one would operate the veterinary clinic and recommended that Staff explore that scenario again.

Council Member DuBois understood that the City would decide by March 2022 whether to renegotiate with PIN or explore an alternative option if an agreement cannot be made.

Ms. O’Kane confirmed the intent is to have a solid plan by the end of March 2022.

City Manager Ed Shikada confirmed that March would provide enough time for Staff to establish a partnership with an alternative provider if needed.

Council Member DuBois recalled that the City would commit funding but also PIN would do fundraising. He inquired if any of the fundraisings were used for capital improvements.

Ms. O’Kane clarified that the fundraising was to be used for building a new shelter. A feasibility study was done to determine if it was possible to raise the funds for a new shelter and it indicated it would be difficult.

Council Member DuBois wanted to know the current program for feral cats.

Ms. McCarthy shared the cats are relocated outside of the jurisdiction. When a cat is relocated, it causes stress to the cat and decreases its survival rate. The quickest and humane way to mitigate a feral cat problem is to reintroduce sterile feral cats to where they were taken from.

Council Member DuBois pressed if other jurisdictions agree to take feral cats.

Ms. McCarthy answered yes.

Mayor Burt challenged if a sterile feral cat dies, would that result in another cat taking over their area.

Ms. McCarthy answered that she was not sure.

Mayor Burt inquired if the new kennels would be built to the same size that the kennels were when the shelter was serving the City of Mountain View.

Ms. O’Kane indicated that prior to PIN taking over the shelter, it was rare that the kennels became overcapacity.

Mayor Burt understood that a withdrawal from the agreement would mean significant layoffs for PIN and negative impacts on the animals. He mentioned

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that the prior Director of PIN acted abruptly to the legal responses regarding the deaths of the puppies. He asked if the timeline was shortened because of the actions taken by the priory Director of PIN and should the City be exploring a tolling agreement.

Ms. O’Kane acknowledged the timeline is challenging considering the current agreement took 2-years to negotiate.

Mayor Burt asked if PIN has explored tolling the Notice of Intent to Terminate.

Ms. McCarthy requested that Mayor Burt explain what tolling is.

Mayor Burt explained it is an extension beyond the termination date to allow the two parties to discuss a new agreement.

Ms. McCarthy answered that an extension can be agreed upon but requested from the City that there be a good faith effort be made to work positively together. She acknowledged that there have been issues from both parties in the past and it will take a commitment from both parties to work collaboratively.

Council Member DuBois requested that Staff comment on animal control.

City Lead Animal Control Officer Cody Macartney concurred that since Ms. McCarthy has taken over there have been positive steps moving forward. He agreed with Ms. O’Kane’s comment that there is a lot of work remaining.

Michael Ferreria, a Member of the Executive Committee of the Loma Prieta Chapter of the Sierra Club, announced that the group is opposed to trapping feral cats and then releasing them back into the community. Having that as a condition that must be met or the agreement will be terminated has a negative feel. He appreciated Council Member Stone’s questions and hoped that the City will not allow a TNR program.

Giulianna Pendleton, the environmental advocacy assistant for Santa Clara Valley Audubon Society, shared that the Society objects to the proposed TNR release program. Feral cats are invasive predators with devastating impacts on ecosystems. The current agreement does not allow PIN to release feral cats within the City or any partner City. The current provision protects the birds and wildlife from deportation and disease. If the policy is changed, she recommended that a CEQA review be conducted.

Eileen McLaughlin, Citizens Committee to Complete the Refuge, concurred that trapping and neutering feral cats is helpful, but shared the concerns regarding return and release. She argued that community cats are identified

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by TNR practitioners, not the community. Feeding feral cats attracts unwanted wildlife and spreads diseases that can be transmitted to humans. There have been no studies that prove that TNR programs successfully manage cat populations. She requested that Council retain the no release rule.

Karen Holman was pleased to hear that Staff and PIN are open to discussing a new agreement. She mentioned that Silicon Valley Animal Control Authority (SVACA) is not a no-kill service and that was one of the reasons why the City did not pursue that organization. She shared that the further away from a lost pet, the less likelihood there is a reunion between the pet and its owner.

Carole Hyde, Director of Programs for Palo Alto Human Society (PAHS), supported the continued negotiations with PIN. She emphasized that it is very important to keep the shelter open as well as have a fully functional spay and neuter clinic. As a founding member of Stanford Cat Network, she vouched that a TNR program is a successful way to control homeless cats. She requested that Council obtain the ban on TNR in the Baylands, but allow there to be a City release TNR.

Leonor Delgado, Educational Manager for PAHS, shared that PAHS supports all efforts to retain and maintain the current animal services. PAHS wanted to see a fully functioning low-cost spay/neuter clinic with low-cost vaccination programs. PAHS would like to see the homeless cat population addressed through community outreach, financial aid and with a focus on saving lives. PAHS supported keeping feral cats out of areas designated for the preservation of endangered species and a TNR program.

Pam Decharo shared that responsible citizens have been working to feed, care for, rehome, trap and neuter feral cats. She was shocked that the City does not have a formal program to address feral cats. She supported a TNR program, spay and neuter program, and an educational support system to manage homeless cats and care. She greatly appreciated the City and Staff for being open to new ideas.

Mayor Burt asked if the current contract had a TNR requirement.

Ms. O'Kane answered no.

Council Member Cormack acknowledged the large capital commitment that the City will be providing. She asked can there be a well-functioning animal shelter with the capital commitment that the City has already made.

Ms. O'Kane stated from Staff's perspective, either a new kennel building or renovating the existing kennels would be sufficient.

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Ms. McCarthy mentioned that there are currently 22 dog kennels and four ICU units. The issue with the existing kennels was there is no separation of the animal kennels. Using funds for the existing kennel was not a good use of funds because there is no disease control, the materials are old and there is no sound control. PIN recommended that a new facility be built.

Council Member DuBois agreed there have been mishaps from both parties. He invited Ms. McCarthy to share details regarding her background.

Ms. McCarthy shared that for 20-years she was in the technology field. For the last 6-years, she's been in the animal well fair industry and has a Masters's Degree in animal studies from New York University. She was involved with the American Society for the Prevention of Cruelty to Animals (ASPCA) and Best Friends. The success of a shelter meant collaboration on all levels including human support services.

Council Member DuBois found Ms. McCarthy's background impressive. He agreed that for the short-term, Staff should negotiate to extend the termination and allow 12-months to find a replacement after it has been decided that the City and PIN will not work together. He wanted to see a fixed budget amount rather than an open-ended amount and that be included in the negotiations. He supported having the shelter use different software. He felt that a TNR program would turn cat supporters against wildlife supporters. Also, there are many parks in Palo Alto and he was concerned about sensitive habitat areas. He requested that TNR not be part of the Memorandum of Understanding (MOU) to allow for further discussions. He supported focusing on putting in place an MOU quickly.

Council Member Stone agreed with Council Member DuBois regarding TNR. He shared that the program made sense but acknowledged the speakers who shared comments about sensitive habitats. If a TNR is moved forward, he recommended it be clear where cats can be released. He asked why it was not sufficient to release cats outside of the City.

Ms. McCarthy clarified that the shelter tries to find homes for feral cats that come in, but acknowledged that it is very difficult to socialize a feral cat. She requested that Council not decide on the TNR program until PIN can put forth their side in a more formal manner.

Council Member Stone agreed that was a fair request and encouraged PIN to share research regarding TNR with Council before the item comes back. He requested Staff share their comments on a new database.

Ms. O'Kane indicated it is not an issue if all parties can agree on the system.

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Council Member Stone supported the comment to toll the termination notice.

Mayor Burt appreciated the good faith efforts that both PIN and Staff were proceeding under. He recommended there be a tolling period of 6-months for the City and PIN to negotiate a new agreement.

MOTION: Mayor Burt moved, seconded by Council Member Filseth to direct Staff to:

- A: Proceed with negotiations with Pets in Need for a long term contract agreement for animal services in Palo Alto;
- B: That the notice of termination is extended six months beyond the current date;
- C: We evaluate the necessary kennel size for community partners that we serve;
- D: Include some form of trap and neuter program; include a small animal area in the plans;
- E: Assure that the contract agrees upon hours of operation;
- F: That the parties agree to pursue a fundraising program to supplement capital needs for the shelter.

Mayor Burt mentioned that it may be a combination of releasing a cat in the community, or adoption, or releasing a cat outside the City for a TNR program to be successful. Regarding capital fundraising, he mentioned due to the Covid-19 Pandemic, the City was constrained on how much it can invest in capital projects. he predicted it was feasible having a portion of the capital plan be based upon fundraising and that the City should base how much funding it will provide for capital improvements on fundraising efforts.

Council Member Filseth agreed with Mayor Burt's comments. He stated that the kennels have to be updated to keep the shelter up to compliance. That should be done no matter who operated it. He acknowledged that the community wants Palo Alto to have a shelter. He shared his faith in PIN and was delighted to hear they wish to negotiate a new agreement with the City. He agreed with Council Member DuBois that TNR programs pit wildlife folks against cat folks, but there was an overarching agreement that there should not be a feral cat colony in the City.

Council Member Cormack requested that the motion include exploring and transitioning to a new database.

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Mayor Burt agreed.

Council Member Filseth supported the amendment.

Council Member Cormack inquired if there is currently a small animal area at the shelter.

Ms. O'Kane answered yes.

Council Member Cormack asked why that was included in the motion.

Ms. O'Kane explained the request is to renovate, expand and include an outdoor area for small pets.

Mayor Burt suggested the motion state that a small animal area be included in the renovation plans.

Council Member Filseth mentioned that one of the ambiguous areas in the past was the disposition of pet animals that are not dogs and cats. He inquired if small animal refers to animals other than dogs and cats or just cats.

Ms. O'Kane clarified that PIN requested that there be renovation and better utilization of the small animal area.

Mayor Burt asked if the motion should include a small animal area in the renovation plans or should it include operations as well.

Ms. O'Kane confirmed that her comment referred to the renovation plans.

Mayor Burt recommended the small animal area be included in the renovation plan.

Council Member Filseth accepted.

Council Member Cormack acknowledged that there is a concern in the community that the desired services have not been provided. She suggested the motion re, upon hours of operation and services provided.

Mayor Burt accepted the amendment.

Council Member Filseth agreed.

Council Member Cormack inquired if consequences should be outlined if the level of service is not provided.

Mayor Burt believed those would be built into the contract negotiations.

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Council Member Cormack recalled that the feasibility study was not consistent with sufficient community support for financials. She requested that the fundraising portion of the motion be separate from the main motion during voting. She suggested the motion say supplement already identified capital needs.

Mayor Burt inquired if Council Member Cormack understood the motion to say that the City would be a leader in the fundraising as opposed to a more open-ended intent.

Council Member Cormack stated she understood that the City will be the leader in fundraising efforts.

Mayor Burt clarified the intent was not to have the City be a participant in the fundraising program but rather pursue it with other partners.

Council Member Cormack affirmed to limit the City's capital expenditures to the identified dollar amount and to not use Staff resources to pursue fundraising programs.

Mayor Burt agreed that Staff resources should not be used to explore fundraising and supported Council Member Cormack's request to limit capital expenditures to the already identified dollar amount.

MOTION AS AMENDED: Mayor Burt moved, seconded by Council Member Filseth to direct Staff to:

- A. Proceed with negotiations with Pets in Need for a long-term contract agreement for animal services in Palo Alto;
- B. That the notice of termination be extended six months beyond the current data;
- C. Evaluate the necessary kennel size for community partners that we serve;
- D. Include some form of trap and neuter program;
- E. Include a small animal area in the renovation plans;
- F. Assure that the contract agrees upon hours of operation and services provided;
- G. That the parties agree to pursue a fundraising program to supplement existing capital commitments for the shelter; and

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H. Explore the transition to a new database.

Ms. Stump suggested that Item B of the motion be clarified.

Mayor Burt inquired if PIN supported Item B of the motion.

Ms. McCarthy shared that the Board of PIN has not discussed extending the notice of termination but would be open to discussions. She mentioned that there are items in the motion that the Board of PIN has not discussed.

Mayor Burt proposed to move Item B to Item A and change the language.

MOTION AS AMENDED: Mayor Burt moved, seconded by Council Member Filseth to direct Staff to:

- A. That as a condition for continuing good faith negotiations, that Pets in Need would agree to extend the notice of termination six months beyond the current date;
- B. Proceed with negotiations with Pets in Need for a long-term contract agreement for animal services in Palo Alto;
- C. Evaluate the necessary kennel size for community partners that we serve;
- D. Include some form of trap and neuter program;
- E. Include a small animal area in the renovation plans;
- F. Assure that the contract agrees upon hours of operation and services provided;
- G. That the parties agree to pursue a fundraising program to supplement existing capital commitments for the shelter; and
- H. Explore the transition to a new database.

Council Member DuBois inquired what items in the motion would the Board of PIN need to discuss.

Ms. McCarthy stated that they would have to discuss the fundraising program and the improvements to the shelter.

Council Member Filseth asked if the intention is to have the fundraising efforts fill the gap for improvements to the shelter.

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Mayor Burt clarified that Item G of the motion is not framed in a way that required specific outcomes.

Council Member DuBois mentioned that the existing kennels are old and understood that was the main point of the MOU was to update the kennels. He asked what the purpose was for Item C of the motion.

Mayor Burt recommended that Staff explore the size and modernization of the kennels and bring Council recommendations.

Council Member DuBois asked if the exterior of the existing building will be changed or if it was only the internal space.

Ms. O’Kane clarified that PIN had requested to demolish the existing kennel building and build a new building.

Council Member DuBois wanted Staff to have the ability to negotiate additional capital investment if it is needed.

Mayor Burt wanted to constrain costs while meeting the modernization needs.

Council Member DuBois asked how much money is left for the capital improvement fund.

Ms. O’Kane answered \$1.6 million.

Vice Mayor Kou wanted to know if there has been a decrease in the number of dogs that have come to the shelter over the last 3-years.

Ms. McCarthy shared that it has been steady but all of the kennels are not utilized. She shared that the existing contract approved 38 kennels and PIN’s request was for 24 kennels.

Vice Mayor Kou asked if Item C of the motion was intended to limit the size of the kennels.

Mayor Burt restated the intention was to continue to provide services that meet the community’s needs. He supported the actions of helping other communities with their shelter needs but stated the City is facing financial constraints that do not allow the City to do that.

Council Member Filseth mentioned that the previous operation of the shelter is not a good reference point and PIN has been much more active in adopting out animals.

MOTION PASSED: 7-0

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Council Member Questions, Comments, Announcements

Council Member DuBois remarked that there will be a signing ceremony at 9:00 A.M. with Bloomingburg, IN on February 15, 2022.

Adjournment: The meeting was adjourned at 9:35 P.M.