



CITY OF PALO ALTO CITY COUNCIL ITEM 8 EXCERPT MINUTES

Special Meeting
September 9, 2019

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

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

Public Art Commission: Gordon, Klaus, Chair Miyaji, Ross, Shen

Absent: Migdal (PAC), Taylor (PAC)

Action Items

8. Revised Recommendations for City Council Direction on Establishment of a Rail Blue Ribbon Commission to Advise the City Council on the Selection, Funding, and Support for Grade Separation Projects, and Possible Further Direction on the Role and Structure of the Expanded Citizen Advisory Panel (Continued From August 19, 2019).

Ed Shikada, City Manager suggested the Council think about grade separation in three phases: "Understanding the Options," "Community and Regional Conversations" and "Decision-making." Understanding the Options included the engineering analyses, taking in input regarding the locations that were reviewed in detail from the community and stakeholders, and clarifying the descriptions of the issues. Community and Regional Conversations included stakeholders' advocacy for and against options, community-wide awareness and engagement on topics and reconciliation of community discussions with regional initiatives. Decision-making included reconciling issues with regional and funding viability, developing a local funding strategy and Council consideration of grade separation options. The process was not going to proceed in a linear fashion. The Council decided not to pursue a Churchill hybrid option, a Churchill reverse hybrid option, a Citywide tunnel and various other options. The Council moved the Palo Alto Avenue option to a separate planning effort. For Charleston and Meadow, hybrid, trench, viaduct, and South Palo Alto tunnel options were undergoing evaluation. An evaluation of freight trains traveling within a tunnel, atop a tunnel, or at grade was underway, and the Expanded Community Advisory Panel (XCAP) was to discuss the evaluations over the next few meetings. Finally, the community was to discuss all the options under evaluation. In June, 2019 the Council eliminated the hybrid and reverse hybrid options for

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the Churchill crossing. Options still under consideration were closure of Churchill Avenue with construction of a pedestrian/bicycle tunnel or some type of traffic mitigation and viaduct. A community meeting planned for November 7, 2019 was to cover all grade separation options. Staff requested Council direction regarding formation of a Rail Blue Ribbon Commission (RBRC) and to clarify the roles of the XCAP and the RBRC. Based on current Council direction, Staff was refining the community communications strategy.

Mayor Filseth suggested the Council identify the problem first. The goal of the XCAP was to help the Council reduce the number of feasible options, at which time the XCAP's role would be complete. The next phase was community and regional engagement. He questioned whether the XCAP, an RBRC or the City Council Rail Committee (CCRC) were the appropriate body's to assist the Council with the engagement phase.

Phil Burton, XCAP member requested the Council clearly state the role of the XCAP or RBRC to avoid duplication of work and not make the XCAP subject to Brown Act disclosures. He suggested the Council hear public comments a second time during this item because of the many points the Council would discuss.

Roland Lebrun did not believe the presentation spoke to the Agenda Item. An advisory body to the City Manager was unusual. Perhaps an XCAP Chair and Vice Chair needed to report to the Council. What, if anything, outside parties contributed to an RBRC was unclear. Santa Clara Valley Transportation Authority (VTA) spent less than 1 percent of Measure A Funds on grade separation.

Stephen Rosenblum believed an advisory body should consider context-sensitive solutions so that they could make unbiased recommendations and garner public support. Currently, Staff was driving the decision-making process.

Adina Levin, Friends of Caltrain and *Voices for Public Transportation* urged the Council to consider regional opportunities and needs that could shape the options. *Voices for Public Transportation* focused on developing a measure that could provide measurable and sustainable results, including funding mechanisms other than a Sales Tax.

Nadia Naik supported the request for additional public comment. Circumstances changed since the grade separation conversation began in 2017 and the community learned a great deal since then. An advisory body needed time to deliberate and to consider all options cohesively.

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Larry Klein remarked that the XCAP was operating under rules that were not amenable to the Council reaching a good decision. The Council was not able to know the XCAP's exact opinion because the City Manager interpreted the opinion in reporting to the Council.

Herb Borock understood the XCAP was subject to the Brown Act because the Council formed the XCAP. Based on Planned Bay Area 2040 and Caltrain ridership projections, increased ridership provided a fraction of employment growth projected for 2040. Employment growth was not expected to occur without grade separations. Those who benefitted from grade separation needed to fund it.

Mayor Filseth requested Council Members provide questions to Staff.

Council Member Kniss inquired regarding depictions of the options.

Mr. Shikada advised that a number of visual representations of the options were available on the website.

Council Member Kniss expressed concern about the City paying for grade separations. The Council supported the most recent transportation measure because promises were made to use the revenue for grade separation.

Mr. Shikada indicated Staff was operating under the premise that the City had to provide some funding in addition to Measure B funding.

Council Member Kniss hoped Staff would consider State and Federal funding. State funding was available if High Speed Rail was not implemented.

Mayor Filseth understood the XCAP would recommend 3-15 options and a range of costs, and then the Council was to consider funding options. The Council needed to determine what they wanted in order to achieve the next phase.

Council Member Cormack requested to know the expected staffing for an RBRC.

Mr. Shikada assumed Staff would work with an RBRC and then return to the Council with a discussion of costs and competing priorities in order to get an idea for Staff to support an RBRC.

Council Member Cormack asked if the Staff member's that were budgeted for rail projects were going to support the RBRC.

Mr. Shikada responded yes.

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Council Member Cormack inquired about the process for proposing a new grade separation option.

Mr. Shikada replied that there was no process in place as of yet. The XCAP was able to accommodate discussion of a variation of the current option. The upcoming design workshop was an opportunity to elicit new options or variations for current options.

Council Member Cormack asked if information could be circulated prior to the November 7, 2019 meeting so that community members could participate more effectively.

Mr. Shikada related that community members did not need to review information in order to fully participate in discussions.

Council Member Cormack asked if inclusion of rail stations in the process was logical.

Mr. Shikada indicated that Caltrain considered stations their responsibility. Measure B provided some funding for the Caltrain system improvements.

Council Member Cormack requested a timeframe for a decision regarding the three alternatives.

Mr. Shikada reported AECOM's scope of work included the XCAP process concluding by the end of the 2019 calendar year. A timeframe for a Council decision was not defined, but a Council decision could occur in May or June, 2020 in order to prepare for a November, 2020 ballot measure.

Council Member Cormack asked if an RBRC could be formed within two months.

Mr. Shikada answered yes.

Council Member DuBois noted Caltrain preferred the medium service level but did not want to eliminate high service, which seemed to indicate a need for four tracks, at least at the California Avenue station. He inquired regarding the effects of four tracks on the Meadow and Charleston crossings.

Mr. Shikada recalled Caltrain's representative stating that the plan or design would not preclude four tracks. Caltrain has described four tracks as necessary at a station located in the North County in order to accommodate High Speed Rail.

Council Member DuBois understood four tracks would be necessary to accommodate Caltrain trains under the high speed scenario.

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Mr. Shikada believed four tracks was necessary to accommodate Caltrain trains under the high service level and High Speed Rail but not necessarily at stations. Little information was known about Caltrain's plans.

Council Member DuBois requested comment regarding continuing attempts to engage Caltrain, VTA and Stanford University.

Mr. Shikada suggested engagement with Caltrain, VTA and Stanford University depended on the venue and Palo Alto's expectations of their involvement. Caltrain had a process for answering technical questions, so a Caltrain Policy Board may provide a perspective rather than an answer regarding funding questions.

Council Member DuBois understood Caltrain, VTA and Stanford University did not join a Council advisory body.

Mr. Shikada concurred.

Council Member DuBois requested clarification of the Brown Act with respect to advisory bodies.

Molly Stump, City Attorney reported a body created by formal action of the Council was subject to the Brown Act. A body that was created by the City Manager and that advised the City Manager was not subject to the Brown Act. If the Council selected members for a body, directed a body's activities, or directed Staff to create a body, the body was subject to the Brown Act.

Council Member DuBois inquired whether a Brown Act body was required to disclose financial interests.

Ms. Stump advised that the Brown Act required the body to hold public meetings, publish an agenda in advance of the meeting and follow the agenda during a meeting. A majority of the body was not able to confer outside the public process. Many but not all Brown Act bodies were not subject to conflict of interest rules. By tradition rather than legal requirement, Palo Alto treated all of its Standing Committees as subject to Conflict of Interest rules. If a body was created by the Council and made a final governmental decision, members of the body needed to follow the Conflict of Interest rules. That is, members of the body needed to file a Form 700, and Staff had to review the forms to determine whether members had financial interests that precluded their participation in the decision. With respect to grade separations, owners of real property located near crossings were not able to participate in discussions. If a body was composed and planned as an advisory body and over an extended period of time made recommendations that were adopted without significant amendment or

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modification, the body was subject to conflict of interest rules. If the Council formed an advisory body and stated its intention to follow the advisory body's recommendation, the advisory body needed to follow the financial Conflict of Interest rules. If the Council formed an advisory body, considered its recommendation along with other input and data, and made the final decision, the advisory body did not need to follow the financial Conflict of Interest rules. The Council was able to request such an advisory body follow the Conflict of Interest rules.

Council Member DuBois recalled that the Comprehensive Plan Advisory Committee did not comply with Conflict of Interest requirements.

Ms. Stump noted a special exception to Conflict of Interest rules for Comprehensive Plans.

Council Member DuBois indicated an RBRC was an ad hoc committee.

Ms. Stump related that ad hoc and standing committees were composed of Council Members.

Council Member DuBois asked if the Council would have to repeat the decision-making process if a conflict of interest was found after the Council made a decision.

Ms. Stump answered yes. With respect to grade separations, the Council was able to anticipate some members of the community searching for flaws in the process once the Council made their decision.

Council Member DuBois inquired whether Ms. Stump was awaiting a final decision from the Fair Political Practices Commission (FPPC) regarding Council Member Kniss' and Mayor Filseth's participation in grade separation discussions.

Ms. Stump explained that the FPPC provided informal advice, she was awaiting formal advice. Conflict of Interest had to be analyzed for each governmental decision.

Council Member DuBois noted the Council's focus was a set of preferred alternatives. He questioned whether the Council needed to consider an overall funding plan when the Council had not determined the preferred alternatives.

Mr. Shikada remarked that there was a relationship between preferred alternatives and affordability, and affordability depended on the amount of funding the City was able to access.

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Council Member DuBois did not believe the process laid out for the XCAP allowed them to explore new options or variations. He asked if the City could hold design charrettes or workshops to explore new variations or options.

Mr. Shikada reported the project team was structuring a workshop with maximum give-and-take, based on suggestions from XCAP members.

Mayor Filseth did not support the Council appointing a new committee to repeat the work of the XCAP. Therefore, he thought the Council should not terminate the XCAP until they delivered their alternatives. He inquired regarding a potential date for the XCAP to recommend alternatives.

Mr. Shikada remarked that the XCAP was not a voting body. He was unsure how the XCAP determined they had completed their work. The Council directed the XCAP to reach consensus and they had the ability to direct the XCAP to appoint a Chair and Vice Chair to define a decision-making structure.

Mayor Filseth felt the XCAP did a good job.

Mr. Shikada agreed. The dynamics of voting for one alternative over another had the potential to be uncomfortable for neighbors.

Mayor Filseth asked if consensus could be defined as the XCAP prepared pros and cons and potential costs for each alternative.

Mr. Shikada thought that was a reasonable expectation.

Mayor Filseth requested a potential date that the XCAP could prepare such a list.

Mr. Shikada indicated the end of the calendar year was reasonable.

Council Member DuBois noted the XCAP was the latest advisory body.

Council Member Kniss asked if the Council made any decision regarding alternatives.

Mr. Shikada advised that the Council had eliminated the hybrid and reverse hybrid options for Churchill and the Citywide tunnel.

Mayor Filseth stated the date on which the XCAP could reach consensus affected the timing of the community engagement phase.

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Council Member Kniss asked if any decision in the grade separation process could be reached in less than five years.

Mr. Shikada explained that the XCAP reaching a consensus by the end of 2019 would be less than five years. Subsequent steps in the process included environmental analysis, preparation of detailed engineering designs, agency reviews and funding.

Council Member DuBois suggested XCAP members provide their opinions as to a possible date for consensus.

Council Member Kou asked if the process was tied to a tax measure and, if so, the year the measure would be placed on the ballot.

Mr. Shikada related that the Council could consider a tax measure for the 2020 election if the XCAP reached its conclusion by the end of 2019. The design of a tax measure was a part of the Finance Committee's workplan.

Council Member Kou noted Caltrain was not able to complete electrification as planned because of a lack of funding. That possibly affected the Council's decisions. On March 18, 2019, the Council directed Staff regarding formation of a community working group.

Mr. Shikada believed Staff returned to the Council with information in April, 2019 and the Council directed the community working group to report to the City Manager.

Council Member Kou suggested Staff review Council direction from the April 22, 2019 meeting. She questioned the need for advisory bodies when the XCAP was spending half its meetings grappling with process issues. The Council was able to utilize Context Sensitive S (CSS)solutions.

Ms. Stump recalled that it was important for the XCAP to be formed in order for it to not have to follow the Brown Act. Therefore, the XCAP was created as an advisory body to the City Manager.

Council Member Kou inquired about other cities' use of CSS.

Ms. Stump reiterated that a body is subject to the Brown Act if it reports to the Council.

Council Member Kou inquired whether the Brown Act was the only reason for not utilizing CSS.

Mr. Shikada did not recall the details of the Council's discussion regarding formation of the XCAP.

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Council Member Kou commented that the XCAP should understand and incorporate the community's values for grade separations when using a CSS process, but the Council was proposing and/or forming multiple committees to accomplish that.

Mr. Shikada clarified that the referenced owner was Caltrain, and Caltrain was not advancing grade separation projects.

Council Member Kou noted Caltrain's business plan and said the organization assessment indicated grade separations were a high priority, as Caltrain was exploring funding for grade separations. The Council needed to understand Caltrain's organization assessment. CSS benefited the grade separation process.

Mayor Filseth felt a deep engagement with Caltrain was essential. The XCAP and Council accomplished a great deal thus far; starting anew did not benefit the community.

Council Member Kou was not proposing starting over but morphing into context sensitive solutions. She requested Staff's view of an RBRC engaging with regional agencies when the Council had not been able to obtain information.

Mr. Shikada explained that regional engagement depended on the mission of an RBRC.

Council Member Kou stated the Council should review Caltrain's organization assessment prior to sending a comment letter to Caltrain. She inquired whether XCAP members were not allowed to organize the design workshop.

Mr. Shikada advised that, based on feedback from the XCAP, Staff was going to seek feedback for each option in sequence during the design workshop.

Council Member Kou asked if only XCAP members were going to participate in the design workshop.

Mr. Shikada indicated the public could attend the workshop but XCAP members would discuss the options in-depth during the workshop. Members of the community who were not familiar with grade separation issues needed to attend the community meeting on November 7, 2019.

Council Member Kou asked if XCAP meetings would continue until the Council formed a new committee.

Mr. Shikada related that Staff would follow the Council's direction.

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Council Member Kou asked how an expansion or replacement of Embarcadero became a part of the XCAP discussion.

Mr. Shikada explained that, if Churchill was closed, traffic mitigations were going to be needed on surrounding streets. Modification of the Alma/Embarcadero interchange was discussed as part of the traffic mitigations. The prior traffic consultant offered some novel concepts, which were not acceptable to the XCAP.

Council Member Kou inquired regarding interaction between the XCAP and the Technical Advisory Committee (TAC).

Mr. Shikada advised that the TAC had not met for a while because the consultants were working directly with agencies.

Council Member Kou asked if the XCAP or RBRC could have subcommittees.

Mr. Shikada related that Staff could return to the Council with the resources needed to support subcommittees and a process that was effective.

Mayor Filseth inquired about the timeframe for the XCAP to complete its mission.

Mr. Klein advised that a timeframe depended on the level of detail the Council wanted in a recommendation. Context sensitive solutions worked most effectively when the parties began with a position, and the City did not have a position. The XCAP needed to know the amount the Council was willing to spend. Costs may be reduced if the Council was willing to utilize eminent domain. With two meetings per month and good consultant support, the XCAP was probably able to complete its mission in the next six months. The XCAP had not begun to consider options with four tracks.

Mayor Filseth noted the XCAP had reviewed three or four options for South Palo Alto, two options for Churchill, and none for Palo Alto Avenue. He inquired whether the XCAP was discussing variations for the six options or variations the Council had previously removed from consideration as a means to reduce costs.

Mr. Klein felt it was too soon to discuss cost-savings measures. Traffic mitigations at Alma and Embarcadero were complex and tricky, and the costs were unknown at the current time. The XCAP was most likely able to provide a list of preferred alternatives by April 30, 2020.

Council Member Kniss requested Mr. Klein's opinion of the XCAP using charrettes.

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Mr. Klein did not believe a true charrette was appropriate for grade separation discussions. The upcoming meeting was similar to a Council Study Session.

Council Member Tanaka requested Mr. Klein's opinion regarding the proposal for an RBRC.

Mr. Klein felt Brown Act requirements should apply to a Council advisory body because it gave the process more credibility. The Council needed to appoint one group to compile all the information and then they needed to advise the Council. The Council had to make the final decision.

Vice Mayor Fine asked if the XCAP could appoint a Chair and vote on recommendations.

Mr. Shikada indicated the Council could direct the XCAP to do that. The Council also had the ability to reformulate the XCAP to report to the Council.

Vice Mayor Fine inquired whether there was a primer or presentation for grade separations.

Mr. Shikada answered no. Staff discussed preparing such a document. The website was updated to be user-friendly for those who were not familiar with grade separation issues.

Vice Mayor Fine asked about the resources needed to reinforce the XCAP as opposed to forming an RBRC.

Mr. Shikada conveyed that Staff could work with an XCAP Chair to create a process for the XCAP to report to the Council. Such a change required an amendment to the AECOM contract.

Mayor Filseth asked if it really mattered to whom the XCAP reported.

Mr. Shikada replied yes with respect to the Brown Act. Some XCAP members recommended the XCAP not be subject to the Brown Act.

Council Member DuBois suggested the Council request XCAP members to report to the Council.

Ms. Naik remarked that an RBRC was attractive because it had all the things the XCAP did not have. The XCAP was not going to discuss Palo Alto Avenue, and the Council did not direct the XCAP to group Churchill, Embarcadero and the station area into one discussion. The XCAP had not made any recommendations or formulated any group opinions. The process was not designed such that the XCAP could make recommendations. The

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Council needed to direct the XCAP to provide a list of the areas for which it needed policy guidance. She was not able to offer a timeframe for the XCAP to provide recommendations and she preferred any future advisory body be subject to the Brown Act.

Mayor Filseth requested that the XCAP's list of pros and cons include policy questions.

Ms. Naik felt the XCAP could not hold a design workshop or charrette until the XCAP understood the Council's decisions to eliminate options and were able to respond to policy guidance. The Council needed to provide the XCAP or an RBRC with a list of deliverables so that the process achieved those deliverables. The Council needed to schedule check-ins with the XCAP every two to three months.

Mayor Filseth concurred with the Council preparing a list of deliverables for the XCAP.

Judy Kleinberg, Director of the Palo Alto Chamber of Commerce advised that the XCAP did not have a process to reach group decisions. Each XCAP member was learning about grade separation issues through detailed discussions. Developing preferred alternatives was not the XCAP's focus. The issues were unbelievably technical. Discussions of alternatives raised more issues that required additional discussion and engagement. If the Council accelerated the process, some XCAP members were not going to be able to participate.

Mayor Filseth asked how the Council could define deliverables for the "understanding the options" phase.

Mr. Shikada recommended the XCAP discuss the issue at its next meeting.

Mayor Filseth was reluctant to have the Council discuss deliverables without input from the XCAP. The Council had two issues to consider: closing the "understanding the options" phase and organizing the "community and regional engagement" phase.

Council took a break at 8:59 P.M. and returned at 9:19 P.M.

Mayor Filseth advised that some subset of the Council should meet with the XCAP team to develop a process for the XCAP to deliver a set of preferred alternatives to the Council.

MOTION: Council Member Kniss moved, seconded by Mayor Filseth to:

A. Continue the XCAP meetings with an improved focus;

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- B. Direct Staff to begin the process of establishing a Rail Blue Ribbon Committee (RBRC), which would be authorized to make recommendations to Council, by the beginning of 2020; and
- C. Return to City Council with a Staff Report related to the establishment of the RBRC by the end of December 2019.

Council Member DuBois was not convinced that the decision-making process was the right process. It implied a linear process when the public and the Council wanted an integrated process. Caltrain was beginning to talk about taking responsibility for grade separations. In his opinion, a Rail Infrastructure Committee needed to be similar to the Infrastructure Blue Ribbon Commission (IBRC) and needed to think about improvements to rail and the stations. Measure B included funds for station improvements as well as some fungible funds. The Community Advisory Panel (CAP) was handling community feedback, but the Council was somewhat dissatisfied with the process. In April and June, 2019 the Council discussed giving the XCAP more authority.

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

- A. Continue the XCAP and authorize the XCAP to appoint a Chair and Co-Chair, take votes to make recommendations and provide updates to Council;
- B. Reiterate the April Motion and allow additional alternatives to be studied including:
 - i. Allow XCAP to brainstorm some alternatives such as Embarcadero, Meadow, and Charleston;
 - ii. Ensure the trench alternative minimizes construction impacts;
- C. Have XCAP present preferred alternatives by April 30, 2020;
- D. Direct Staff to refine scope, purpose and timeline for an RBRC to focus on regional cooperation and funding and bring it back to Council prior to April 30, 2020; and
- E. Staff to continue to work with VTA, Caltrain, Stanford and others on potential funding sources.

Council Member Cormack agreed that the XCAP needed to report to the Council more often. She inquired as to the meaning of the XCAP brainstorming ideas.

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Council Member DuBois advised that it would be alternatives for roadway configuration.

Council Member Cormack noted the XCAP's request for Council to provide policy guidance.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion a new Part B. iii. "Rank alternatives using consensus criteria."

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to amend the Motion Part D. to change April 30, 2020 to December 1, 2019.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to amend the Motion Part E. to state "Staff and Council ..."

Council Member Kniss noted the Substitute Motion was not enormously different from the Motion. The additional details improved the Substitute Motion.

Mayor Filseth concurred with Council Member Kniss.

MOTION WITHDRAWN BY THE MAKER

Council Member Kou inquired whether updates to the Council would be the same thing as reporting to Council.

Council Member DuBois indicated the XCAP would provide verbal updates to the Council.

Council Member Kou asked if the Substitute Motion should contain the frequency of check-ins.

Council Member Cormack suggested monthly updates.

Council Member Kou recommended monthly or bimonthly so that the Council could remain abreast of XCAP discussions.

Council Member Cormack agreed to monthly updates.

Council Member DuBois agreed to bimonthly updates. The XCAP was able to check in more often if warranted.

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Council Member Kniss did not anticipate a large number of XCAP members addressing the Council.

Council Member DuBois related that the XCAP Chair could provide the update.

Mr. Shikada indicated Staff would include a Standing Item on the Agenda.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part A. "... no less than bimonthly ..."

Council Member Kou stated perhaps the XCAP could assist Staff with setting their Agendas.

Council Member Cormack felt that was implicit with appointing a Chair and Vice Chair.

Council Member Kou wished to clearly state that the Chair would work with Staff to formulate Agendas or to create a process for formulating Agendas.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part A. "... help shape the agendas ..."

Council Member Kniss requested the number of XCAP members.

Chantal Cotton Gaines, Assistant to the City Manager replied 14.

Council Member Kou requested Subpart D specify other funding such as Metropolitan Transportation Commission (MTC) funding.

Council Member DuBois clarified that the RBRC would focus on regional cooperation and regional funding.

Ms. Stump reported the XCAP should comply with the Brown Act. The Substitute Motion provided a fair amount of direction and structure to the XCAP. Proceeding without Brown Act compliance was risky.

Mayor Filseth inquired whether the Substitute Motion was able to be amended so that the XCAP did not need to comply with the Brown Act.

Ms. Stump advised that under the Substitute Motion the Council would essentially create the XCAP through formal action.

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Council Member DuBois asked if the XCAP was currently subjected to the Brown Act.

Ms. Stump did not know the answer.

Mayor Filseth asked if the XCAP needed to report conflicts of interest and disclose financial information.

Ms. Stump responded no, provided the Council accepted the XCAP's input, considered it amongst other input and was clearly responsible for the final decision. The Council was able to direct the XCAP to report conflicts of interest and disclose financial interests.

Ms. Gaines related that XCAP meetings were not formally noticed through the Clerk's Office. Additionally, XCAP members exchanged information outside of meetings, which would have to change.

Vice Mayor Fine concurred with the XCAP being subject to the Brown Act. He requested the purpose of the RBRC.

Council Member DuBois explained that the RBRC would explore regional cooperation for such things as technical and construction issues and an overall funding program for the preferred alternatives developed by the XCAP. The funding program would include multiple funding sources.

Mayor Filseth added that the RBRC would seek community input as well.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part D. "... community awareness and engagement ..."

Vice Mayor Fine understood the XCAP was responsible for engagement as it tested concepts with neighborhoods and provided the Council with information. He questioned the value of an RBRC if the Council delegated authority to the XCAP.

Council Member DuBois believed the XCAP and RBRC should engage the community. Staff needed to provide more clarity for the purpose of the RBRC when they returned to the Council in December, 2019.

Council Member Cormack suggested an RBRC explain to the community why the Council was working on grade separations; separately the XCAP was able to develop detailed FAQs for grade separations. The XCAP focused on neighborhoods, but the remainder of the community needed a different level of information. In December, 2019 the Council was able to decide whether an RBRC was needed.

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Vice Mayor Fine felt the community needed a good response to why the Council was working on grade separations. The Council was also responsible for community engagement.

Mayor Filseth agreed that Staff and the Council would handle community and regional engagement until an RBRC was operational.

Council Member Kou inquired whether the XCAP would consider Palo Alto Avenue and rail stations. The XCAP needed to consider crossings holistically.

Ms. Stump recalled the Council's action to remove Palo Alto Avenue from consideration because it was intertwined with transportation issues in North Palo Alto. The Council was able to reconsider that action, but Council Members with conflicts of interest had to recuse themselves.

Council Member Kou requested clarification of the topics for which Council Members had to recuse themselves.

Ms. Stump explained that Council Members with conflicts of interest were not able to participate in agenda items for all at-grade crossings and stations unless the Council was able to establish that a decision on one piece was wholly and completely independent from decisions on other pieces. Council Members with conflicts of interest were able to participate in an Agenda Item limited to the Churchill, Meadow, and East Charleston crossings. The Council moved Palo Alto Avenue to a separate planning effort.

Council Member DuBois inquired whether Staff could present different scopes of work and funding processes for the RBRC.

Ms. Stump indicated Staff could consider that.

Council Member DuBois suggested the RBRC review funding for the Downtown plan as a separate issue that could be segmented.

Ms. Stump agreed to consider it.

Council Member Kou asked if the Substitute Motion needed to direct Staff to create a process to replace an XCAP member.

Council Member Cormack inquired whether the City Manager was able to appoint someone to fill a vacant position on the XCAP.

Mr. Shikada advised that Staff would use their best judgment should a position on the XCAP become vacant.

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Council Member Cormack suggested the Council handle replacing an XCAP member when it occurred. The XCAP notified the Council of any issues.

Council Member Kou preferred to have a defined process.

Mayor Filseth remarked that the XCAP fell within the City Manager's purview; therefore, replacing an XCAP member fell to the City Manager.

Council Member Kou hoped the XCAP Chair would notify the Council of any vacant positions on the XCAP.

Council Member Tanaka questioned whether the XCAP was aware of its mission. Without parameters, the XCAP was not able to achieve success. The Substitute Motion needed to contain the key issues the Council wanted the XCAP to address.

Council Member DuBois requested Council Member Tanaka provide language other than preferred alternatives.

Council Member Tanaka commented that the primary reason to form an RBRC was to understand the community. The use of community surveys was a good way to learn the community's preferences. Knowing what the community did not want reduced the number of options.

Council Member DuBois suggested including community feedback as a part of the RBRC's scope of work in Subpart D.

Council Member Tanaka believed a broad-based survey was important. Constraints based on community preferences simplified the XCAP's work.

Council Member Cormack was not ready to let the RBRC conduct a survey. She inquired whether the survey pertained to funding or alternatives.

Council Member Tanaka answered both.

Mayor Filseth cautioned the Council regarding the design of the RBRC's program.

Council Member Cormack suggested separating the survey from the XCAP.

Council Member Tanaka wanted to hear the broader voice of the community.

Council Member Cormack stated surveys had to occur after community awareness and a survey was pointless if people did not understand the issues.

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Council Member Tanaka thought a survey could disclose who was willing to tax themselves.

Council Member Cormack thought that was a part of the Finance Committee's workplan.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part D. "... and surveys"

Council Member Tanaka inquired whether the XCAP could form subcommittees.

Mr. Shikada remarked that the XCAP was going to discuss organization of their work in order to accomplish their goals. If the XCAP wanted to form subcommittees, then he planned on returning to the Council with information regarding resources needed to support subcommittees.

Council Member Tanaka suggested the Council appoint additional members to the XCAP rather than form an RBRC so that their roles would not overlap.

Council Member DuBois explained that the Substitute Motion sought clarity as to the purpose and role of an RBRC. An RBRC had a skill set different from the XCAP's.

Council Member Cormack added that RBRC members did not have conflicts of interest. She thought the Council could have new information that would inform their decision to create an RBRC in December.

Council Member Kniss called the question.

Council Member Tanaka questioned the need to include funding in Subparts D and E.

Council Member Cormack responded Subpart E was for now, and Subpart D was for after December, 2019.

Mr. Shikada inquired whether Subpart B.iii should state "Council-adopted criteria."

Council Member Cormack explained that the XCAP should order the criteria and then rank the alternatives based on that.

Mr. Shikada asked if the criteria was the Council adopted criteria.

Council Member Cormack did not like the Council-adopted criteria.

ITEM 8 EXCERPT MINUTES

Council Member DuBois remarked that the Council did a lot of work to create the criteria. The XCAP was able to develop a process for weighting the criteria and scoring the alternatives.

Mayor Filseth suggested the Council allow the XCAP to help define the criteria.

Council Member DuBois clarified that the issue was weighing the criteria.

Mr. Shikada indicated Staff had eliminated the tiers when they previously applied the criteria.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to amend the Motion new Part B. iii. to say "established" instead of "consensus."

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

- A. Continue XCAP and authorize the XCAP to appoint a Chair and Co-Chair, help shape the agendas, take votes to make recommendations and provide no less than bi-monthly updates to Council;
- B. Reiterate the April motion and allow additional Alternatives to be studied including:
 - i. Allow XCAP to brainstorm some alternatives such as Embarcadero Meadow and Charleston;
 - ii. Ensure the trench alternative minimizes construction impacts;
 - iii. Rank alternatives using established criteria;
- C. Have XCAP present preferred alternatives by April 30, 2020;
- D. Direct Staff to refine scope, purpose and timeline for an RBRC to focus on community awareness and engagement, and surveys, regional cooperation and funding and bring it back to Council prior to December 1, 2019; and
- E. Staff and Council to continue to work with VTA, Caltrain, Stanford and others on potential funding sources.

MOTION PASSED: 7-0

ITEM 8 EXCERPT MINUTES

Mr. Burton remarked that the XCAP continued to work with the Tier 1 and Tier 2 criteria. The Council needed to establish new criteria. The XCAP did reach a rough consensus and was effective. Given the additional work, the XCAP had to push to provide preferred alternatives by the end of March, 2020. However, placing a measure on the 2020 ballot kept the cost of construction down and allowed the measure to compete with other tax measures.

Ms. Levin advised that other cities were working with multiple agencies to improve stations. Passing tracks were not needed until High Speed Rail or other major rail projects were implemented.

Ms. Naik felt the Council had added work to the XCAP that members were not expecting. A higher number of XCAP members were going to have conflicts of interest for the Embarcadero and Churchill crossings, and no XCAP members were going to have conflicts of interest for the Meadow and Charleston crossings. She suggested Staff present the expanded scope of work to the XCAP and learn which members were going to continue to participate. The formation of the XCAP was going to affect the Council's decisions.

Mr. Rosenblum commented that Caltrain was interested in grade separation and needed to attend City meetings.

Megan Kanne inquired whether the XCAP should provide a ranking of alternatives or a ranking and supporting information for alternatives.

Mr. Lebrun advised that Caltrain could not increase the number of trains per hour beyond six until additional grade separations were constructed on the Peninsula. Caltrain was able to double the platform lengths and passing tracks at the eight stations used by 75 percent of Caltrain riders. Platform lengths at Palo Alto stations had the potential to be doubled within the existing right-of-way. In presenting its Business Plan to MTC, Caltrain indicated they needed \$6.9 billion for grade separation projects.

Mr. Klein suggested the Substitute Motion be amended to reflect XCAP decisions made by a majority vote.

Adjournment: The meeting was adjourned at 10:37 P.M.