



CITY OF PALO ALTO CITY COUNCIL DRAFT MINUTES

Regular Meeting
September 8, 2014

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:02 P.M.

Present: Berman, Burt, Holman, Klein, Kniss, Price, Scharff, Schmid, Shepherd

Absent:

STUDY SESSION

1. Review of Menu of Current Traffic, Parking and Zoning Initiatives Presently Underway and Options for Potential Changes to the Commercial Portions of the Zoning Code and Zoning Map.

Mayor Shepherd advised that on August 6, 2014, the Council requested Staff return with a Study Session regarding existing commercial zoning; a summary of current traffic, parking, and zoning initiatives; baseline data related to the Comprehensive Plan Update; and suggestions for the scope and breadth of the Comprehensive Plan Update. Baseline data was recently made available. The purpose of the current Study Session was to generate ideas about commercial zoning changes that could be implemented.

Hillary Gitelman, Director of Planning and Community Environment, reported Staff was present for 1) a discussion of current traffic, parking, and zoning initiatives and 2) potential changes to commercial portions of the Zoning Code and Zoning Map. Staff wanted to schedule a discussion of baseline data, which was released the prior week, and the breadth and scope of the Comprehensive Plan Update for early October 2014. The list of zoning and land use initiatives contained in the Council Packet did not include work related to the processing of applications, to ongoing programs, to the Individual Review (IR) program, and to changes to commercial portions of the Zoning Map and Zoning Code. Staff would return with Action Items as directed by the Council.

Vice Mayor Kniss requested Ms. Gitelman review the usual process for updating the Comprehensive Plan.

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Ms. Gitelman indicated the Council initiated the update in 2006 and work began in 2008. In early 2014, Staff outlined a process to complete the Comprehensive Plan Update by the end of 2015. In updating the Comprehensive Plan, Staff needed to analyze any development that might occur over the life of the Comprehensive Plan and its cumulative impacts. Preparing the Environmental Impact Report (EIR) required the most time, presuming consensus was reached regarding Elements of the Update. Staff outlined a process to prepare the EIR and engage in community outreach concurrently.

Vice Mayor Kniss inquired about consequences at the State level if the Council made minor changes to the Comprehensive Plan and some zoning changes.

Ms. Gitelman explained that the Comprehensive Plan did not require State approval, with the exception of the Housing Element. A Comprehensive Plan was required by State law and had to meet State requirements. Staff was concerned that without updates the Comprehensive Plan would become outdated. While some zoning changes and updates could be made either in advance of or as part of the Comprehensive Plan Update, Staff was committed to updating the Comprehensive Plan soon.

Vice Mayor Kniss recalled that originally the Council anticipated changing only 10 percent of the Comprehensive Plan. Every city prepared and updated a Comprehensive Plan. The City had a Comprehensive Plan that had been in effect for quite some time and was now considering next steps for the Comprehensive Plan.

Council Member Burt asked if Council Members would have only one round of comment.

Mayor Shepherd indicated the Council did not have to follow protocol in a Study Session. Hopefully one round of comment would raise all ideas.

Council Member Burt asked if the Council could discuss ideas as a group rather than each Council Member speaking in succession.

James Keene, City Manager, suggested Council Members air ideas in a first round as a basis for public comment, and then engage in discussion.

Council Member Burt inquired whether Council Members would speak once in succession or hold a dialog.

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Mayor Shepherd felt it would depend on how the conversation developed. The time was appropriate for Council Members to share their ideas. She had not envisioned a structure for the discussion.

Council Member Burt concurred with the City Manager's suggestion for Council Member comment, public comment, and then Council Member discussion.

Mayor Shepherd agreed to proceed in that manner.

Council Member Burt felt parking and traffic as well as zoning were hefty topics. It would be difficult to discuss all of them in one meeting. Perhaps the topics could be separated.

Mayor Shepherd requested Council Member Burt clarify a process for discussing traffic and parking.

Council Member Burt believed Council Members would have questions and comments on traffic and parking issues. The Council's guidance would pertain to zoning issues.

Mr. Keene understood the intent of the August 6, 2014 Motion was for Staff to report on their work plan in order to inform a Council discussion of potential zoning changes and changes to the Comprehensive Plan process and schedule. The work plan was a resource document for the Council to see the initiatives Staff was working on. The intent of the Study Session was to surface perspectives for zoning changes. Staff sensed from the previous discussion a Council desire to work on zoning actions.

Mayor Shepherd viewed the Study Session as pertaining to commercial zoning rather than details of the work plan, to determine if Staff had the capacity for additional assignments.

Council Member Burt concurred with using the work plan to inform the Council of Staff's capacity and initiatives in process. He asked if Staff had given any preliminary thought to zoning changes that would shift more residential development toward California Avenue and Downtown/University Avenue.

Ms. Gitelman recalled that when the Council last considered the Housing Element, it directed Staff to obtain certification of the Housing Element with current housing sites. Following that, the Council would consider eliminating some sites in the southern part of the City and shifting development farther north in the context of the Comprehensive Plan Update. Staff anticipated doing that as part of the Comprehensive Plan Update. Those changes were

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included in Alternative 3 presented to the Council on August 6, 2014. When Staff returned with further discussion of the Comprehensive Plan, they would discuss how that could be accomplished.

Council Member Burt believed the Council's purpose for the meeting was to discuss how much it should emphasize zoning changes as opposed to loading everything into the Comprehensive Plan. Ms. Gitelman advised that if zoning changes were significant, then the environmental review process for zoning changes could be as cumbersome as the Comprehensive Plan EIR. The Council discussed returning for a better understanding of zoning changes that might be possible outside the Comprehensive Plan. Those zoning changes could affect zoning sites and the Zoning Code. He inquired whether Number 4 in the Staff Report, consider potential changes to the commercial portions of the Zoning Code and Zoning Map that warrant additional study, was the topic of the Study Session.

Ms. Gitelman answered yes. Staff understood on August 6 that the Council wanted to brainstorm changes to the commercial sections of the Zoning Code and the Zoning Map.

Council Member Burt stated implementing zoning changes through the Comprehensive Plan Update could require several years. On August 6, the Council discussed the need to understand what it could and could not do with respect to zoning changes without a major delay. He anticipated the Council would receive some guidance regarding zoning changes from Staff.

Mr. Keene indicated the Council's actions would be guided by the turnaround time for potential zoning changes. If Staff received a list of potential zoning changes by the end of the evening, then they could return to the Council and provide timeframes and implications for making zoning changes.

Council Member Burt understood the discussion would center around changes that could be made outside the Comprehensive Plan Update.

Molly Stump, City Attorney, noted the item moved and agendaized focused on commercial zoning. There could be some incidental discussion of housing and residential zoning; however, the item as noticed focused on commercial zoning.

Council Member Burt was interested in reducing commercial zoning density Downtown and replacing it with residential zoning to some degree. That would not be a wholesale change. Each change should allow adjustments to determine impacts on development. He wanted to know what actions could be taken in those areas, determine appropriate locations, and understand the degree to which zoning should be adjusted for residential and

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commercial zoning. Historically the basements of commercial buildings in Downtown supported retail spaces. Currently, basements were being converted to office space. The Code did not contain any provisions to retain basements as supporting retail. The Council should discuss the current trend and methods to retain retail space. Regarding commercial zones in Service Commercial (CS) and Neighborhood Commercial (CN) Zoning primarily in the greater El Camino Real area, he was interested in a modest adjustment to reduce the non-retail commercial portion and alternatives that would lower Floor to Area Ratio (FAR) or adjust the non-retail commercial portion with some additional residential zoning. A fairly modest reduction in FAR could allow better design. Previously, the Council changed the hotel overlay FAR to 2.0. The Council should consider a modest decrease in the hotel overlay FAR to incentivize hotels and allow architectural latitude.

Mayor Shepherd advised that Packet Page 21 indicated commercial hotel zoning was 1.5 FAR and asked if Council Member Burt was stating the correct FAR was 2.0.

Council Member Burt understood the FAR for hotels were 2.0.

Council Member Holman reported Council Member Burt was correct.

Mayor Shepherd asked if the FAR for hotels changed to 2.0.

Council Member Holman replied yes. Packet Page 32 stated the maximum FAR for hotels was 2.0.

Council Member Burt believed many of the City's issues concerned density of employment and density of vehicle trip per square foot of building. He wished to understand the range of tools that would allow the Council to control growth of employment within the City.

Mr. Keene inquired whether the density of employment was primarily limited to the generative impact on density of traffic or density of parking. He questioned whether there were other components beyond those that were problematic regarding density of employment.

Council Member Burt suggested the Council consider different densities for the same use in different areas of the City. Valuable local-service retail space was shrinking as gentrification occurred. If the City retained local-serving retail that could not compete with high-end chain stores, then the City would need areas that were marginal for retail success and that were zoned for retail. Much of the affordable retail in the community was located along El Camino Real. The community wanted and needed these types of outcomes in the California Avenue and University Avenue/Downtown areas.

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He indicated the Council should consider existing nonconforming uses as properties were redeveloped, zoning for onsite amenities, whether onsite amenities should all be exempt or partially exempt, and where they should apply.

Council Member Klein wanted to find ways to reduce the timeframe for updating the Comprehensive Plan. Staff stated 90 percent of the Comprehensive Plan would remain the same. He had not heard anyone suggest dramatically overhauling zoning. Perhaps Staff could draft a process that did not require as much time or cost as much money.

Ms. Gitelman explained that Staff presented a process to update the Comprehensive Plan by the end of 2015 concurrent with a few zoning changes.

Council Member Klein did not believe the EIR process could be completed in 2015. Given the time required for the Council, Planning and Transportation Commission (P&TC), and public to review the EIR, it would be at minimum a two-year process.

Ms. Gitelman recalled Staff comments on August 6 that the hardest part of any EIR process was getting started. Staff felt the current discussion of zoning changes that could be handled in advance of or concurrently with the Comprehensive Plan Update was a good means to move forward.

Council Member Klein asked if commercial space in the Downtown area had grown by 235,000 square feet since 1986.

Ms. Gitelman replied yes.

Council Member Klein calculated an increase of approximately 0.7 percent per year, which was very small. Yet, there was a much more dramatic increase in parking demand and traffic counts. The Council needed to understand the amount of traffic that resulted from car trips through the City and the amount of the parking increase that resulted from Palo Alto residents. The Council also needed to determine the number of people parking in Palo Alto but working in places outside the City. Most of Council Member Burt's comments were worthy of study. Local-serving retail had become increasingly complex. The Council should consider carefully which chain stores it wanted to discourage. The Council needed to reconsider Downtown Zoning Rules and whether the exemption for nonprofit agencies should remain.

Council Member Scharff stated parking and traffic were major concerns for the community. The Staff Report did not indicate outcomes for the 14

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parking and traffic initiatives. He requested Staff provide an overall vision for the outcomes of the initiatives. He concurred with Staff's focus on traffic along Embarcadero Road and suggested Staff focus on Charleston Avenue and Alma Street as well. Council Member Klein's comments regarding through traffic were important. Parking exemptions were a concern. He asked if two parking exemptions remained, one of which affected existing buildings with 20 parking spaces.

Ms. Gitelman would return with the information.

Council Member Scharff noted another parking exemption involved Transfer of Development Rights (TDR). He wanted the Council to reconsider provisions that allowed developers to combine parking exemptions that resulted in underparked commercial buildings. The Colleagues' Memorandum regarding expanded ground-floor retail protections should be a priority for Staff. He wished to greatly expand retail space in the Downtown, California Avenue and possibly Midtown areas. The community should consider whether restrictions on retail were appropriate and necessary. He questioned whether Staff had the resources to accomplish all the initiatives.

Council Member Holman questioned the definition of retail and allowances under a Conditional Use Permit. The Council should prioritize initiatives and implement those that could have a large impact quickly. Local-serving business was different from locally owned, independent businesses. Locally owned businesses distinguished one community from another. The City could limit the number of chain stores in an area. She understood commercial basements were being filled in, because the California Building Code counted basements toward FAR. She requested Staff provide information on that topic. As a result of the Council changing ground-floor retail protections, the City had lost many retail and service businesses where protections were eliminated. She hoped Staff would present definitions or sections of Code that needed clarity. She concurred with Council Member Burt's suggestion to consider downzoning CN sites. The Council should review methods for proportioning general office versus housing. She requested an update regarding implementation of the business registry. The business registry was not specifically zoning, but it was closely related to zoning.

Mr. Keene reported Staff was working on that. Information would be presented to the Council within the next two months.

Mayor Shepherd inquired whether the business registry was under the purview of the Planning and Community Environment Department or the Economic Development Office.

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Mr. Keene indicated the business registry would operate under Development Services and Economic Development.

Council Member Holman believed the Council should consider the number of restaurants allowed on University Avenue in Downtown and California Avenue. A variety of businesses was necessary for a thriving business community. Design Enhancement Exceptions (DEE) were not used as intended in the Code. The Council should review parking exceptions and increasing open space for mixed-use areas. Development in Downtown occurred too quickly for the City to moderate impacts. The Council should review FAR in the hotel overlay. She questioned whether residents, business owners, and property owners were being equally considered with respect to parking plans. She requested Staff provide detailed notes of parking committee meetings. The Council needed to review FAR in Community Commercial 2 (CC2) Zones.

Council Member Schmid noted the FAR for Downtown increased through bonuses, exceptions, and exemptions. Yet, the Downtown Coordinated Area Plan (CAP) Study indicated there was capacity for additional square footage as "by right" in the primary study area. He wanted to know the amount of square footage available "by right" in the primary study area. Data indicated 2 percent of land area in Downtown contained multifamily residential uses, which did not follow the norm of the West Bay area. Usage of the 11 major streets bringing people into Palo Alto increased on average 53 percent. The Downtown area should contain 12,000 parking spaces; however, only 4,800 parking spaces currently existed. The General Fund paid for parking and traffic initiatives, and residents paid approximately 70 percent of taxes that funded the General Fund. He questioned the real impacts of current zoning and changes needed to affect those impacts. Data did not contain a financial analysis of impacts and initiatives. He hoped Staff from the financial services group would be present at the next Council discussion of parking and traffic initiatives.

Council Member Price inquired about the level of detail contained within traffic analysis and economic impact analysis in a program EIR for a Comprehensive Plan.

Ms. Gitelman advised that a program-level EIR contained specific information regarding potential cumulative traffic impacts. Analysis would include a variety of metrics at locations throughout the City. Fiscal impacts were not studied in an EIR. If the Council wished, a separate study of financial impacts could be performed.

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Council Member Price believed strongly the Council should continue to focus on Our Palo Alto. Zoning was an implementation strategy for the Comprehensive Plan. She was concerned that utilizing different approaches to zoning issues would require more time and be more expensive. Staff did not have the capacity for additional complex work assignments. She concurred with comments regarding retail issues in the CAP Study. Incentives regarding lot consolidation would have an impact. The Council should set reasonable goals and visions so that the community could create a framework to achieve some goals.

Council Member Berman felt zoning changes were infeasible and the wrong way to achieve change. The Council should stop postponing the Comprehensive Plan Update process. Study and analysis of all the issues could not occur in a reasonable timeframe. Continuing with the Comprehensive Plan process was the smartest way to achieve changes.

Mayor Shepherd expressed concerns regarding the Fry's site. She inquired about the title of the plan for the Fry's site.

Ms. Gitelman answered Coordinated Area Plan. A Coordinated Area Plan would be more specific than the California Avenue plan.

Mayor Shepherd asked if the owner of the Fry's site could submit an application even though the Council was working on a Coordinated Area Plan.

Ms. Gitelman explained that Staff would have to process an application if it was submitted. The City received a Santa Clara Valley Transportation Authority (VTA) grant for work on the Fry's site. Staff remained quite a ways from presenting a scope of work to the Council. The subject probably warranted additional Council discussion soon.

Mayor Shepherd inquired whether that information could be included in the discussion on October 8, 2014.

Ms. Gitelman replied no. Staff needed to coordinate with VTA's process. The Council should focus on the Fry's site relatively soon.

Mayor Shepherd was interested in California Avenue formula retail and ensuring it remained local and eclectic. She inquired about options to secure retail along California Avenue simultaneously with the Comprehensive Plan Update.

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Ms. Gitelman could return to the Council to discuss options for California Avenue and other ideas the Council articulated. Staff would give it some thought and provide options.

Mayor Shepherd understood the comment period for the Comprehensive Plan EIR had been extended, which extended the length of the Comprehensive Plan Update process. She asked if decreasing the comment period for the EIR would shorten the overall time for the Comprehensive Plan Update.

Ms. Gitelman indicated it would shorten the schedule somewhat. Given the complexity of the Comprehensive Plan, the Council would want a comprehensive review period in order to obtain community input.

Mayor Shepherd concurred with comments regarding basements and mezzanines, density and employment, and growth of employment. After public comment, Staff could comment, and then the Council could provide direction for the next discussion on October 8.

Council Member Klein did not believe Council could provide direction in a Study Session.

Mayor Shepherd wanted to provide some clarity to Staff without a Motion.

Council Member Scharff concurred with Council Member Klein. Council Members could only provide their thoughts to Staff.

Mr. Keene suggested Staff would respond to comments and determine next steps after public comment.

Mayor Shepherd advised that after public comment, Staff could respond, following which the Study Session would end.

Chop Keenan noted 800 High Street was the last major condominium project in Downtown, and it resulted in a referendum. He previously suggested a Residential Parking Permit (RPP) data load on who was parking Downtown. The FAR increase did not comport with the amount of increased parking. Businesses paid 60 percent of taxes. Adding new dynamics while attempting to solve complex issues was difficult.

Brad Ehikian, Premier Property, reported Premier Property surveyed all Downtown ground-floor businesses within the boundaries of Alma Street, Everett Avenue, Webster Street, and Forest Avenue in 2012 and 2014. The result was a net increase in retail. Sales tax also increased each year from 2011. The Council should not make any changes to ground-floor retail.

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Eric Rosenblum felt rezoning key areas prior to updating the Comprehensive Plan would be a mistake. The Council should consider issues holistically rather than piecemeal. He was inspired by Council Member Schmid's comments regarding residential spaces near services.

Kate Downing thanked Staff for finding ways to address parking issues immediately without great cost. The Council was moving away from the Comprehensive Plan and toward spot zoning. The discussion appeared to pit retail against housing and jobs. A good compromise would be to allow retail on bottom and office on top in two-, three-, and four-story buildings.

Martin Bernstein, speaking as an individual, believed travel time rather than traffic was the issue. A sentence in the Zoning Code stated residential spaces in upper floors along University Avenue was a prohibited use. The Council should entertain potential zoning changes in a Study Session.

Mayor Shepherd indicated Olenka Villareal would be allowed to speak even though she was not addressing the Study Session.

Olenka Villareal, Friends of the Magical Bridge Playground, presented the Council with a final check. She informed Council Friends of the Magical Bridge raised all needed funds and construction had begun on the park. She thanked the Council for their support and encouragement. Peter Jensen, the Landscape Architect Park Planner from Public Works tirelessly managed the project, which was on schedule and under budget.

Adina Levin, Friends of Caltrain, commended Staff for a comprehensive approach to transportation planning, traffic, and parking. The holistic process for the Comprehensive Plan was good and valuable. A holistic review of economics, transportation, and housing would be beneficial.

Robert Moss advised that the State Density Bonus Law and Stanford University were pushing development in Palo Alto. The Council must consider those external pressures and prevent them from overwhelming City planning. The Council should consider reducing FAR in all zones; reducing height, density, and setbacks in all zones; retaining ground-floor retail to the maximum extent possible; and allowing less office space in CS and CN Zones.

J. Craig Holland received the impression that the Council wished to complete the Comprehensive Plan while the Council was in office. That was not a good idea, since the Council did not appear to have confidence in the City. He suggested not completing the Comprehensive Plan until the next Council had been elected.

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Stephanie Muñoz felt the Council's attempts to regulate land use was accelerating disequilibrium of society. The people of Buena Vista Mobile Home Park should be allowed to remain in their homes.

Ms. Gitelman reported Staff would do their best to synthesize ideas voiced by the Council and combine them into a report on the scope and schedule for the Comprehensive Plan Update.

Mr. Keene noted some Council comments appeared to be directives to Staff; however, Staff would need an actual Council directive. Staff would do their best to review the range of comments and provide parameters and timelines for implementing some ideas. Staff would need the Council to determine the correct return on investment criteria. Focus from the Council would be important. A concurrent discussion of the Comprehensive Plan and potential zoning changes would be beneficial. He appreciated comments recognizing Staff's and the Council's efforts to adapt to problems.

AGENDA CHANGES, ADDITIONS AND DELETIONS

Mayor Shepherd would adjourn the meeting in honor of Rye Kelley, Greg Brown, and Mary Taber.

Council Member Klein recalled that Rye Kelley had many ideas, not all of which were practical. Mr. Kelley originally proposed moving Palo Alto Medical Foundation from Downtown to El Camino Real. Mr. Kelley and his brother brought a number of landmark projects to Palo Alto. Mr. Kelley was a poet and one of the original founders of *Palo Alto Weekly*.

Council Member Scharff remarked that Greg Brown's murals were some of the best public art in the country. Public art was often controversial; however, he had never heard any complaints about Mr. Brown's murals. Mr. Brown was first hired by the City in 1975 as an artist in residence.

Council Member Price commented that Mary and Paul Taber opened the first Hobee's Restaurant in 1974. Mrs. Taber first worked in the restaurant, then moved to management as the chain grew. Hobee's Restaurant was known for its philanthropy.

Council took a break at 8:40 P.M. and returned at 8:50 P.M.

Council Member Scharff expressed concern that the Council would not have time for the Closed Session.

James Keene, City Manager, advised that Staff and a consultant were present for the Closed Session.

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Council Member Scharff preferred to continue the Closed Session.

Council Member Berman inquired whether the Closed Session was time sensitive.

Mr. Keene indicated it was not time sensitive.

Mayor Shepherd reported Agenda Item Number 11- CONFERENCE WITH LABOR NEGOTIATORS City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Dania Torres Wong) Unrepresented Employee Group: Management, Professional and Confidential Employees Authority: Government Code Section 54957.6(a), was continued to September 15, 2014.

CITY MANAGER COMMENTS

James Keene, City Manager, announced the California League of Cities recognized the City with Spotlight Awards for leadership on energy savings and for efforts related to natural gas savings and with a Beacon Award for leadership in climate change and sustainability.

Mayor Shepherd noted the City's achievements far surpassed other cities' achievements.

Mr. Keene advised that the Palo Alto Emergency Services Volunteer Program was looking for members. On September 20, 2014, the Community Emergency Disaster Exercise would be based on a severe winter storm with a local flooding scenario. The California League of Cities recognized Peter Pirnejad, Development Services Director, for his service as President of the California League of Cities Planning and Community Development Department. The City received a mostly favorable letter from the California Department of Housing and Community Development (HCD) regarding the draft Housing Element Update. Caltrain would upgrade traffic control signal equipment at the intersections of Alma Street and Churchill Avenue on September 9, 2014 and Alma Street and East Meadow Drive on September 11, 2014. The temporary Mitchell Park Library would close permanently on September 26, 2014.

ORAL COMMUNICATIONS

David Carnahan, Deputy City Clerk, indicated the City was recruiting for two positions on the Architectural Review Board, four positions on the Historic Resources Board, and two positions on the Planning and Transportation Commission. He reviewed requirements for the positions.

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Mark Weiss advised that Greg Brown supported the Arts Commission and emerging artists. Mr. Brown was part of the fabric of the Palo Alto cultural community. He suggested funding be earmarked for the arts in Mr. Brown's name.

Roger Smith noted Friends of the Palo Alto Parks raised \$3.6 million and the City provided \$300,000-\$400,000 for the Magical Bridge Playground. Friends of the Palo Alto Parks was founded in order to create public-private partnerships.

Pat Thomas invited the public to a concert on September 13, 2014. All proceeds would benefit InnVision Shelter Network.

Deb Goldeen was concerned that people moved to Palo Alto because it was a wonderful place to live. However, some people who moved into Palo Alto wanted to change the community for the worse.

Michael Francois reported on the top ten California cities running out of water. If conditions continued to worsen, the Governor had the power to redirect water to cities in need.

Herb Borock remarked that the Council should have met in Closed Session to review the Appellate Court's decision in favor of the California High Speed Rail Authority and to decide whether to appeal the decision to the California Supreme Court. The City's brief appealing the decision to the California Supreme Court did not discuss the points raised in the Appellate Court's decision.

MINUTES APPROVAL

MOTION: Council Member Price moved, seconded by Council Member Berman to approve the minutes of August 4 and 6, 2014.

MOTION PASSED: 9-0

CONSENT CALENDAR

MOTION: Council Member Klein moved, seconded by Council Member Price to approve Agenda Item Numbers 2-7.

2. Approval of Amendment No. 1 to Add the Amount of \$205,000 to Contract #C12142862 with American Guard Services, Inc. and Extend Term of Agreement by Eight Months to July 30, 2015.
3. Approval of a Request From Palo Alto Housing Corporation for \$200,000 for Rehabilitation Work at the Colorado Park Apartments

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Located at 1141 Colorado Avenue and Approval of a Budget Amendment Ordinance 5269 in the Residential Housing Fund, Loan Agreement and Regulatory Agreement to Ensure Long Term Affordability.

4. Approval of a Contract with Integrated Design 360 (Green Building Consultant) in the Amount of \$445,994, to Assist Staff with the Implementation and Management of the City's Green Building Program.
5. Ordinance 5267 Amending Palo Alto Municipal Code Sections 12.04.020, 12.04.030, 12.04.040 and 12.20.010, to add "General Aviation Airport" to Existing Definitions and Permit the Adoption of Airport Fees and Charges by Resolution 9456 (First Reading: August 11, 2014 PASSED: 9-0).
6. Ordinance 5268 Dedicating 7.7 Acres of Land Deeded to the City by Russell Lee to Become a Part of Foothills Park (First Reading: August 18, 2014 PASSED: 7-0 Burt, Price absent).
7. Resolution 9457 Approving and Adopting the County of Santa Clara Airport Rules and Regulations and the County General Aviation Aircraft License Agreement for Application on an Interim Basis at the Palo Alto Airport.

MOTION PASSED: 9-0

ACTION ITEMS

8. Approval of Contract No. C15155728 in the Not-To-Exceed Amount of \$184,790 with American Institute of Architects California Council to Manage the Design Competition for the Pedestrian and Bicycle Overpass at Highway 101 CIP Project PE-11011.

Mayor Shepherd recalled in 2013 the Council directed Staff to prepare a design competition process for the Adobe Creek Pedestrian and Bicycle Overpass on the Highway 101 Corridor (Project). The environmental assessment was scheduled to be completed in 2015. It was time to launch the five-month design competition under the guidance of the American Institute of Architects California Council (AIACC).

Elizabeth Ames, Senior Project Manager, reported the City received a "semi-green light" from environmental regulatory agencies to proceed with the Project. Staff believed the Environmental Impact Report (EIR) would be placed into public circulation in the spring of 2015. Staff discussed

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competition requirements with the Architectural Review Board (ARB) and Parks and Recreation Commission (PARC). Those discussions resulted in requirements for design teams to include a landscape architect, architect, and engineer and to have experience with one bridge in the prior ten years. The ARB and PARC worked with Staff to draft Guiding Principles for the design competition.

Margie O'Driscoll, American Institute of Architects California Council Project Manager, wanted a community-centered, open, and transparent process. It was important for design teams to have experience in designing bridges. Marketing materials would be shared with all American Institute of Architects (AIA) chapters around the state through a broad marketing campaign. Staff would identify and contact design firms and engineers with bridge experience to ensure they were aware of the competition. In an effort to locate emerging talent, the competition would be open to people who had designed only one or two bridges. The jury would be composed of community members, a Palo Alto architect, a Stanford University professor, and people from outside Palo Alto. The jury would determine the four strongest design teams for designing a bridge that was compatible with the community. Those four teams would create conceptual plans which would be shared with the community. A Technical Advisory Panel would review the plans and determine if they were realistic for the budget. The ARB and jury would hear design presentations. Finally the jury would choose a design and recommend that design to the Council. The goal was to make a recommendation to the Council by January 2015.

Lee Lippert, Architectural Review Board Chair, advised that the ARB met three times to discuss the competition process. Discussions focused on three main areas: Guiding Principles, design team requirements and qualifications, and the role of the ARB. The ARB suggested changes to the language of the Guiding Principles. Narrow and restrictive qualifications would exclude many local design firms and architectural and engineering talent. Restrictive requirements would eliminate the competitive aspect in that only a small number of firms could meet the qualifications. The ARB was not a design jury. The ARB's role was to hold and facilitate a public hearing and to solicit public comments. That process should occur before a final design was chosen. The ARB could evaluate the finalists' designs for compliance with the Guiding Principles and to assure quality.

Shani Kleinhaus submitted a letter in October 2012 noting design was not equivalent to mitigation. An EIR was not an action on habitat improvement. The design should consider bird safety and provide an opportunity to create a living bridge. Innovative bridge design could be harmful to birds. She expressed concern about the "semi-green light" from regulatory agencies.

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Design Guiding Principles should incorporate state of the art bird-friendly designs and develop innovative approaches to management of native and non-native predators. She did not want an aesthetically beautiful bridge that was incompatible with the Baylands. Design teams and the jury should include a wildlife biologist.

Allen Rejaie, HNTB, was interested in the design competition. HNTB wanted to ask questions about qualifications and follow development of the competition process.

Brit Lindberg, American Institute of Architects Santa Clara Valley Chapter President, supported the guidance of the AIACC in the design competition.

Martin Bernstein, speaking as an individual, remarked that experience with bridge design and construction was a structural issue. Any design team could include a structural engineer if its design was accepted by the jury. The Council should not include a requirement of one bridge in ten years.

Council Member Price felt design criteria and goals were critical to the process. She supported the requirement that design teams have experience with at least one bridge. AIACC had an exemplary reputation, experience with scores of juried competitions and design awards, and was knowledgeable. The City would be well served by having this expertise working with Staff.

Council Member Klein was intrigued by whether to have three or four finalists. He inquired whether three or four finalists were typical and whether four finalists would increase complexity of the process.

Ms. O'Driscoll believed the City would be equally served with three or four finalists. The question was the number of choices and ideas the Council wished to submit to the community.

Council Member Klein requested the usual number of finalists in design competitions.

Ms. O'Driscoll replied generally three.

Council Member Klein asked if four finalists cost more than three.

Brad Eggleston, Public Works Assistant Director, advised that four finalists would cost an additional \$20,000.

Council Member Klein was not persuaded that four finalists would improve the process. He requested Staff comment on the Sierra Club's request for additional criteria.

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Mr. Eggleston reported Staff was developing design criteria in addition to Guiding Principles. He appreciated the suggestion for Staff to focus on the safety of birds and predators that could impact the Baylands. That could be included in design criteria.

Council Member Klein requested Staff comment on the suggestion to include a wildlife biologist in design teams.

Ms. O'Driscoll noted some architects were experts on bird safety and structures. The Council could include such an architect or a biologist.

Council Member Price left the meeting at 9:38 P.M.

Council Member Holman questioned the meaning of "semi-green light" approval.

Ms. Ames indicated Staff attended a field meeting with regulatory agencies who reviewed the site and options and focused on flood control along the Baylands. Regulatory agencies did not find any fatal flaws in the location with respect to harvest mouse habitat. Staff received a verbal comment that the alignment for the design competition was acceptable.

Council Member Holman preferred criteria recommended by the Audubon Society and Sierra Club be included in design criteria rather than in implementation aspects. She inquired whether there was any reason not to incorporate those recommendations.

Mr. Eggleston could incorporate them in both places. Staff had identified an appropriate location in the Guiding Principles for those recommendations.

Council Member Holman noted Minutes from PARC and ARB meetings were not provided to the Council. She contacted one PARC Commissioner and learned that PARC preferred preservation over interconnectedness. She questioned the meaning of "garner respect" and suggested "recognize and respect the Baylands" as substitute language. She requested Staff provide additional comments from PARC's discussion.

Ms. Ames reported initially Staff utilized sustainability; however, PARC felt sustainability was overused. PARC did not determine a word to use. Staff needed to finalize principles and appreciated any Council feedback.

Council Member Holman believed one criterion should be no negative impact on nature. She was troubled by the term "contemporary" when other words were creativity, originality, functionality, and technology. Use of "contemporary" seemed to dictate style. She asked why Staff chose to utilize "contemporary design."

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Mr. Lippert noted Board Member Malone Prichard requested contemporary be deleted. The ARB was not dictating any specific style, merely commenting on the materials.

Mr. Eggleston would be happy to remove contemporary.

Council Member Holman concurred with Chair Lippert's comments regarding the ARB's purview. PARC and Planning and Transportation Commission (P&TC) were charged with reviewing City design and site requirements; however, the process did not include a role for either of those bodies.

Ms. Ames intended for the design chosen by the Council to be submitted to the site and design review process.

Council Member Holman stated site and design review should be integrated into the competition process as there were site and design criteria.

Ms. Ames would review design guidelines for inclusion of the site and design review process. Designs presented for competition would be conceptual rather than ready for site and design review.

Council Member Holman noted Attachment B did not include a role for either PARC or P&TC.

James Keene, City Manager, interpreted the flow chart as moving the competition toward a recommendation to the City Council.

Council Member Holman questioned whether the Council should know that the four finalists complied with site and design review when it was making a determination. The competition process seemed disjointed.

Ms. O'Driscoll advised that design teams would prepare concepts.

Council Member Klein advised that the item concerned awarding the contract to AIACC, not the competition process.

Mayor Shepherd recalled Council Member Klein wanted to reduce the number of finalists from four to three.

Council Member Klein clarified that the number of finalists and additional criteria were before the Council. The Agenda Item did not encompass the process once AIACC completed the competition.

Council Member Holman disagreed.

Council Member Klein suggested the Mayor consult the City Attorney.

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Mayor Shepherd requested the City Attorney advise the Council.

Molly Stump, City Attorney, suggested Staff articulate the approval they sought from the Council.

Mr. Keene wished to understand Council Members' intentions in incorporating site and design review into the process at an early stage. He questioned whether Staff would co-design bridges with architects or whether architects would submit designs that would later be submitted to site and design review.

Council Member Holman was thinking designs would be submitted to site and design review later in the process. That would make design teams aware of those criteria.

Mr. Keene asked if site and design review criteria could be included in competition guidelines such that an architect could submit a conceptual design that would meet site and design review.

Council Member Holman inquired about the reasons for the jury to deliberate in private.

Ms. O'Driscoll explained that traditionally juries deliberated privately so they could speak freely.

Council Member Holman requested Staff consider public jury deliberation because ARB hearings were public.

MOTION: Council Member Holman moved, seconded by Council Member Klein to: 1) authorize the City Manager or his designee to execute Contract No. C15155728 with the American Institute of Architects California Council (AIACC), in a not-to-exceed amount of \$184,794 to manage the design competition for the Pedestrian & Bicycle Overpass at Highway 101, CIP Project PE-11011; 2) reduce the designers from four finalists to three; 3) add a fourth design principle that was brought forth by the Sierra Club and the Audubon Society: Conservation- incorporate state-of-the-art bird-friendly design science and guidelines and develop innovative approaches to management of native and non-native predator species; 4) in interconnectedness delete "garner", replace with "respect the delicate ecosystem of the Baylands environment..."; 5) direct the jury to deliberate in public; 6) direct the Palo Alto's Site and Design criteria to be provided to the architect teams; and 7) the Parks and Recreation Commission (PARC) and the Planning & Transportation Commission (P&TC) have a role in reviewing the designs and provide input.

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Ms. O'Driscoll noted the Technical Advisory Panel would evaluate proposals for bird safety. Staff and AIACC could work with the local Sierra Club regarding bird safety.

Council Member Klein asked Staff to explain the expected dollar amount change.

Brad Eggleston, Assistant Director of Public works, noted the new amount would be \$162,790.

Council Member Klein favored the design competition and working with AIACC.

AMENDMENT: Council Member Klein moved, seconded by Council Member Scharff to delete language that PARC and P&TC have a role in Site and Design process Review.

Council Member Klein remarked that the PARC and P&TC had a role in the process, and that language was not needed in the Motion.

Council Member Holman asked if Staff could identify a role for the PARC and P&TC she would accept the Amendment.

Mr. Eggleston had discussed PARC and P&TC members attending the public meetings of the ARB and the jury and provide comment as members of the public.

Council Member Holman disagreed that position was adequate as a role for the two Commissions and therefore did not accept the Amendment.

Council Member Scharff concurred with Council Member Klein. The community wanted an innovative design; more people involved in the process would decrease innovative designs. Adding a role for the P&TC and PARC would weaken the process.

Council Member Burt interpreted Staff's comment as they did not intend for the PARC and P&TC to have a formal role. He wondered what role Council Member Klein thought the P&TC and PARC would have. He did want the PARC and P&TC to follow their normal review process.

Council Member Scharff disagreed with Council Member Burt's interpretation of Staff's comments.

Mr. Keene commented that the Motion language needed clarifying.

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Council Member Burt inquired whether the extent of P&TC and PARC participation was public comment as indicated by Mr. Eggleston.

Mr. Keene stated Staff was exploring roles for the PARC and P&TC with the Council. The Council could expect an explicit role for the PARC and P&TC.

Council Member Burt suggested the Motion state "project review process" rather than "design review." The PARC and P&TC should be added to project review as was the normal practice.

Mr. Keene felt project review could be interpreted many ways as well. He asked if it was related to site and design review.

Council Member Burt answered yes, site and design review.

Mr. Keene suggested a representative from the PARC and P&TC share site and design criteria with design teams.

Council Member Burt understood the Council had used site and design with two different meanings.

Mr. Keene commented that site and design was a term of art and should be clarified carefully because it was related to site design rather than design.

Council Member Holman suggested site and design be capitalized as it was in the Code.

Council Member Burt asked Council Member Klein if that clarification would allow him to withdraw his Amendment.

Council Member Klein stated too many people involved in the design process at the start would not allow for innovation. Once the jury's work was complete, the Council could require designs be reviewed by PARC and P&TC.

Council Member Burt would not support the Amendment. The Council should follow the typical review process.

Mr. Keene asked how Staff would explain to the architect review team a charge to analyze and recommend a design concept.

Mayor Shepherd inquired whether the City Manager's question was for the Council.

Mr. Keene asked if the PARC and P&TC's role in the site and design review process would occur after the architects made a selection. If it was afterwards, then that was pro forma and the Motion was making it explicit.

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Mayor Shepherd inquired whether the Motion needed to contain the language if that was the usual process.

Council Member Burt explained given Mr. Eggleston's comments, the language was needed in the Motion.

Mayor Shepherd clarified site and design review would occur prior to concepts being presented to the Council.

Council Member Schmid asked if the intention of the Motion was for the design recommended to the Council would be subject to site and design review.

Council Member Holman responded yes. Site and design review would occur after designs had been narrowed to one.

Council Member Schmid felt the Baylands experience was to remove people from an urban environment and into a Baylands environment. He felt the Amendment had lost site of the fact that the impact on the Baylands and the experience of crossing the bridge into the Baylands was essential. The ponds and marsh land on the north side of the creek would not be open once the bridge was built. The confluence of Adobe and Barron Creeks was a lively environment for fish and birds. Whatever design was built should be sensitive to those two things. The PARC should have an opportunity to provide input. He was frustrated that input would be provided on the final design rather than all designs. He would not support the Amendment but noted the Motion did not provide a key role for the PARC.

Vice Mayor Kniss would not support the Amendment because it did not include an exact definition of roles. There was plenty of time for a site and design review process. The bridge would be built in a sensitive and delicate area which should be considered.

Council Member Scharff understood the Motion provided a role for the PARC and P&TC in design choice.

Council Member Holman clarified the PARC and P&TC would have a role after selection.

Council Member Scharff inquired about the City's standard procedure for PARC, P&TC, and ARB review.

Mr. Eggleston explained without a design competition Staff would issue an Request for Proposal (RFP), select one proposal from those submitted, and present a contract to the Council for approval. The chosen firm would create

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a conceptual design, and Staff would submit it to the site and design process. It would be reviewed by all Boards and Commissions.

Council Member Scharff asked if the Council was changing the regular process.

Mr. Keene understood the regular process would not change.

Council Member Scharff inquired whether the Motion was confirming the regular process.

Mr. Keene replied yes.

Council Member Scharff asked why the Council did not confirm the regular process in every Motion regarding construction projects. The Council should follow the regular process.

Vice Mayor Kniss advised the Council should confirm the usual process in this instance because a juried competition was not typical for construction projects.

Council Member Scharff inquired whether including a role for the PARC and P&TC in the Motion made any difference.

Mr. Eggleston reported based on Council comments, Staff could build in an effort to go to those Boards and Commissions before presenting a recommendation to the Council.

Council Member Scharff interpreted Mr. Eggleston's comment as including the language did make a difference. He inquired whether Staff would not have followed the usual process because it was not the regular process or because Staff did not follow the regular process.

Mr. Eggleston stated the City did not have a regular process for a design competition.

Council Member Scharff indicated the Motion should contain the language because the City did not have a regular process for a design competition

Mr. Eggleston agreed with including the language in the Motion.

Council Member Scharff withdrew his second to the Amendment.

AMENDMENT FAILED DUE TO LACK OF A SECOND

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Vice Mayor Kniss felt the Project was different because it concerned the Baylands and a route for commuters.

Ms. O'Driscoll was not aware of any other competitions that had brought a bridge into such a special place. A place was special to a community for many reasons. The competition would approach the Project with the same respect as for any special place.

Vice Mayor Kniss noted the cost was approximately \$8-\$10 million. She inquired whether Staff felt \$2 million in addition to the \$8 million would be enough.

Mr. Eggleston reported the Council approved a Project budget of \$10 million. The City was awarded \$8 million in grant funding; the Council appropriated some funds; the infrastructure funding plan approved in June 2014 added funding to total \$10 million. The cost estimate of \$10 million was based on preliminary information which was several years old. It did not include escalation of construction costs.

Vice Mayor Kniss remarked the \$10 million amount was not definite. In her experience with juried competitions, design groups did not keep in mind the cost. While an amount was not a part of the Motion, she wanted that information in the record.

Council Member Scharff recalled that the Council had not discussed reasons for changing the number of finalists from four to three. He inquired whether the ARB wanted four finalists.

Mr. Lippert advised the ARB felt it was important to broaden the pool of submissions to the public and ARB to demonstrate the process and design availability.

Council Member Scharff believed the City's Boards and Commissions had expertise with design competitions. A goal of more participation and more submissions was appropriate.

AMENDMENT: Council Member Scharff moved, seconded by Council Member XXX to have four total finalist teams.

AMENDMENT FAILED DUE TO LACK OF A SECOND.

Council Member Scharff expressed concerns about a public jury process.

Mr. Lippert was also concerned. Jurors needed to discuss designs and persuade each other how to look at designs. The jury would rank the three

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finalists and choose one. The City Council would then discuss awarding the finalist; that was the appropriate place for public discussion.

Council Member Scharff understood the reasoning behind a private deliberation of the jury.

AMENDMENT: Council Member Scharff moved, seconded by Council Member XXX to have the jury deliberate in private.

AMENDMENT FAILED DUE TO LACK OF A SECOND.

Council Member Schmid asked if Staff preferred for the PARC and P&TC to review designs prior to the jury making a decision.

Mr. Eggleston explained that designs would be submitted to the PARC and P&TC prior to Staff presenting a recommendation to the Council.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to change the last sentence to read "PARC and P&TC would have a role before Staff presents recommendation to the Council".

Council Member Schmid felt including that language in the Motion provided the sensitivity to the designers their designs would be reviewed by the Commissions prior to Council review.

Council Member Burt inquired whether the \$8 million amount included or excluded contingencies and at what percentage.

Mr. Eggleston reported it did include contingencies but did not specify a percentage. Proposed designs would not be sufficiently detailed to allow Staff to determine a contingency percentage.

Council Member Burt approved of the Technical Advisory Panel including a cost estimator and a structural engineer. Staff should give the designers the budget and ask them to prepare a design according to the budget and criteria.

Mr. Eggleston clarified that the \$8 million amount covered construction costs and a contingency, and the total Project amount of \$10 million included other costs.

Council Member Burt asked if the \$8 million amount included a contingency amount for construction.

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Mr. Eggleston could instruct designers to design to a \$7.2 million construction budget. Constructability and cost review could be a responsibility of the Technical Advisory Panel.

Council Member Holman inquired whether a construction budget of \$7.2 million was feasible.

Mr. Eggleston explained the \$2 million amount above the \$8 million covered costs for design, construction management, permitting, studies, etc.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that designers and Technical Advisory Panel be instructed that they are to have proposals within a \$7.2 million construction budget.

Council Member Berman was concerned about the public jury deliberation process. He asked if potential jurors would serve on the jury if they knew they would have to comment on projects in public.

Ms. O'Driscoll had thought of certain people to ask to be on the jury. However, those people would not deliberate in public. Public deliberations would result in longer and more difficult efforts to identify jurors.

Council Member Berman inquired whether it would be easier to find quality jurors willing to deliberate in public and vote in private.

Ms. O'Driscoll advised that both deliberating and voting in public would preclude some of the more desirable jurors.

Mr. Keene remarked that the jury could provide a detailed rationale for their rankings in a report to the Council.

Council Member Berman asked if there had been public design competitions for bridges in other jurisdictions.

Ms. O'Driscoll reported almost all juries met privately and returned with a decision for presentation to the decision-making body.

AMENDMENT: Council Member Berman moved, seconded by Council Member Scharff to remove from the Motion that the jury will deliberate in public.

Council Member Berman stated wanted to elicit the best design possible. The community demanded the highest quality people in the process. He was concerned that high quality jurors would not participate if their deliberations were public.

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Council Member Scharff indicated public comment would occur at PARC, P&TC, and Council meetings prior to the Council making a final decision. Many people would not participate on the jury if deliberations were public.

Mr. Keene stated the Council would not cede authority to the jury to make the final selection. The Council could choose a design not recommended by the jury.

Mayor Shepherd asked if the Amendment pertained to the jury selecting the three finalists or one of the three finalists.

Council Member Berman responded to select the three finalists.

Mr. Eggleston clarified that invitations would be extended to at least 20 firms. The jury would narrow those firms to three finalists. The three finalists would receive stipends to develop concepts. Concepts from the three finalists would be submitted to joint ARB and jury deliberations at a public meeting. The Council was considering whether the jury's deliberations would be public or private.

Council Member Klein remarked that the Council decided various personnel topics in public. Arguments for private deliberations were the same ones made 30-40 years ago when the Council changed to public appointments. Because the Council would most likely follow the jury's recommendation, the Council and public should understand the thought process of the jury.

Council Member Burt agreed with Council Member Klein. Selection of a finalist in private did not follow the Council's public process.

Council Member Berman clarified that he wanted private jury deliberations with respect to narrowing designs from 20 to 3. He withdrew his Amendment.

AMENDMENT WITHDRAWN

Mayor Shepherd concurred that public clarity was necessary. She hoped the design competition would be fun for the community.

MOTION AS AMENDED PASSED: 8-0 Price absent

Mayor Shepherd reported Agenda Item Number 9 was time sensitive. She did not believe discussion of Agenda Item Number 10 would require much time.

Mr. Keene did not believe Agenda Item Number 10 was time sensitive and could be continued.

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Mayor Shepherd requested the Council comment on continuing Agenda Item Number 10.

Mr. Keene felt the Council would spend a minimum of 30 minutes discussing Agenda Item Number 10.

Mayor Shepherd announced Agenda Item Number 10 - Rejection of Construction Bids for the Palo Alto Municipal Golf Course Reconfiguration Project and Adoption of a Budget Amendment Ordinance 5270 entitled "Budget Amendment Ordinance of the Council of the City of Palo Alto in the Amount of \$708,495 in Revenues and \$168,036 in Expenses to Operate the Golf Course From September 1, 2014 to February 28, 2015, and Establish an FY 2016 Golf Course Operating Loss Reserve from the Net Revenue of Golf Course Operations in the Amount of \$540,459" was continued.

9. Response to Santa Clara County Grand Jury Report on Reduced Transparency and Inhibited Public Input and Scrutiny on Important Land Issues.

Council Member Klein did not participate in prior discussions of the project at 27 University Avenue as it involved property of Stanford University and his wife was a Stanford University faculty member. He recused himself from discussion of the project at 27 University Avenue. He requested the Mayor bifurcate the issues so that he could participate in discussions not related to the project at 27 University Avenue.

Council Member Burt noted two Council Members were not Council Members during prior discussions of 27 University Avenue. He did not believe Council Member Klein should recuse himself.

Mayor Shepherd concurred with Council Member Burt but deferred to Council Member Klein's judgment. She asked if Council Member Klein wished to leave Council Chambers during discussion of 27 University Avenue.

Council Member Klein did not believe he should leave the Chambers. As he was a Council Member during prior discussions, the community might expect him to comment.

James Keene, City Manager, hoped the topic was straightforward. The Grand Jury submitted its report, and the City was required to respond to each of the findings by September 18, 2014. Staff provided a recommendation for Council consideration. The Council could edit the response.

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Vice Mayor Kniss was familiar with Grand Jury reports. The response was appropriate and adequate.

MOTION: Vice Mayor Kniss moved, seconded by Council Member XXX to approve the response to the 2013-2014 Santa Clara County Civil Grand Jury Report, "The City of Palo Alto's Actions Reduced Transparency and Inhibited Public Input and Scrutiny on Important Land Issues", and authorizes the Mayor to send a letter to the Grand Jury with the City's response by the deadline of September 18, 2014.

MOTION FAILED DUE TO THE LACK OF A SECOND

Mark Weiss studied civics at Terman Junior High School and Gunn High School. He stood in silence for the remainder of his provided time to express his views of the Grand Jury.

J. Craig Holland believed the synopsis did not demonstrate Council acceptance of responsibility for Council actions. It was difficult to believe the 7.7 acres was going to be sold for \$175,000. Spending \$250,000 to explore the project seemed to be inappropriate.

Herb Borock suggested the Council appoint a Committee to write the Council's response. The City should seek public input regarding surplus City-owned land before the Council met to discuss the property. Council discussion of whether there should be a transaction could only occur in Open Session. Discussion of the train depot had been characterized by reduced transparency and inhibited public input.

John Fredrich felt minimal transparency and lack of full disclosure led people to question the adequacy of the process. The \$175,000 appraisal amount was extremely low. He questioned whether the response adequately explained the lack of impetus for Council actions.

Sea Reddy indicated the Council should respond truthfully and take action against those involved.

Council Member Burt did not believe editing the response at a late hour was efficient or wise. The Mayor could appoint a subcommittee to revise the response. He inquired about the Agenda for September 15, 2014.

Mr. Keene reported the Agenda for September 15 included a Closed Session, a Study Session, adoption of a Resolution regarding enforcement of water waste restrictions, a public hearing, and two Closed Sessions.

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Molly Stump, City Attorney, added that Staff needed to meet with the Council regarding litigation and a labor matter.

Mr. Keene indicated the Agenda for the September 15 meeting was becoming full with scheduled and continued items.

Council Member Burt advised that the Council should lean on the side of a public process absent a compelling reason. The response should clearly accept responsibility and delineate corrective actions. The response was legally defensible; however, the report was not a legal document. The report was a critique of the Council's ethical conduct and obligations. The Council disappointed the community and should accept responsibility for that. He offered a personal apology for utilizing a process that was wrong. He inquired whether the Mayor was willing to appoint a subcommittee to consolidate Council comments and return to the Council on September 15 with a revised Council response.

Mayor Shepherd could do so; however, the City Manager would not be present on September 15. She inquired about the deadline for the Council's response.

Ms. Stump advised that the response was due September 18. The Council would need to approve a response on or before September 17.

Vice Mayor Kniss asked who received the response as the Grand Jury had been disbanded.

Ms. Stump explained that the Grand Jury was an informational body. The Grand Jury issued a report at the end of its term. The City's response was also informational and would be filed with the Superior Court. There would be no further action once the response was filed with the Superior Court.

Vice Mayor Kniss reiterated that the response terminated the interaction between the Grand Jury and the Council.

Ms. Stump clarified that there was not literally interaction between the Council and the Grand Jury. The response would likely be posted on the Court's website next to the report.

Mayor Shepherd asked if the City Manager would be unavailable for the remainder of the week.

Mr. Keene replied that he would be unavailable the following week.

Mayor Shepherd proposed a subcommittee work with the City Manager during the week to revise the response.

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Council Member Burt concurred.

Mayor Shepherd asked if two or three members for the subcommittee would be appropriate.

Council Member Burt responded two.

Mayor Shepherd requested Council Members provide questions and comments so that the subcommittee could work effectively.

Council Member Burt proposed that Response Number 1 include a second sentence that "The City should not have leased the parcel except for conservation purposes." In the response to Recommendation Number 2, the second to last sentence stated that the Real Estate Division reviewed it, but it did not state that the Real Estate Division determined all other leases were in compliance. That should be clarified. Finding Number 3 should clarify that at the September meeting the Council recognized there was not an address for the parcel and the then Mayor publicly provided a greater description of the parcel. Recommendation Number 4 indicated the City had implemented the recommendation; however, he was unsure how the City implemented it. In the response to Number 5a, "could" should be replaced with "should." Finding Number 6 should clarify how well the Council historically had responded and the Council's shortcomings. Recommendation Number 6 should delineate actions and speak concretely regarding additional software.

MOTION: Council Member Burt moved, seconded by Vice Mayor Kniss to have the Mayor appoint a two person Subcommittee to work with the City Manager to incorporate Council comments, and to return to Council September 15, 2014 with a draft response.

Vice Mayor Kniss felt the Motion was appropriate.

Council Member Holman advised that the Council should vote on the Motion.

Mayor Shepherd suggested the Council provide comments for the Subcommittee.

Council Member Burt believed it best for the Council to comment prior to voting on the Motion.

Council Member Holman requested the City Attorney clarify whether a vote on the Motion was necessary prior to discussion.

Ms. Stump reported the Council could hold discussion prior to a vote.

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Mayor Shepherd clarified that the Motion could change through Council discussion.

Council Member Holman concurred with Council Member Burt's comments. She did ask questions about the process at an earlier discussion. She apologized to the public for not being more forceful in her objections. The response to Recommendation Number 1 should demonstrate that the Real Estate Division had reviewed use restrictions on donated property by including a list of City-owned land and current uses. That list should be sent to the Parks and Recreation Commission (PARC) to consider whether some of that land should be dedicated parkland. Examples of such property were Gamble Garden, Williams House Gardens, and Winter Lodge.

Mr. Keene clarified that the list would enumerate all donated property within the City-owned inventory.

Council Member Holman asked if the City had to restrict itself to only donated property. A list of all City-owned land would be more transparent.

Mr. Keene explained that donated property could have been donated for a specific use. A determination of use might not be as clear with City-owned property.

Council Member Holman noted that many Council Members were not aware of City ownership of the property. A list of all City-owned property was important.

Ms. Stump advised that the Council could request that type of information, but that would not be responsive to the Grand Jury report. She did not believe that level of survey work had been conducted. The City owned hundreds of parcels of land that would require a great deal of time to catalog.

Council Member Holman agreed to limit the list of land to donated land.

Ms. Stump suggested the list be provided outside the response to the report.

Mr. Keene proposed the response state that the City Council had directed Staff to provide a list of all donated property and its use.

Council Member Holman believed the response to Finding Number 2 should require Council approval and the public notice include clear descriptions of Agenda Items rather than minimum legal descriptions.

Ms. Stump inquired whether that pertained to agendizing real property negotiations.

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Council Member Holman replied yes.

Ms. Stump reported Staff endeavored to identify clearly and concretely parcels of land subject to real estate Closed Sessions. The parcel did not have a street address; therefore, Staff identified it by the assessor's parcel number, which was unique. After the Agenda was published, Staff identified the need for a more useful description and Former Mayor Yeh orally read a specific description into the record.

Council Member Holman recommended the response to Recommendation Number 2 state that all leases would be published and presented to the Council for review and differentiate between property and facilities.

Ms. Stump indicated that was covered by an Ordinance. The Council's procedure was to submit a Colleagues' Memo requesting an Ordinance change be presented to the Council.

Lalo Perez, Administrative Services Director, advised that Staff provided annually a list of all leases executed by the City Manager.

Council Member Holman noted the list was provided after the City Manager executed leases.

Mr. Perez agreed it was an informational report.

Mr. Keene commented that Staff could present a discussion item on the topic.

Council Member Holman remarked that the City needed a process for a third party to initiate discussions about a real property transaction.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to refer the two Policies and Procedures to the Policy and Services Committee for review of ambiguities.

Mayor Shepherd inquired whether the Policy and Services Committee should provide a recommendation to the Council on September 15.

Council Member Burt answered yes.

Mr. Keene indicated the Subcommittee could determine which Policies and Procedures needed additional review and recommend that they be referred to the Policy and Services Committee.

Council Member Burt recommended that be included as input to the Subcommittee.

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Mayor Shepherd asked if the Council could submit comments by the following evening rather than comment on each response.

Ms. Stump reported the Council had to work in public in order to comply with the Brown Act.

Council Member Holman inquired about criteria for determining surplus property. The response to Recommendation Number 3 did not address how public debate regarding disposal of real property would occur. She questioned the meaning of "a manner consistent with public interest" as stated in the response to Recommendation Number 3. The response to Recommendation Number 4 should state how the recommendation was implemented.

Mr. Keene asked if she meant Recommendation Number 4a.

Council Member Holman responded Number 4.

Mr. Keene indicated that was the same as Council Member Burt's comment.

Council Member Holman advised that the response to Recommendation Number 5a sounded defensive. It should describe actions factually.

Mr. Keene remarked that Staff attempted to explain that there was some reason those actions were taken.

Council Member Holman added that the response to Recommendation Number 5 did not contain a description of how the recommendation was implemented. When projects did not comply with the Comprehensive Plan, they should be presented to the Council as a prescreening or preliminary review. Attachment C should be reviewed by Policy and Services Committee.

Council Member Schmid focused on Council responsibility. The response to Finding Number 3 should include a sentence that Council Members would agree publicly that necessary contextual information regarding real property was adequate prior to moving to a Closed Session.

Ms. Stump categorized the suggestion as a procedural change that the Council would consider going forward. In the response, the Subcommittee could indicate the Council would consider making that change.

Council Member Schmid understood the Grand Jury was making recommendations. The Grand Jury wanted the Council to demonstrate that it would address issues contained in the report.

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Mr. Keene believed Ms. Stump was clarifying that the response would indicate the Council would consider making a change.

Council Member Schmid preferred the list of donated property to be a list of unutilized public property greater than 1 acre or significant easements as part of the City's Parks and Open Space Master Plan to be updated biannually.

Mr. Keene reported that practically not all properties fitting that description would be relevant to the Parks and Recreation Master Plan.

Council Member Schmid agreed that property utilized by the Utilities or Public Safety Departments would not be on a list of unutilized property. Property that could be deemed surplus should be listed somewhere. That would be one of the goals of the Parks Master Plan.

Mr. Keene reiterated that there could be hundreds of parcels of real property for Staff to review.

Council Member Schmid assumed there were not hundreds of parcels containing one or more acres. There could be a significant number, but not hundreds.

Mr. Keene explained that Staff would have to assess every easement the City owned to determine whether it contained more than one acre. Staff could not complete that task by the following week.

Council Member Schmid believed the City Council should approve any appraised value of property over \$100,000.

Ms. Stump advised that the Council always approved any sale of property because of existing law and procedure. An appraisal was performed by an independent entity.

Council Member Schmid recalled a number of public comments indicated the property was more valuable than the appraisal indicated. There was some value to making public an appraised value.

Ms. Stump clarified that Council Member Schmid proposed making the appraisal values public.

Mr. Keene agreed Staff could make that change. He acknowledged there was discussion of some of the appraised values being absurd.

Ms. Stump noted City Staff did share that critical information with the Council. State law allowed an appraisal of a potential real property

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transaction not to be made public because making it public could affect the deal that the City negotiated for taxpayers.

Council Member Schmid felt the Council should be informed whether in Closed or Open Session.

Mr. Keene indicated the City Council was informed about the appraisal.

Council Member Schmid recommended the Council hold no Closed Session meetings on any application that involved a zoning change under Recommendation Number 5a.

Ms. Stump reported there were no Closed Sessions regarding that item.

Council Member Schmid clarified that there were meetings.

Ms. Stump explained that meetings were not Closed Sessions. Closed Session referred to the Council meeting in executive session with the public not present. Council Member Schmid's recommendation was no individual consultations with Council Members.

Council Member Schmid concurred.

Mr. Keene inquired whether Council Member Schmid intended for Staff not to speak to a Council Member who called about a zoning change.

Council Member Schmid clarified -that was a response to a question, not a serial meeting of several Council Members where all Council Members learned information either individually or in small groups.

Mr. Keene stated Staff would never know if it could be a serial encounter.

Council Member Schmid was thinking of 27 University Avenue. The Council did not want a series of meetings where Council Members learned of information not available to the public.

Mr. Keene suggested the Subcommittee review that.

Mayor Shepherd indicated the Council had been accused of deliberating behind closed doors which was a serial meeting. She inquired whether Council Member Schmid was attempting to determine when the Council was deliberating or receiving information.

Council Member Schmid believed the question was the amount of information that could be received without it becoming an issue of deliberation or sharing.

DRAFT MINUTES

Council Member Klein called Point of Order. The discussion was moving toward setting policy.

Council Member Schmid noted the Grand Jury asked the Council to change policy.

Council Member Klein commented that the Grand Jury could not overrule the Brown Act. The Council could discuss only agenda items.

Council Member Schmid indicated the alternative was to discuss policy privately.

Council Member Klein disagreed. The alternative was to write Colleagues' Memos to place an item on the Agenda.

Ms. Stump explained that Council Members suggested a number of significant policy changes. The Council could discuss those in a deliberative way before either the Council or a Council Committee. Policy changes could not be resolved in time to respond to the Grand Jury report. The Subcommittee could make a list of appropriate policy changes. The Council could then report to the Grand Jury that it would consider policy changes.

Council Member Schmid intended to get issues on the list.

Council Member Scharff concurred with Council Member Burt's comments. He apologized for the Council's lack of process. He associated his comments with comments of Council Member Burt, most comments of Council Member Holman, and some comments of Council Member Schmid. The Council should make a conscious decision to go into Closed Session. The Policy and Services Committee should review that. No one mentioned the issue of the holdover lease. The Subcommittee should consider a procedure to prevent holdover leases. The process for 27 University Avenue failed when Mr. Arrillaga did not submit an application. He never considered selling the property for \$175,000 and sincerely doubted anyone else considered it.

Council Member Klein supported the appointment of a Subcommittee as an appropriate means to revise the response.

MOTION: Council Member Berman moved, seconded by Council Member XXXX to that Council Members Burt and Schmid be on the subcommittee.

Council Member Burt believed the Mayor had discretion to appoint members of the Subcommittee.

DRAFT MINUTES

MOTION FAILED DUE TO THE LACK OF A SECOND

Mayor Shepherd recalled in 2012 the Council was learning about the Stanford University Medical Center Development Agreement as well as other items. She was unaware the City owned the property. The community deserved a full history of the City's ownership of the property. She was concerned about ambiguous portions of the Comprehensive Plan. She did not recall deliberating regarding the 7.7 acres or 27 University Avenue. She did meet with Mr. Arrillaga and listened to his proposal. The City did not have a process for Staff to present a gift proposal to the Council.

Mr. Keene added his apology for the lack of process. He regretted his role in designing and participating in a process that was wrong for the City.

MOTION AS AMENDED PASSED: 8-0 Price absent

Council Member Klein noted he did not vote on the portion of the response pertaining to 27 University Avenue.

Mayor Shepherd appointed Council Members Burt and Schmid to the Subcommittee.

~~10. Rejection of Construction Bids for the Palo Alto Municipal Golf Course Reconfiguration Project and Adoption of a Budget Amendment Ordinance 5270 entitled "Budget Amendment Ordinance of the Council of the City of Palo Alto in the Amount of \$708,495 in Revenues and \$168,036 in Expenses to Operate the Golf Course From September 1, 2014 to February 28, 2015, and Establish an FY 2016 Golf Course Operating Loss Reserve from the Net Revenue of Golf Course Operations in the Amount of \$540,459."~~

INTER-GOVERNMENTAL LEGISLATIVE AFFAIRS

None

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

None

CLOSED SESSION

~~11. CONFERENCE WITH LABOR NEGOTIATORS~~

~~City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Dania Torres Wong)~~

DRAFT MINUTES

~~Unrepresented Employee Group: Management, Professional and Confidential Employees~~

~~Authority: Government Code Section 54957.6(a)~~

ADJOURNMENT: The meeting was adjourned at 12:11 A.M. in honor of Rye Kelley, Greg Brown, and Mary Taber.