



# CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting  
December 12, 2016

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:08 P.M.

Present: Burt, DuBois arrived at 5:50 P.M., Filseth, Holman, Kniss, Scharff, Schmid, Wolbach

Absent:

## Study Session

1. Discussion of the Challenges and Accomplishments of the City Council.

Mayor Burt: Our first order tonight is a Study Session, which is a discussion by the Council of the challenges and accomplishments that the City has faced in recent years and has before them on the horizon. This is going to be an opportunity for us to really discuss and reflect a bit more deeply, not just on the most immediate issues that we have faced and have before us but an opportunity to look back retrospectively more and more toward the long term as well and wrap up this year and, for those of you who will be on the Council next year, to launch next year's work in that framework. I took the liberty of writing up, as best I could, a summary of the major issues that we've tackled over the last eight years plus and tried to frame a number of the major challenges that we have before us as a community for the coming years and decades. I'll apologize in advance for a moderately long piece, but it's a summation of a lot of work that everyone has done over quite a bit of time and trying to really frame where we're headed from here, at least some concepts of issues that we're facing. Here goes. As we look back on this past year, we also need to reflect on a broader timeframe, reviewing our accomplishments and challenges ahead. When I joined the Council with Council Member Schmid in 2008, we faced numerous issues: long-term deficits driven by unsustainable pension and benefit costs for our employees; a City government that was not as efficient or innovative as the community needed; and inadequate funds to invest in our decaying infrastructure. Within months, we were hit by the great recession, making overcoming these issues even more challenging. The critical need was financial reform. Without sound finances, our ability to provide high-quality services and invest in our future just wasn't possible. The City was

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projecting large and growing structural deficits. We had also recognized for over 20 years that the City had neglected to invest adequately in our streets, our buildings and other infrastructure, resulting in an estimated \$500 million backlog of maintenance and construction projects. We had also recognized the need to invest adequately in preparing for emergencies. A full plan funding the required organizational capacity was lacking. Just prior to the great recession, the City Council hired Jim Keene as City Manager. He brought a drive for change and innovation, and he's been an instrumental leader committed to addressing our challenges head on, putting us on the path to accomplish all that we have done since. Critical to our financial position were the needs to reform unsustainable employee pension and healthcare costs and to transform our City government into a more innovative and efficient organization. Since 2009, we led the County on employee benefit reform, and we negotiated lower healthcare costs with our labor groups while reducing the number of City employees. Employees also now pay for their full share of pension payments, and recent contracts have added employee payments for the City's share. These reforms mean that retirement and benefit obligations for Staff hired in recent years have more modest and financially sustainable obligations for the City, but we still have long-term unfunded liabilities for employees who remain legally under the older, more generous pensions. Consequently, two years ago we began to set aside dollars toward a separate fund to pay down these liabilities. In addition, the City's fund for retiree healthcare has grown 158 percent since 2008, and it's now \$85 million. As a community, we also faced a social crisis with a cluster of teen suicides in 2009 and 2010 and again in 2014 and 2015. We brought together community partners to form Project Safety Net, focused on the social and emotional wellbeing of our youth. That work continues today. As challenging as these times were, we can look at what we have accomplished. Within our infrastructure, few aspects of infrastructure as basic and clear as the condition of our streets. In 2010, they were in bad shape and getting worse. Since then we have nearly tripled our annual investment in street maintenance program from \$1.8 million to \$5.1. The positive results are now being clearer and clearer. Our average Pavement Condition Index has improved from 72 to 82, moving us to now the best score in Santa Clara County, and we're on track to reach our goal of 85 by the year 2019. This level of road quality also allows the City greater latitude to use our Measure B funds that are dedicated for road repair instead for other City transportation needs in the coming years. Our libraries were aged and outdated. In 2008, the community voted to pass a \$76 million bond measure that funded construction of a new Mitchell Park Library and Community Center, that opened in December of 2014, and the great improvements to the Rinconada and Downtown libraries. We also benefited greatly from public-private partnerships to rebuild our Art Center, create a Magical Bridge Playground, to furnish the libraries. We're now

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engaged in valuable collaborations to rebuild our children's Museum and Zoo, to create a Palo Alto history museum and to expand the Avenidas Senior Center. In 2015, the City rejuvenated and made more pedestrian the California Avenue business downtown area. After 17 years of fits and starts, the Council last year funded and approved a new Public Safety Building as part of our infrastructure master plan, largely funded by revenues from new hotels and higher hotel tax rates, which the City Council dedicated to that plan. This building will be located on Sherman Avenue and replace the cramped and seismically unsafe police headquarters on Forest that we have today. The new Public Safety Building will also integrate the department's administrative Staff, the Office of Emergency Services and the Emergency Operations Center. We're also rebuilding two unsafe and under-sized fire stations and adding parking garages to address needs in the University Avenue and California Avenue downtowns. In August, we broke ground on the \$41 million San Francisquito Creek flood protection project that has been too long in the making. When the first phase from the Bay to the Highway 101 is complete, homes and businesses will be protected from a 100-year flood event. Concurrently our municipal golf course is being transformed as part of the flood control work. When it reopens in the fall of 2017, it'll be a smaller course with turf that's been turned into a better, more compact landscape that incorporates native-environment vegetation of the Baylands while significantly reducing maintenance costs and reducing water use by one-third. We've also greatly improved our storm water system and built an emergency water supply reservoir under El Camino Park. Together from 2012 to 2021, we'll have invested over \$300 million above our 2010 baseline for funding infrastructure improvements. This is an investment based on our fiscal reforms that was considered beyond our reach just a few years ago. Last month, Measure B was passed, a County sales tax for transportation. For the first time, it provides hundreds of millions of dollars toward construction of Caltrain grade separations in Palo Alto. The City's now launching an extensive design and community engagement process needed for these monumental projects to be fully funded and constructed. Our sustainable community. Palo Alto has a long history of leadership on environmental fronts. In the '60s and '70s, we led curbside recycling, open space preservation, bicycling and advanced wastewater treatment. More recently, we were early leaders in adopting renewable energy, zero waste, sustainability, energy and water efficiency and climate action plans. Over the past 15 years, we've steadily lowered our total use of water, electricity, natural gas and reduced our waste generation despite growth in population and workers. The City recently added residential organics recycling to the suite of services we provide. Our recycling rate is now 80 percent, the second highest in the State. In 2013, we became one of the first cities globally to achieve 100 percent carbon-neutral electricity supply. This was done with electricity rates that are more than 30 percent below other cities.

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Last January, we held a Sustainability and Climate Action Summit. We've recently adopted a City 80/30 goal, which is a greenhouse gas reduction goal of 80 percent from 1990 levels by the year 2030. That's 20 years ahead of California's ambitious goal, having established Palo Alto as a global leader in climate protection while showing others that a strong economy, low-cost energy and clean energy are all achievable. The great California drought of recent years reminded us of the criticality and delicacy of our water supply and the nexus between water, energy and climate change. The Sierra snowpack provides our drinking water and irrigation water along with nearly half of our clean electricity. That snowpack has been shrinking for decades, and even greater threats to it are anticipated with climate change. Consequently we are now tackling the need for a sustainable water system in addition to restricting dewatering from basement construction and moving forward with a green storm drain system that replenishes our groundwater rather than allowing storm runoff to contribute to flood risk. Last year, we launched an initiative with the Santa Clara Valley Water District to achieve a sustainable water supply at low cost by producing purified, recycled wastewater. We have the great challenge of our built environment, commercial development, traffic, parking and housing. The pressures of development have presented fundamental questions of how to continue to embrace change while maintaining for the long term the type of community that resident's value. In 2014, we began regulating worker parking in residential neighborhoods through the creation of a Residential Preferential Parking Program. This year we adopted new architectural guidelines for better clarity, more compatible buildings and sustainable landscaping. Recognizing that our local and regional job growth has far exceeded increases in housing supply, last year we launched annual caps to reduce and meter our rate of office growth, limiting new office developments to 50,000 square feet per year in most of the City while requiring projects to be higher quality with lower impacts. We've also reduced the incentives for office development, making residential development a better alternative as a consequence. With the conversion of offices in the Research Park as part of the Mayfield agreement, we now have over 300 units of primarily affordable housing being constructed. The total new office and all other commercial projects in the City from 2014 to 2016 was less than 50,000 square feet as a result of reducing the Research Park constructed office by the Mayfield amount. In addition to our commitment to preserve the Buena Vista affordable housing community and our support for our recent County Measure A affordable housing bond, we're now proceeding with zoning changes and development impact fees to provide for more affordable housing. Most importantly, next year we will complete the Comp Plan and zoning changes along with it to implement our Housing Element, which provides for more and smaller units with fewer traffic impacts in our downtowns and along El Camino. We've been equally committed to planning

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for smart growth as we work to complete our Comprehensive Plan, the primary blueprint for guiding our built environment over the next two decades. The City Council recently directed our Staff to provide a growth scenario that would reduce our long-term rate of office growth while increasing our rate of housing growth. The Transportation Element of the Comp Plan supports the community's vision of a less congested, more walkable, more transit-rich environment. In 2012, we rolled out the Bicycle and Pedestrian Transportation Plan, which is funded and currently being implemented. Our compact community, flat land, good climate and prior investments made Palo Alto a national leader in cycling. Our next commitments are taking us to a higher level, making cycling the fastest and healthiest way to travel door-to-door in much of the community while reducing congestion and parking demands for drivers. \$20 million of projects across the City are either in design or in implementation today. Our sustainable community and our quality of life. We continue to build on our history of strong, affordable housing programs. The Council unanimously endorsed Measure A, the \$950 million bond that passed on election day, with those funds allocated to house low and moderate-income families throughout the County. This year we supported new affordable housing sites, a new model of smaller, market-rate units with low trip impacts, and we partnered with the Santa Clara County Housing Authority to preserve Buena Vista Mobile Home Park as affordable housing. Last year, we adopted one of the highest minimum wage ordinances anywhere. In the coming months, we will consider returning our Human Services Resource Allocation Process (HSRAP), human services funding for community members most in need, to its former portion of our budget. Last year we adopted Healthy Cities Healthy Community initiative that embraces a broad vision of physical and emotional health for ourselves, our families and our community. We sought feedback this year on a Parks, Trails, Open Space and Recreation Master Plan, and that input is helping chart park use for future generations. Our community engagement. Palo Alto has a rich history of strong civic passion and participation. The community engagement of our very active citizens can be seen through our Town Hall neighborhood meetings, block parties, annual festivals and parades, Emergency Services volunteer programs and now our Cool Block environmental program. We've launched new citizen engagement tools such as open data initiatives that show our finances and permitting, our 311 system for citizen reporting of things needing to be fixed, and Open City Hall where residents can weigh in on a variety of important issues. We have a lot of challenges and opportunities ahead. Today we face a different set of challenges, large and small, many of them centered around the issue of how do we respond to the pressures of growth in our City and region sustainably. Some of the issues we will need to consider include how do we protect our retail and other valued services; how can we fund our local transportation and parking solutions; how much

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office and job growth do we want or need; what types of housing should we plan for and how much of it; and how can we address the need for more affordable and attainable housing for low and modest-income residents; what's the best way to leverage the over \$20 million in our fiber fund reserve to provide broadband capabilities throughout the community. These are just a few of the big challenges that will undoubtedly frame many of the important decisions that we make as a community that will chart our future. There are also lots of opportunities ahead. As a community, we've valued our diversity and inclusiveness. They're among our core values. What are some of the ways we can come together in this spirit to address the challenges ahead? If we want to provide a Palo Alto for our children and future generations, that sustains the vibrant community that we value, then we must debate and discuss these issues in a civil and thoughtful way, embracing the interests of both long-time and newer residents alike. We also have a community committed to sustainability, protecting our local environment and our planet. We see the same sense of obligation in our young people, and we should seek ways to encourage, foster and harness this shared commitment. Yes, we have big challenges ahead, but we must not lose sight of what brings us to Palo Alto. A beautiful and safe City with great parks, open space, exceptional services; a local economy that is the envy of many and that is centered on innovation and ideas for the future; an engaged and educated citizenry who cares deeply about their City, our schools and the value of knowledge; these are among the reasons people come and stay in Palo Alto and why, despite our challenges, we value our community so greatly and are committed to its wellbeing. Thanks for your tolerance of a long statement, but that's the last I'm going to say on this subject from this position. I want to open it up to colleagues for their thoughts, whether it be responses to some of those issues that I raised or simply other aspects that you would like to discuss. We have a while to have an open discussion. Who would like to go first? Nobody has anything to say. Council Member Holman.

Council Member Holman: I'll jump in here. You laid groundwork for a lot of the things that we have been talking about, certainly since you've been on Council in the last nine years actually, rather than eight which would be typical. Just to kind of maybe highlight some of the things that, I think, you touched on, that are not necessarily the most important but maybe some of the ones that the community responds to the most, because they're the things that they see and see the effects of them. Buena Vista Mobile Home Park, you mentioned that one. I think it's a remarkably important one and look forward to a positive outcome for that in the near future. I think it really put in the forefront what our values are and how we could establish relationships and partnerships with other entities, in this case the County and Santa Clara Housing. There are a couple of things that I did not hear

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mentioned. The Parks Master Plan and the Urban Forest Master Plan, I didn't hear those. Those also, I think, are things that people will really have at their disposal, and they will see the effect of the outcomes of those plans. I think it's really important that we do those. The office cap and the retail protections, you mentioned those. I think they're also things that people are realizing and maybe not fully appreciating in all regards. I think the retail protection has been very important in this still-hot office economy. The things that I mentioned about—sometimes the most rewarding are the things that again people can have direct relationship with. Working with Council Member Kniss and Staff to save the CineArts Theater, that's a shorter-term salvation; we'll look for a longer-term existence of that entity in our community. Those sorts of things really do highlight the citizen engagement as well as what's important to the community, because they step up and talk about what's important to them. The improvements that have been made in these chambers that help us and help the public, I think, and help the media as they report on these meetings are with the Clerk's help and with IT's help—we have the screens up here. We're going to put our motions and have lists of the speakers so people can follow along of what's going on. We, all of us, have more assurance of what we're voting on and the public can see what we're voting on. I think that's been a huge accomplishment. That's certainly been since Mayor Burt has been on. We also eliminated a number of parking exceptions, many of which seem to lead to abuses and little, if any, reduced trips. I think we've taken some very positive actions there. The golf course, of course, and the flood protections. Healthy Cities, I'm really pleased that finally got a priority status. We've made great strides there. You mentioned employee contract negotiations and improvements there. Those are the kinds of things that don't have the kind of recognizability and the real-world experience that some of the other things do. Nevertheless, they're just as important. You touched on a lot of these things, but not necessarily every one of them. Thank you for putting together a framework for us.

Mayor Burt: Thank you. Council Member Kniss.

Council Member Kniss: Good job, Mayor Burt, nice summation. You always forget how much you've done until somebody recites it back to you. Perhaps one of the areas that you did mention, but I don't recall it, was Cubberley. Did you have that discussion? I think one of the challenges that faces us in the year or two or three ahead is going back to Cubberley again. We're in a middle of a lease with Cubberley. We have great potential there. As you did allude to, Pat, we worked closely with the schools especially when the challenge was there that brought about Project Safety Net. I think that's one of the areas that I would most like to see us work closely with the schools, looking at Cubberley, looking at how we all are interacting together.

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Congratulations on finally getting to the point where we had the funding for the creek. I remember sitting in Washington with a variety of different people over 3-4 years thinking we were getting started, and then being afraid the money would disappear before it finally came about. Karen, I would echo what you said. A \$4.5 million investment has made an enormous difference in the ground floor. I haven't spent a lot of time on the next floor up. The fact that we now have easy places to meet for our Committee meetings and also for the community as a whole to meet has made such a difference. Now, that we have furniture in the lobby, we look like a really grown-up City, which is a pleasure. It's so much easier to move around. As Karen mentioned, it's so good to have a far easier system for the public to follow along with what we're doing. I would remind us that \$4.5 million would have bought us just a modest home in Palo Alto. Instead, we did a good deal of fix-up here at City Hall. I think water will continue to be an issue for us, just the use of water. I still feel troubled that the Governor felt he could take the restrictions off. I'm certainly aware why. When your water companies are complaining they're not making money, you take the restrictions off. I hope we will watch that carefully. We've been lucky so far. Our rainfall is good at the moment, but that's a long-term problem. There are lots of us on the this planet, and we have a great many needs. Water is certainly at the very head of the start. Thank you, Mr. Mayor, for giving us this opportunity to say something. As it's our last meeting, best of luck.

Mayor Burt: Best of luck to you. Anyone else like to wade in? If not, we can go ahead and move onto our next items.

## Special Orders of the Day

2. This item has been removed and will not be heard.

## Agenda Changes, Additions and Deletions

Agenda Item Number 8- 450 Bryant Street [16PLN-92] ... removed from the Agenda due to the withdrawal of the Appeal by the Appellant.

Mayor Burt: Our next item is a Special Order of the Day, which has been removed from the Agenda. That is the only Agenda Change, Addition or Deletion that I'm aware of. We can now move onto City Manager Comments.

Council Member Holman: Mr. Mayor, just quickly. The way it's written here and based on comments, it looks like we decided not to do that, for Number 2, the special recognition. It's just going to be heard at another time

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because the recipient was not available this evening. We're not teasing anyone.

Vice Mayor Scharff: We do have an addition. We have Closed Sessions; they're not on the original Agenda.

Mayor Burt: They were additions to the original. The original Agenda did not have Item Number 25, which is two Closed Sessions. One is the City of Palo Alto versus the Public Employee Relations Board regarding International Association of Fire Fighters Local 1319. The second is a conference with labor negotiators regarding the Palo Alto Fire Chiefs' Association, the International Association of Fire Fighters Local 1319 and Palo Alto Police Officers' Association and the Palo Alto Police Managers' Association. Those will be heard at the end of the night, after our regular business.

## City Manager Comments

Mayor Burt: Mr. Keene.

James Keene, City Manager: Thank you, Mr. Mayor, Council Members. A number of items to report before you ultimately, after Committee meetings and other events around town, go on the break before the new year. First of all, we just put the news release out earlier this afternoon, a few hours ago. In case you have not seen it or heard about it, I did want to announce that sadly our Police Chief, Dennis Burns, will be retiring at the end of 2016. Chief Burns has been with the City for almost 35 years, has served since 2009. Of course, as you know, Dennis is well respect, both inside our organization, with fellow police agencies around the Bay Area and within our community. He has devoted his entire career to Palo Alto and protecting and serving our citizens, whether it's as Chief or actually being Chief and still running down the street to catch a bad guy or rappelling off of multistory buildings as a fundraiser for worthy causes. He has done it all. He is not here tonight. Certainly for all of that he deserves our thanks and appreciation. While it's a loss for our City, everybody deserves the opportunity to enjoy the next phase of life, particularly after 3 1/2 decades. Dennis and I have worked out a transition plan to keep stability and continuity within the senior ranks of the department. We will be appointing Captain Ron Watson as Interim Chief. He's been with the City for 26 years, but there will be a number of other appointments and interim appointments we'll make, that I think will be very beneficial for the command Staff. We'll be going out and do a national search for a new Police Chief. We will be scheduling a formal recognition for Chief Burns at a City Council meeting in January and some way for the community also. That is that breaking news. Responding to one of the comments that the Mayor made again, that over

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the past three years, 2014-2016, given some of the changes at the Research Park for now and the exchange for some square footage and housing but also just the reduced activity imposed by the Council, again over three years, a total of 50,000 square feet brought on board for not just office/R&D but all commercial development net, particularly when we think about the concerns about traffic, we just need to put in perspective that elsewhere in our region there has been the addition of planned 11 million square feet of nonresidential space and 20,000 dwelling units if you include just large projects in the North Bayshore area of Mountain View or Menlo Park as well as East Palo Alto (EPA), San Mateo County and Redwood City. All of this points to the fact that traffic is a regional issue and we'll continue to really have to think about how we act regionally as well as locally. I'd like to be sure I get the Council's attention on this. Our good efforts at the Finance Committee last week about having some advance conversation with the Finance Committee as part of our commitment to transparency and open government might have been misconstrued a little bit in the media or the community about the implications of our forecast for fiscal year 2018. Rightfully so, the budget Staff with me talked in terms of a potential deficit for next year. A better way to be really talking about this is it's a planning gap in our budget plans for next year. Last year, the Finance Committee asked, because we could see that we were going to have some challenging issues ahead but not insurmountable by any means, to get a jump on the budget for next year. I actually came to the Finance Committee and had a discussion about our situation before I even started working on putting together the City Manager's proposed budget, which we do in December, January, February, March and then present it to the Council in April. A lot of what we have put forward are just forecasts of potential expenditure demands we have and the revenue stream that we would see in the General Fund. That presents a gap. The fact of the matter is that I will be presenting to the Council two things. One, that's not an operating deficit that exists this year or anything. Secondly, I will be presenting a balanced budget to the Council's consideration for Fiscal Year (FY) 2018. There was some talk about how much we're investing in infrastructure and how much we have. Still, in each one of these budgets that we have, we have these large capital budgets. The 5-year capital program just for the General Fund over the next five years is about \$300 million. That's going forward in addition to the things that the Mayor was talking about. For all of the Enterprise Funds it's over \$600 million. In the forecast for this year, we've got about \$68 million in the General Fund capital budget, of which \$30 million is carryover funding. We're looking at a \$4-\$6 million planning gap right now, knowing that we can have a lot of latitude in how we budget on just the capital side. That being said, the Finance Committee to its credit shares the same opinion as I do that the things that have let us be so successful over the past years is that we try to stay ahead of trends as best

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as possible and make systemic changes when we go forward. That was the feedback and the direction that I got. I think the right way to look at it right now is we've been sharing some potential gaps between what we see on the revenue picture and what we'd like to have and what we'd like to do and the fact that we sort of get hit periodically with some new costs here and there, so we built those things in. On the traffic front this week, the City will be updating some of the traffic signal timing and coordination along Middlefield Road with a couple of weeks of observation and fine tuning to follow. This is just the latest route to see improved signal timing. Over the last six months, we have also installed adaptive signals on San Antonio Road, and we are still making some adjustment to address some issues with side-street approaches. We also adjusted signals on Embarcadero Road from Francis to Bryant and signals in the Downtown area. In early 2017, we anticipate making additional timing changes on Alma, on Charleston-Arastradero, on University Avenue and a few other streets. We received notice this week that a Santa Clara Valley Transportation Authority (VTA) working group is recommending to the VTA Board that the City of Palo Alto be awarded \$4.65 million in competitive grant funds to construct pedestrian safety and streetscape improvements along El Camino between Stanford Avenue and Sheridan Avenue. That's a great recommendation for us. It's obviously clearly a continuing enhancement to the things that we have been doing in that part of town. The project will focus on pedestrian safety at signal controlled and uncontrolled crosswalks, enhance bus operations at two existing transit stops and new urban design amenities between Stanford Avenue and Sheridan Avenue. While not yet designed, it's anticipated that specific design features will include curb extensions, median refuges, two pedestrian hybrid beacons at new and existing uncontrolled side crosswalks, median shade trees and pedestrian-scale lighting. We think the project was competitive for grant funds because it would address safety concerns due to the long pedestrian crossing distances, typically 100 feet, in that area and the generous turning and curb areas at signalized intersections, which allow vehicles to make high-speed turns potentially across signalized crosswalks. We'll keep you posted. Stay tuned for more information on this project this year. As the Council is likely aware, the Planning and Transportation Commission is ending the year with a Packed Agenda on Wednesday night. The Commission will consider and make recommendations on plans for an RPP district in Evergreen Park and will consider two zoning ordinances. One ordinance would make a number of small Code changes, some of which are required by our Housing Element and some of which are intended to reflect current practices related to things such as loading zones and parking lifts. The other ordinance would address retail preservation as directed by the Council earlier this fall. Both ordinances are expected to be on your Agenda at the Council early in the year and reflect hours of work by Staff at the Planning Department. I would also put a reminder out that the second Town

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Hall that the Council is holding this year will be held this week, Wednesday, December 14th, at Barron Park at the community center. That will be from 7:00 P.M. until 9:00 P.M. . We also do have a Policy and Services Committee meeting that night. Members of the Committee and myself will be at the Policy and Services Committee. I know the Mayor and some other Council Members and Staff will be at the Barron Park Item. I'm assuming everybody will be in good spirits at the Barron Park meeting after the Council acts on the donkey Item later on. I have a little picture up here, you guys. I just think this is cool. This is Byxbee Park's latest new feature. It is a compass design with benches and plantings to form a rest area with great views on top of the ridge. New trails are complete as well with new signage under design. With almost five inches of rainfall since October 1<sup>st</sup>, the park has turned green and has attracted our first two burrowing owls. Certainly join me and others as we run and walk in the newly enhanced 130-acre park. I would just add to the Mayor's comments all of the things that have taken place down in the Palo Alto Baylands over the past decade are amazing and really just incredibly enhance the environmental experience there. There's the burrowing owl on my shoulder. In the field of art and public art, look up here. After three weeks and the help of more than 60 community volunteers, Patrick Dougherty completed his new willow sculpture along Embarcadero Road in late November. Come explore *Whiplash* this holiday season with your family and out-of-town visitors and share your photos of the sculpture on Instagram with hashtag *whiplashwillow* through February 1st to be entered into a photo competition. Winning photos will be displayed in a March exhibition at the Palo Alto Art Center. The proof is in the pudding. I was coming back on Thursday around lunch time; we went down to look at the construction progress on the golf course, which is really going to be pretty amazing. On our way back, there were a whole bunch of kids all running around at lunch time and crawling through the sculpture and everything here, parents and maybe teachers who had brought kids down there. Lastly, just since it's late, I did want to share that there is a late at-places memo that I've put together in response to some follow-up questions we got from Council Members, in particular, Council Member DuBois and Council Member Holman. We'd earlier sent a Colleagues' Memo on questions from Council Member Schmid. These deal with Items 5, Items Number 6 and Items Number 20. They really deal with responding to three questions: what's the general rule of thumb percentage for design services for construction projects; secondly, why are there sometimes differences in levels of bills and projects selected, low bids versus high bids; and then third, some projects seem to have costs that are negotiated down, some don't, what options are there for reductions. We put those together. There's one or two other questions that we put answers to. Lastly, just before we go, I know that there have been a lot of comments about the impact potentially on our surface parking lots in the City being

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used for multi-structure parking facilities. We have two planned, one in Downtown and one as part of the Public Safety Building in Cal. Avenue. I did go back, and this could include those numbers. I asked our Staff to just identify how many we have that are in the City. There are 11 in the Downtown surface parking lots, and there are five in the California Avenue area. I think it's important to keep that in perspective. Thanks.

Mayor Burt: Council Member Kniss has a follow-up question for you.

Council Member Kniss: One is a comment. The OBAG number that you mentioned, the 4.6. Jim, it's probably worth mentioning that this was very competitive and VTA. I don't know who did the grant, but they should be commended for that. For the nine of us or so who were happy with what happened with the results, the rest of them were not happy. There was a good deal of discussion about that, that goes on.

Mr. Keene: Thank you. The credit goes to Josh Mello and the Transportation Staff in the Planning Department, Hillary's team.

Council Member Kniss: There are many criteria and many points. The last is there are a couple of roundabouts in town that I enjoy. The indication is that, as you look at the sign, something will be decided by—I think it's August or September of this year. Any idea where those are headed?

Mr. Keene: I'm not sure which ones you're talking about. There's one on Cowper that has been kind of a little test.

Council Member Kniss: That would be the one I particularly know.

Mr. Keene: I think we'll be looking at providing the Council with some results. We've done some survey from the community about how they feel about it. I think we'll be doing a follow-up. I think after the new year we'll be able to share some of those findings with you. As you would expect, there's a division of opinion in Palo Alto on them. There are also some alternatives as far as some slight improvements or enhancements. Mayor Burt can appreciate this, since I think Council Member Filseth and Mayor Burt and I were doing a bike ride through there. We identified some adjustments that might actually make it a little more of approaching a roundabout from a traffic circle. We'll see.

Council Member Kniss: Thanks.

Mayor Burt: Thank you.

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## Oral Communications

Mayor Burt: We now go onto Oral Communications. I have two speaker cards. The first one from Sea Reddy, to be followed by Ken Horowitz. Welcome.

Sea Reddy: Thank you, Mayor and the City Council and the citizens of Palo Alto. I want to offer my sincere appreciation to Mayor Burt for conducting excellent City Council meetings and follow-ups. I congratulate him for the good one year we had. I wish him well. Thank you. Also, I read about Mr. Burns leaving, retiring. He's a wonderful man. I've had encounter with many chiefs in my lifetime here. I think he's the best we've got and wish him all the best. I do want to say something about the elections. Elections are approximation. You go to the polling booth. Some decide right there. Some decide months of planning, all that. The elections are over. We know the count. I think we need to put all the things behind and support the government that's in here at Congressional level, at State level and all that. I think it's time to move on and do make America better. I think we've a great system, great community, great number of citizens wanting to make it better. I summarize 2016 as a year for Palo Alto as a peaceful Palo Alto. I'm so privileged to be here and enjoy living in Palo Alto. It's been a great year, and I look forward to 2017 being just as good or better. Thank you all.

Mayor Burt: Thank you. Our next speaker is Ken Horowitz. Welcome.

Ken Horowitz: Thank you. I came really just to thank a couple of people tonight. As you probably read in the newspaper, San Jose is going to begin fluoridation of its water to the east part of San Jose. I want to thank our Council Member Liz Kniss for spearheading that back when she was with the Board of Supervisors of Santa Clara County. She was able to put together a group of dentists, Silicon Valley Leadership Group, the Health Trust, the public health departments, etc. Fortunately, after many years, we're going to be able to begin fluoridating the east part of San Jose, and by 2020 all of San Jose will have fluoridated water. I wanted to thank Council Member Kniss for her efforts over these many years. It's been a long time, but it finally is here. Of course, I have to thank our Police Chief, Dennis Burns, because as a citizen I've had a chance to work with him on a few other projects over the years. I'm also a member of the Emergency Medical Services Commission for Santa Clara County. I wanted to thank him for all he's done for Palo Alto. I think he'll be greatly missed. Thank you for your time.

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Mayor Burt: Thank you. We have three more speakers for open communication. If anyone else wishes to speak, please bring your card forward at this time. First is Maureen Jones, to be followed by Tessa Woodmanse.

Maureen Jones: How do you do? Do I have three minutes? Good. I'm Maureen Jones. There's a handout for you. It's comprised of six items. One is a press release of groups urging EPA to ban fluoridation based on risk to the brain. The petition includes over 2,500 pages of supporting scientific documentation. EPA has 90 days to respond to the petition. Item 2 is the summary of the petition. It's staggering, absolutely mind blowing. Petitioners request that EPA exercise its authority under provisions of the Toxic Substances Control Act. The petitioners have attached copies of over 300 human, animal and cell studies of fluoride's neuro-toxicity, which include those that have become available since the 2006 NRC review. Third Item, Chemical and Engineering News' abstract of a rat study published in brain research in 1998. The authors were very surprised at the neuro-toxic effects of sodium fluoride at the very same concentration of fluoride used in fluoridated drinking water. Fourth Item, neuro-toxicology and teratology. Rat behavior was tested in a computer pattern recognition system. Very interesting. Different responses for male rats versus female. The fifth Item is the 1944 Manhattan Project declassified document where they requested for animal experimentation to determine central nervous system effects. Uranium hexafluoride, they said, may have a rather marked central nervous system effect. You do know that it's fluoride that enriches uranium, I hope. It's one atom of uranium put with six atoms of fluoride. Just google does fluoride enrich uranium, and it will show you how. This is the national security background, the political urgency behind water fluoridation. It never had anything to do with teeth. The military needed some kind of miracle thing for babies to get off the lawsuits. DuPont had 12 lawsuits. If you go to Deepwater, New Jersey, lawsuit, you can read the 18 declassified documents for yourself. The sixth one here is from a Stanford professor back in 1936. We're going backwards in time. Fluorine in relation to bone and tooth development, Stanford University, 1936. Fluorine and lead and arsenic belong to the same group. This is really interesting. I've been reading this forever.

Mayor Burt: Thank you.

Ms. Jones: I hope you do enjoy this.

Mayor Burt: Thank you.

Ms. Jones: The EPA has 90 days to respond to that petition.

# TRANSCRIPT

Mayor Burt: Thank you. Our next speaker is ...

Ms. Jones: Thank you.

Mayor Burt: Thank you. Tessa Woodmansee.

Tessa Woodmansee: Woodmansee.

Mayor Burt: Woodmansee.

Ms. Woodmansee: I took the bus up here and along—I thought I might run into the Pope, but he wasn't there. We know that our Pope Francis says to take the bus. We need to reduce our fossil fuel use. I'm here today to talk to you about how important it is for us to have the bus rapid transit on ECR, on El Camino Real. Basically, we have to reduce our fossil fuel use so amazingly amount. They're saying the amount of carbon that we have to reduce is equal to 12 times the whole transportation and airplanes for the 22 European countries. Twenty-eight, I think there are 28 European countries. The amount of fossil fuel that is used by all 28 countries in the European Union, what they use and their airports for their ground and airport transportation, is the amount that we—12 times that we have to reduce in the amount of about 10 years. That brings us to 2030. We're here; we're almost 10 years from 2030 if we're going to meet any of the fossil fuel guidelines. You can see the amazing amount that we have to reduce. We're asking Palo Alto to be a leader. Look at this beautiful facility you have. I'm so glad to be up here. I come from San Jose to talk to you because it's a big issue. We spend so much money for the VTA, the Valley Transportation Authority, so much tax dollars to create a plan for us. The book is (inaudible) this big, and how many people. Their building is 12 stories high, so we know how much resources goes into the VTA. Then, they create a plan that says, "Here. This is the plan. It's called 4c. Their 4c plan, which is in the median, to have the BRT running down El Camino as well as eventually it needs to go down San Carlos and Stevens Creek, but that would reduce our greenhouse gases. It's a social justice issue because it cuts the amount of time it takes to go from the East Ridge Mall to Palo Alto Transit Center by half. You have a social justice to make it easier for the workers to travel. VTA does all this work, and then the cities say, "No thank you. We don't want that." That's wrong. We need to have traffic management. We can't be unlimited amount of cars. There is just an unlimited—it doesn't work to have an unlimited amount of cars. We need to manage our traffic, and that's what VTA is proposing to do. Your City needs to accept that, accept the evidence. Just like we have to accept the evidence about climate change, you have to accept the evidence that VTA has provided about better transit.

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Mayor Burt: Thank you. Our next speaker is Andrew Boone, to be followed by—we have more speakers? We are now ending the submittal of comments for open forum. I guess we have one more, and we won't be entertaining any other after that time. Andrew Boone.

Andrew Boone: Good evening, Council Members. My name is Andrew Boone. I live in San Jose. I came with my friend, Tessa Woodmansee, on the bus, 522. Likewise, came here to share with you how important this bus service is to us and how important it is that it be improved. The plan that VTA originally came up with, with buses running and bus-only lanes in the median, is technically the best solution to improving bus service on El Camino. to having more bus riders be able to use the bus on El Camino. The alternative that's now being explored of trying to run a bus lane on the right side is such a tiny difference from the way it is now. That's not a functional type of bus rapid transit system. That's not the way that cities all over the world are implementing fast bus service. It's with bus-only lanes in the median. The plan that we had at the beginning was the good plan, and you didn't support it. I think it's a big problem that you didn't support it. I think that it doesn't match Palo Alto's General Plan in any way to say, "We don't want this huge transit improvement in our City." The first goal of the Transportation Element of the General Plan is to reduce reliance on automobiles. The following goals, many of them address transit improvements. I understand that there were problems with the proposal VTA made, technical issues that need to have solutions like traffic maybe being diverted into neighborhoods. That doesn't mean we just stop. We need to address those problems so we can have a bus rapid transit system that works. Also, I wanted to comment on VTA's Measure B sales tax, which is an even bigger problem than not having the bus-only lanes on El Camino. That has in it over \$1 billion now for projects that are mostly going to go into increasing the peak hour capacity of expressways and highways. \$750 million for County expressways, \$750 million for State highways. I believe those are for interchange reconstructions. Almost every single one of those projects is to make it so that more cars can move through whichever facility it is, the expressway, the interchange, in an hour; increases the peak hour capacity of highways. There's no positive benefit from that, because it doesn't result in reduced traffic congestion in the long term. It only takes a few years for that investment to just get filled back up with cars, and then it's an investment we didn't get to make into transit. An investment we didn't get to make into things that actually can reduce congestion. I think it would be reasonable for the City of Palo Alto, which has so clearly written into not just the General Plan, Climate Action Plan. All the meetings I've been in, this doesn't match. This doesn't support what the community wants. I would like to see some alternative to highway expansion projects proposed by Palo Alto. Thank you.

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Mayor Burt: Our next speaker is Marie-Jo Fremont, to be followed by Rachel Kellerman.

Woman: Can we do it the other way?

Mayor Burt: Rachel Kellerman to be followed by Marie-Jo Fremont.

Rachel Kellerman: Thank you. Good evening. I've lived and worked in Palo Alto for over 25 years. I'm addressing you tonight on behalf of a group of concerned Palo Alto residents, who have been intimately involved with the issue of airplane noise for many months. First, we want to thank you for your support over the last year. The City's involvement was critical to making the Federal Aviation Administration (FAA) and other stakeholders aware of the severity of airplane noise in Palo Alto. We want to recognize your accomplishments tonight, which include a historical noise analysis that showed that airplane noise has been moved here from other places, and it has substantially increased over our City. Having City Council Members and Staff participate in or attend Select Committee on South Bay Arrivals meetings was huge. Discussing the problem with various elected officials, helping them to understand the disproportionate impact of airplane noise on Palo Alto and the need for short and long-term solutions. Thank you very much. Although, all this work has helped the Select Committee make recommendations that have now been approved by the three Congressional representatives, if implemented, some of these changes will provide some relief for our community. Unfortunately, our work is not done, not only because it is unclear how these recommendations will be implemented but also because the Select Committee failed to address the high concentration of low, loud and frequent flights arriving from the south on the NextGen Surfer route. Shifting Surfer to the historical Big Sur track at slightly higher altitudes is not a solution for Palo Alto. It does nothing to alleviate the unjust practice of concentrating the bulk of low traffic over our community. The FAA cannot solve Surfer problem without designing routes that move traffic away from residential communities, taking advantage of the full length of the Bay. Other Committee recommendations that need ongoing scrutiny include the recommended shift of the Bodega traffic from the north to over the Bay does not specify the percentage of traffic that will be directed on this existing route. Relief to our City may be insignificant. No solution was given for San Jose reverse flow flights at 2,000-3,000 feet over our homes. San Jose issues need to be reviewed in future Ad Hoc Committee discussions. Again, thank you so much for your support. There's more work to be done.

Mayor Burt: Thank you. Our next speaker is Marie-Jo Fremont, to be followed by our final speaker, Rita Vrhel.

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Marie-Jo Fremont: I'm also a Palo Alto resident. I've been here for about 23 years. I will continue on what Rachel Kellerman said previously. We respectfully request that aviation impacts become an upgraded City priority. Comments from citizens regarding City priorities show that the majority across 16 neighborhoods in Palo Alto agree with us. The City must be proactive and invest resources to work with the regional airports and officials at all levels of government to build alignment on long-term original solution for aviation issues that affect Palo Alto. This is especially important now as the City will need to be prepared to react to the Select Committee recommendations that will be implemented over the next 12 months. The City should take advantage of local community knowledge and expertise. We can help develop plans and articulate recommendations. We suggest considering a standing Council work group to keep the momentum going. We already have three specific recommendations we would like the Council to consider tonight and act on in future meetings. One, the City should join the SFO Roundtable because it is currently the channel of communication with the FAA and the only body with technical aviation experts on their staff. Two, the City should demand direct voting representation on the Ad Hoc Committee as that group will determine the permanent successor body to the Select Committee on South Bay Arrivals. Three, the City should ask SFO to install noise monitors in Palo Alto immediately to document airplane noise on the ground and monitor changes as routes are modified in the future. The City should ensure that reliable noise data is always available to its citizens. On behalf of a group of concerned neighbors, we implore you to continue to invest in this important work because quieter skies means healthier communities. Thank you.

Mayor Burt: Thank you. Our final speaker is Rita Vrhel.

Rita Vrhel: Thank you, Mayor Burt, for taking my card. Open communication was listed at 6:30 P.M., so I thought if I came at 6:10 P.M. I would be here on time. Thank you. I just want to let everyone know that Policy and Services Committee meeting to discuss dewatering will be on 12/14, Wednesday, at 6:00 P.M.. Earlier it was announced at 12/13 in letters to the editor that were published either before or after the change. I've handed you two handouts. One of them is from Public Works, which lists the eight residences which had pumping this last year, in 2016. Next, each one of them I had to put in the \$500 daily fine. The first project would owe \$8,500, the second \$8,250, etc. Seven of the eight projects pumped over their allotted time. Again, these figures are from Public Works. The fine figures are from me, but the regulations did say \$500 a day. To my knowledge, no fines have been levied to date. This is \$30,000 at least. It's not a lot, but it's quite a bit of money, at least to me. What's also interesting is that the same builder did 181 Heather and also 757 Moreno.

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According to Public Works, he started early on the project at 757 Moreno, several days or a week before he even notified Public Works that he was pumping. He would actually even pay more fines. I'm hoping that you will levy these fines. Why do we have regulations if they're not going to be enforced? I think at this time there's no financial incentive for a contractor to follow the 10-week extraction period. If they can go 14 weeks and have no fine—this isn't the way you would raise your children. We have regulations for a purpose. The second handout is from Keith Bennett. It tallies the average cost of 1,3773 [sic] of each basement constructed in 2016 to the citizens of Palo Alto. He will be discussing this excellent handout further on Wednesday. I ask all the people who have complained to me about the water being wasted in Palo Alto to show up on Wednesday. If you can't show up, please send a letter to the City Council, [city.council@cityofpaloalto.org](mailto:city.council@cityofpaloalto.org). Save Palo Alto's Groundwater cannot fight this fight for you. Rather than the complaining, you need to show up and speak to the people who can make a difference. Thank you.

Mayor Burt: Thank you. We will now move to minutes ...

Council Member Holman: Mayor Burt, I had put my light on.

Mayor Burt: Council Member Holman.

Council Member Holman: Just a quick follow-up to the last speaker. If Staff could follow up about whether fines have been ...

James Keene, City Manager: I already have.

Council Member Holman: Thank you.

Mayor Burt: I should note that there is one additional Agenda change. Item Number 8, an appeal of the Avenidas project at 450 Bryant, the appellant has withdrawn their appeal. That Item will not be considered tonight.

## Minutes Approval

3. Approval of Action Minutes for the November 21 and 28, 2016 Council Meetings.

Mayor Burt: Now we have approval of Minutes from the meetings of November 21st and 28th, 2016. Do we have a Motion to approve?

Council Member DuBois: So moved.

Vice Mayor Scharff: Second.

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**MOTION:** Council Member DuBois moved, seconded by Council Vice Mayor Scharff to approve the Action Minutes for the November 21 and 28, 2016 Council Meetings.

Mayor Burt: Motion by Council Member DuBois, second by Vice Mayor Scharff. Please vote. That passes unanimously. Council Member DuBois, did you—nothing.

**MOTION PASSED:** 8-0

## Consent Calendar

Mayor Burt: We move now to the Consent Calendar. Do we have a Motion to approve?

Council Member DuBois: I'll make the Motion.

Vice Mayor Scharff: Second.

**MOTION:** Council Member DuBois moved, seconded by Vice Mayor Scharff to approve Agenda Item Numbers 4-7, 9-20.

Mayor Burt: We have a Motion to approve by Council Member DuBois, seconded by Vice Mayor Scharff. We have a number of speakers. We have a total of six speakers. If anyone else wishes to speak on the Consent Calendar, please fill out a card at this time. Our first speaker is Malcolm Beasley, to be followed by Andrew Boone. Welcome.

Malcolm Beasley, regarding Agenda Item Number 5: Thank you, Council. I'd like to express appreciation for Mayor Burt's wonderful summary of his time and all the things you've done over the last few years. My only word to him and Council Member Schmid who are stepping down is I hope you're more successful in retirement than I have been. Hence, I'm here. I would urge removal of Item 5 from the Consent Calendar. This relates to the Lot D at Hamilton and Waverley, as I'm sure you know. I appreciate that this would be one more delay in addressing this issue or its progress or lack thereof. This project is part, as we all know, of a larger set of issues, really the triangle of housing, parking and traffic. As I've thought about these issues and been active, as some of you know, over the last few years, I've come to the feeling and opinion that each action that relates to this triangle really needs to be considered explicitly and publicly by Council in the triangle with all the issues on the table at least in some sense. I think this public consideration would lead to better decisions and to perhaps and hopefully more civil discourse. I think that as part of this I've come to believe that our collective failure to do this in these really thorny issues is frankly a weakness

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in our governance. We can always do better, and I think we should try. Thank you for your attention.

Mayor Burt: Andrew Boone.

Andrew Boone, regarding Agenda Item Number 5: Good evening, Council Members. I wanted to speak on Consent Calendar, the Item 5, environmental studies for new parking structure at Waverley and Hamilton. I'm concerned about a lot of things about it. The first one is I didn't read anything in the news, and maybe I missed the news that there was. Usually there's a lot of coverage in the *Palo Alto Online* and the *Mercury News* of big decisions like this. I think it's a big decision. This is a step to actually spend money on building new parking structure. Your discussions over the years have been that there's a preference to avoid that. The General Plan definitely makes it clear that there's a preference to avoid that. The way that we should deal with parking demand is what you've been doing, with trip management programs. Those programs just haven't had enough time to work, and they're not extensive enough. There are a lot of things left to do and left to take more time in transportation demand management than where we are yet in Palo Alto. We shouldn't take the step when we're getting to spending millions of dollars on studying adding capacity for storing automobiles. The problem with increasing by hundreds of spaces, how many you can store cars in the middle of the City, here in Downtown, is that it creates more traffic in and out. That's inconvenient for everyone walking around. It's an impact on people who live here especially and come here often, on people who are shopping here. It's more traffic. I don't think it matches really at all with the General Plan goals. Goal 1, less reliance on single occupant vehicles, clearly is the opposite of that. There should be other General Plan goals to balance. Number 2, efficient public transit system that provides a valuable alternative to driving, also doesn't support that goal. Goal Number 3, facilities and services programs that encourage and promote walking and bicycling, not really related. An efficient roadway network for all users, maybe not related but adding traffic to the roadway undermines that goal. Goal 5, these are the transportation chapter. I'm stating these because I figure a parking structure applies to these goals, not of other chapters. A transportation system with minimal impacts on residential neighborhoods—some of the traffic going in and out of a parking structure has an impact on residential neighborhoods. People decide to drive through a neighborhood; just it's a simple route. It's a greater impact. A high level of safety for motorists, pedestrians and bicyclists on Palo Alto streets is Number 6. There's only one goal that has anything to do with parking, and it also discourages the construction of a parking structure at the cost of \$60,000 per space, which probably should be noted in your report. It's a very expensive investment into something that takes us back,

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according to the goals we've written down and established as a community. Thank you.

Mayor Burt: Thank you. Our next speaker is Tessa Woodmansee, to be followed by Neilson Buchanan.

Tessa Woodmansee, regarding Agenda Item Number 5: I really appreciate what Andrew was saying, because this is like my first time really walking in Palo Alto since I've been dealing with multiple sclerosis. Multiple sclerosis is a disease that comes from our pollution. They're finding our autoimmune diseases are rising. It actually was not very easy walking around your town. It's not very really walkable-friendly, and it could be better, the sidewalks and everything like that. What he's saying of bringing more cars into your community. Even when we got off the bus and we were supposed to go down towards University after we were walking down, that—when you're at Alma and University there, it looks like an onramp of how high-speed the traffic was going, that we were almost scared to walk down there. We walked down the latent street or whatever. Those are some of the issues. We really don't need more parking. We really need to move away from that as a modality. When they talk about transportation demand management, this philosophy of managing demand accepts that meeting unfettered demand, which is cars. It's unfettered. There's an unlimited amount of cars that we're going to have in our community in the single occupancy modality. The issue of thinking that you're going to move away from your greenhouse gas reductions, which I honor you for having that even in your plan. I do appreciate that. However, to think that the electric car is going to be the solution towards bringing us to the reductions in greenhouse gas is foolhardy. One, you still have the car. The car is the problem. The car is not human scale. It drives too fast. You have the anonymity of tinted windows and everything like that. You still have those issues of having a form of transportation that isn't human scale. That doesn't help with creating more livable, sustainable neighborhoods. They say that the demand for travel needs to be managed by expanding the supply and availability of more sustainable alternatives. That's what we hope for. Thank you.

Mayor Burt: Thank you. Neilson Buchanan to be followed by Sandra Slater.

Neilson Buchanan, regarding Agenda Item Number 5: Thank you, Mayor Burt. I'm sitting here trying to think of a way to say what I've said so frequently over the last several years, a new way. I'm thinking of my grandchildren's little toy of years ago. When they would pound down one side of a wooden peg, and they would flip it over, and they would pound it down on the other side. Let me use that metaphor of sorts. Permit parking

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and control of the intrusion into several neighborhoods has gotten a lot better. It's not perfect. Poor old Hillary would tell you that we're still pounding on her and the Staff to continue the process of making it better and better every year. It no longer the chief thing on my concern list. What I really am concerned about is the two things that people talk about the most. Most people in Palo Alto are not worried about the neighborhood parking. It is isolated to a handful of us neighborhoods. Parking and housing and traffic are the issues. I'd like to ask you to start thinking about traffic and housing. In that regard, spending more money on a parking garage to house the horseless carriage seems to me to make no sense at this point in time. Now's the time to turn your priorities to the housing and traffic situations. That open space there is an ideal thing to start thinking about where you want to turn the ship away from more cars and put housing on that property. I can give you my opinion. The truth of it is that my opinion about those priorities is just my opinion. I keep this National Survey of last year fairly handy to myself, so I can read it over. Here we are about to make a millions and millions of dollars decision on a parking garage, and none of us have the advantage of the latest National Citizen Survey. I think that's something—you ought to table this parking garage until we can take a look at how the people feel about our priorities of housing and traffic. Thank you very much.

Mayor Burt: Thank you. Sandra Slater to be followed by Richard Brand.

Sandra Slater, regarding Agenda Item Number 5: Good evening, Council Members and Mayor. Thank you for allowing me the opportunity to speak this evening regarding the approval of Parking Lot D. That's Number 5 on the Consent Calendar. My name is Sandra Slater, and I'm speaking this evening as a citizen who's deeply concerned about sustainability issues and as an individual and not as part of any organized group. We all know that parking is a problem in the City and that we need to move towards solutions that address the issue. We need good parking management. We need additional supply, and we need vehicle trip reduction. We have set in Motion some partial solutions to address the issues. Reducing demand is key. Just as energy efficiency is the low-hanging fruit on our homes and our businesses, so is the reduction of vehicles needing parking spaces on our precious land. Trip reduction is crucial. The nascent TMA is just now implementing programs that will address alternatives to driving, and it's already showing some sign of being effective. I'm just wondering if building an almost \$16 million parking garage, which includes the design fees, is the best use of our limited budget. While I'm not requesting that you pull the Item off Consent this evening, I would like to encourage you to give the TMA more time to prove its effectiveness. Data from the Transportation Management Association (TMA) is very promising in terms of the potential to

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reduce car trips, especially from service workers who have not historically gotten the benefits available to employees of the larger corporations and use alternatives to driving. Spending on average \$330 a year to get someone out of a car versus spending the money on 214 spots in the garage may not be the effective approach. If the City can reduce driving by more than the number of parking spots, that would be a reasonable strategy, since that would also reduce traffic in addition to satisfying our parking demand. Please allow some time to let the TMA come back with some data before committing to this \$16 million investment for something we eventually don't want to need. Thank you.

Mayor Burt: Thank you. Richard Brand to be followed by Scott Lane, speaking on Item 5.

Richard Brand, regarding Agenda Item Number 5: Good evening, Council, going into happy holidays. I hope you had a productive Study Session on this year. It's been an interesting year. Hopefully next year will be different interesting. Anyway, that's aside. I will speak that I think it's too soon to push this through for Consent, Item Number 5. This is part of the three-legged stool we've talked about so much. While I think we do need a garage, I will say that I still am one of the Downtown RPP stakeholders. We talked about more parking as an option. I think we probably do need a garage. If you look at Pasadena or Santa Monica, they've solved a lot of their problems with having more parking. It's more traffic. I think we've got other ways to deal with the traffic and the cars. While I think that we do need a garage, I think we need a discussion about this because it's an interrelated issue, interrelated with permits, the TMA which a couple of people have talked about already and then the garage and balance this. I think it's a good Item for discussion early next year. We know we've got a traffic problem. I encourage you Council Members to have this pulled, and we have it as an Action Item on the calendar next year. I also am a bit concerned with the \$1.9 million design cost with Watry Design. I looked at the document here, but I think we need more information. I'm making that statement. Also I want to congratulate Director Gitelman for calling the Residential Preferential Parking Program (RPP) stakeholders together again. I think that's a good move. I think the TMA, the permit in more than just Downtown, the permit action and looking at new garages will make a big difference. Thank you very much.

Mayor Burt: Thank you. Scott Lane to speak on Item 5, and I see you have a second card to speak on Item 6.

Scott Lane, regarding Agenda Item Number 5: Thank you. Scott Lane. The issues are mine and mine alone even though I'm a member of the

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Metropolitan Transportation Commission Policy Advisory Council. I do feel like a lot of the people have already talked about what I wanted to talk about, but I wanted to talk a little bit bigger picture. I came from a meeting in Oakland. Unfortunately I thought I had a card put in, so I did want to talk about Measure B. What Measure B did was basically cemented in bridging congestion. That is what a parking lot does; it cements in bridging congestion. It is not just the parking lot. I know you looked very well at trying to find out what would happen with the permit parking program. Thank you for that. You looked at Transportation Demand Management (TDM); thank you for that. I do kind of think—isn't Stanford next door? Doesn't Stanford have one of the best TDM projects in the entire country? Why are we not giving this a little more time? Before you spend \$2 million on this to cement a pathway downstream that is simply going to cement in further congestion, I ask you to look at that. I do understand—I'm very cognizant that Palo Alto can get a lot of tax revenue from people coming Downtown to eat and shop. You might also, on a different subject, look at what are the best uses for this. Don't be like the City of Santa Clara that said what were the best uses for that land. Number one and number two close together were hotels and high-tech office buildings. No, they picked number three, a stadium. Don't pick a parking garage; that's number three, free parking. What I would like Mountain View, Palo Alto and all the rest of the leading-edge cities in the Bay Area is to push Metropolitan Transportation Commission (MTC)—once again, this is my hat, not MTC—for regional parking fees. The problem is each city is reluctant to put in parking fees because you potentially lose business to the next city over. If this becomes a level playing field and everybody has to pay for parking everywhere, then it will actually put everyone on the same footing. You don't have to worry about this. I understand businesses are worried about parking, but look at what Vancouver did. They were serious about this, and they put 50 percent mode share they reached this year into non-automotive traffic. The key is how do you move people around. Look at what Google did with Mountain View. They did the ride share. Why aren't we doing that with Stanford Technology Park? Why aren't we doing that to see what happens with the buses? If we do that, I think we'll find that we can do amazing things with that and open up this property for something really interesting and really great tax revenue for Palo Alto. That's kind of the win-win I'd like to look for, how do we be a leader, how do we work with others to get other cities to come along with Palo Alto to say, "You know what? You need to put the proper cost of car driving and not allow it to be completely subsidized." You can start putting some of that money into transit, into other services. You can even pay for those that can't afford Clipper Cards, for example. You can give them some money. I think those are win-win. Plus, as you know, you've also been trying to get people to park elsewhere that work Downtown. Thanks.

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Mayor Burt: Thank you. Michael Hodos to be followed by Scott Lane on Number 6.

Michael Hodos, regarding Agenda Item Number 5: Mayor Burt and Council Members, good evening. Based on the conversations with my Professorville neighbors, it appears that there are at least four strongly held opinions about the best use of the City parking lot at the corner of Hamilton Avenue and Waverley. One is additional parking is likely to encourage even more traffic Downtown. The second is that parking combined with small retail in an effort to recover lost small retail that was squeezed out by office space is a good idea. The third is that housing to address the current egregious housing imbalance is a good idea also, even though everyone recognizes it will be a drop in the bucket. The fourth is that some combination of all of the above is worth considering. Clearly we have our work cut out for us. I'm here on behalf of my Professorville neighbors to simply make you aware of the fact that whatever parking elements end up being included in the design, it is much more likely to get support from the adjacent neighborhoods if these parking elements are used to reduce the amount of nonresident parking in the neighborhoods. Specifically, the number of nonresident parking permits issued for the building should reduce by a like number the nonresident parking permits issued for the RPP zones, this in addition to the yearly 200 nonresident parking permit reduction to which the City Council previously committed. Thank you.

Mayor Burt: Thank you. We have Scott Lane to speak on Item 6. You don't need to repeat similar arguments you made on 5.

Scott Lane, regarding Agenda Item Number 6: Actually they're two separate issues. Number 6 actually is very interesting because it actually has the police station. You want to put some police items there. I think that's a wonderful idea. It's right next to the County Courthouse. It makes a lot of sense, a lot more accessibility for the local roads for the police out of Downtown. I think in many, many ways it makes sense, frees up space here. It's a very good thing. What I would suggest is it's somewhat confusing because you're actually putting in the parking on City Lot Seven with City Lot six that has the safety aspect of it. I think if they were separate—I understand why you're bundling them together. I think it's important to understand how much it's going to cost for the parking garage and how much of this estimate is going to be the for the safety and the police. I think they're two separate matters. To bundle them, while I understand why it's done, for transparency I think it would be a little bit better to keep them separate. They are two completely separate issues. The use of this City Lot Seven may be also different as well. Once again, what's the use of this going to be? Is it different? Do you want a hotel

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down there? Do you want housing down there? For example, what are the unique aspects here? As far as my speaking to this, I really think it would be great to go to the community, the residents, and find out with the crowdsourcing—I know I've said this before. If you don't put high-density developments where it should go, it'll go where it shouldn't go. The same thing says for crowdsourcing. Why are we not reaching out a little bit more to the community? I know you've done outreach, and I thank you for that. What can you do here and in the other one as well, for Number 5, to really come up with a better crowdsourced idea? If we can't come up with the solutions here in Palo Alto and in Silicon Valley, they simply either aren't there or they're not politically available to use at this rate or they're not financially sound or financially pencil out. Either which way, if it's one of those three deficits, I think what we do is then go back, and then we try to figure out where can we correct those measures. I didn't have a chance with the other, but right here as well I think you were looking at public-private partnerships. Once again, the question would be not just TDM but what about public-private partnership. I believe the Council thought that you could do it on your own. I think there is some risk that you don't have to take as much if you do public-private partnership, whatever this is, whether it's a parking garage or whatever. Obviously it's a public aspect if you're using the safety and the policy on C6. Thank you.

Mayor Burt: Thank you. Patricia Saffir to be followed by Hamilton Hutchings.

Patricia Saffir, regarding Agenda Item Number 5: Mayor Burt and members of the Council, I'm Patricia Saffir. I'm too short. I'm approaching Item 5 from a little bit different direction than many of the people are. I wanted to point out to you, bring to your attention, the editorial column in last Friday's *Weekly*. That article reminds us that for some years the air spaces over our commercial area parking lots have been considered great places for housing, especially for affordable housing. They are near services, jobs and transit, and the land is owned by the City, which would reduce the cost of building the housing. Now, just because we think we need more parking and plan to build a parking garage, it seems a shame to lose these ideal housing spaces. Isn't it time to think about raising our height limit to allow the parking garage and some badly needed housing? Rather than simply approve a plain garage, I urge you to direct the Staff to investigate using these lands for mixed-use parking and housing. Thank you.

Mayor Burt: Thank you. Hamilton Hutchings to be followed by our final speaker, Ester Nigenda.

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Hamilton Hitchings, regarding Agenda Item Number 6: Hi, I'm Hamilton Hitchings. I'm a member of the Citizens Advisory Committee (CAC) and also the Safety Element subcommittee, and I'm an Emergency Services volunteer. Tonight, these comments are my own. Specifically, I'm going to be talking about Consent Calendar Item Number 6, the approval of the Public Safety Building design contract with RossDrulisCusenbery Architecture. I strongly approve and endorse selecting them as an architect. They're a fantastic architect. I'm going to offer a couple of suggestions on things that could be done as change orders or later on to improve the effectiveness and cost savings of this project. The first is the adjacent public parking garage. The contract specifies it must hold 460 spots. The site is capable of holding 600 parking spots based on a reconfiguration of a couple of the 450 spot options provided by City Staff. Specifically, if you build it out to the edges and you remove the retail space, you can get up to 600 spots without increasing the height limit. When I mentioned this to Marc Berman, he pointed out that that would allow you potentially to defer the building of another parking garage in Downtown California, potentially saving millions of dollars, at least in the short term. For the local businesses and potentially as a cost savings, this is my first suggestion. The second item I want to advocate is one that may catch you a little off guard. I want to advocate for a private police shooting range in the garage of the new Public Safety Building, which is currently not specified in the contract. There was a shooting range in the current police station, right under my feet, but it wasn't properly constructed, so it was never used. Currently 110 police officers have to commute to Alameda County every quarter to be recertified on their firearms and also pay for use of the Santa Clara Sheriff's Office. It's estimated the ROI on this range would be five years. By not building the range, you're costing taxpayers 5X that amount over a 30-year period. On behalf of both the Palo Alto Police Department for retention and training for the officers and on behalf of the taxpayers, I encourage you to guide the City Staff to include this within the architecture and design of this project. At a future date, I will talk about ensuring that the new Public Safety Building lives up to the seismic standards that it was originally envisioned to do so. I don't have time tonight, so I'll leave it at that. Thank you.

Mayor Burt: Thank you. Ester Nigenda.

Ester Nigenda, regarding Agenda Item Number 20: Good evening, Council Members and members of the public. Ester Nigenda speaking for Save Palo Alto's Groundwater. Save Palo Alto's Groundwater appreciates that the recycled water strategic plan, Item 20 on the Consent Calendar, includes a baseline study of Palo Alto's groundwater and groundwater use assessment. We thank the City Council for mandating and approving this plan and Staff for moving forward with it. Our understanding is that the deliverables are

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due on July 2020. Currently Palo Alto has no groundwater budget and no meaningful limits to the amount of groundwater extracted. Just as it is not wise to spend money before we earn it, we believe there shouldn't be a blank check on the amount of groundwater extracted before we know our groundwater budget. We hope the whole community, by this I mean residents, applicants, builders, policymakers and anyone with an interest in this community resource, will join us at the Policy and Services Committee this coming Wednesday, December 14th, at 6:00 p.m. to discuss this issue that with climate change is more important than ever. Together we hope we can come up with thoughtful solutions that protect our groundwater and, at the same time, not unduly impact other interests. I want to repeat that this meeting is this coming Wednesday, December 14th, as there has been some confusion about the date. I also want to thank the Council Members for their service during this past year. Thank you very much.

Mayor Burt: Thank you. Council Member Holman.

Council Member Holman: I just have one question, if I could, about 5 and 6. No discussion but a question.

Mayor Burt: Okay.

Council Member Holman: When will those garages come to the Council for high-level input regarding uses and comment maybe on high-level design?

James Keene, City Manager: The process when we're doing construction projects, whether it's a garage or a building, we also come to Council repeatedly and fairly early on. I know that if we get the contracts awarded, we would be back by March at least with initial sessions with the Council on some of the design directives. The fact is we can't really get into the effective directions as the owner on these projects, on the design, without early Council involvement.

Council Member Holman: Thank you.

Mayor Burt: Mr. Keene, did you have any other follow-ups on ...

Mr. Keene: Just a couple of things, just to be sure everybody's straight on the record at least. To say the Lot D garage or a Downtown garage has been part of a three year conversation and discussion we've had with the Council, clearly it's part of a three-legged stool. It's not a one-legged stool, parking. We've had numerous conversations and sessions about it. I apologize if there's some sense that this is just coming to the Council, but that's not the case. Secondly, we just did want to share we also do have underway amongst many of the different issues a parking study, looking at

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paid parking. While those results aren't in yet and the Council hasn't taken any action yet, I'm absolutely certain the recommendation we're going to be making is going to be a shift to paid parking. That will have an impact. Third, we've in many ways effectively eliminated 1,600 parking spaces in the City during the past couple of years as we've implemented RPP. While we allow some nonresident parking in there, we're not talking about building three, five or ten parking garages; we're talking about building one that has just under 300 parking spaces when we've lost 1,600. While we've also made a commitment to moving over a period of time and reducing the nonresident intrusion into the parking, we have to realize that that parking is still going to have to go somewhere. This garage provides that opportunity. Finally, as I mentioned earlier today, the actual count is 11 lots in the Downtown outside of this one that are surface parking lots. Some of them are small. Personally in many ways I'll probably regret saying this here right now. I'd be happy to see, personally, housing built on some of those surface parking lots all over the Downtown. Seeing as how it's been forever and we haven't built any housing, I don't think we're in risk of overdoing it with housing in the Downtown, even though I personally would think that could be a good thing for us to do. I'm having a hard time understanding the risk on this particular recommendation tonight.

Mayor Burt: Can I ask one clarification to a statement you just made? When you said we've reduced 1,600 spaces, are you referring to we have adopted a plan to eliminate 1,600 spaces that are currently Downtown workers parking in the neighborhoods, of which 200 have already been eliminated but 1,400 more will be pushed out of the neighborhoods? If we add 300 spaces, we would have a net reduction of 1,100 cars coming Downtown with the construction of this garage.

Mr. Keene: Not only that, I would say that the efforts we're going to be putting into the TDM through the TMA and other things are going to take a tremendous amount of focus and energy. I'm sorry. I just don't see that 100 percent of our impacts are going to be able to be offset by that. I think this is de minimis by comparison.

Mayor Burt: Thank you. Do we have a Motion to approve the Consent Calendar?

Vice Mayor Scharff: Tom made it.

Mayor Burt: We already did. That's right. I'm sorry. It was a long time ago. Motion to approve by Council Member DuBois, seconded by Vice Mayor Scharff.

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4. Resolution 9650 Entitled, "Resolution of the Council of the City of Palo Alto Declaring the Results of the Consolidated Municipal Election Held on November 8, 2016."
5. Approval of Site Finalization of Lot D, Located at Hamilton Avenue and Waverley Street, for the new Downtown Parking Garage, and Approval of a Contract With Watry Design, Inc. in the Amount of \$1,899,591 to Provide Design and Environmental Assessment Services for the new Downtown Parking Garage, Capital Improvement Program Project, PE-15007.
6. Approval of a Contract With RossDrulisCusenbery Architecture, Inc. in the Amount of \$7,007,992 to Provide Design and Environmental Assessment Services for the new Public Safety Building, Capital Improvement Program Project, PE-15001 and new California Avenue Area Parking Garage Capital Improvement Program Project, PE-18000.
7. Resolution 9651 Entitled, "Resolution of the Council of the City of Palo Alto Amending Utilities Rule and Regulation 27, Generating Facility Interconnections."
8. ~~450 Bryant Street [16PLN-92]: Consideration of an Appeal and Adoption of Findings of Approval by the Director of Planning and Community Environment for Architectural Review of an Expansion to a Category 2 Historic Resource (Avenidas) and Associated Approval of a Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Plan.~~
9. Resolution 9652 Entitled, "Resolution of the Council of the City of Palo Alto Approving the Standard Form Edison Electric Institute Master Power Purchase and Sale Agreement, With Special Terms and Conditions ("Standard Form Electric Master Agreement"), and the Standard Form Master Renewable Energy Certificate Purchase and Sale Agreement ("Standard Form Master REC Agreement")."
10. Review and Approve the Process to Solicit Applications for a Stakeholder Committee to Advise the Council Regarding a Potential Tax and Other Funding Options for Transportation Programs and Projects.
11. Approval of a Contract With Pierce Manufacturing Inc. in the Amount of \$399,915 for the Purchase of a Type III Wildland Fire Engine; and Approval of Budget Appropriation Amendments in the General Fund and the Vehicle Replacement and Maintenance Fund.

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12. Approval of a Contract With Pierce Manufacturing Inc. in the Amount of \$680,666 for the Purchase of a Triple Combination 1500 GPM Fire Pumper.
13. Adoption of Annual Amendments to the Employment Agreements Between the City of Palo Alto and Council Appointed Officers (City Manager, City Attorney, City Auditor and City Clerk).
14. Approval of Amendment Number Nine to the Agreement With the County of Santa Clara for Abatement of Weeds to Change the Method for Setting Abatement Fees and Costs.
15. Approve and Authorize the City Manager to Execute Contract Amendment Number One to Contract Number C14150749 in the Amount of \$138,719 for Project Consultant MIG for Additional Services; and Approve a Budget Amendment in the Capital Improvement Fund (Project PE-13003).
16. Approval of Contract Number C17166591 With Artist Susan Zoccola, LLC in the Not-to-Exceed Amount of \$90,000 for the Design Development, Fabrication and Installation of Artwork Associated With the Charleston-Arastradero Corridor Project.
17. Ordinance 5403 Entitled, "Ordinance of the Council of the City of Palo Alto Approving Revisions to the Architectural Review Findings in Palo Alto Municipal Code Chapter 18.76 and Approval of an Exemption Under Sections 15061 and 15305 of the California Environmental Quality Act (CEQA) Guidelines (FIRST READING: November 14, 2016 PASSED: 7-0 Berman, Kniss absent)."
18. Approval of a Contract With Anderson Pacific Engineering Construction, Inc. in the Amount of \$5,992,000 for the Matadero Storm Water Pump Station Upgrade Project, Capital Improvement Program Project SD-13003, and Adoption of a Categorical Exemption Under Sections 15302 and 15303 of the California Environmental Quality Act Guidelines (CEQA).
19. Approval of Amendment Number Four to the Palo Alto-Stanford Fire Protection Agreement With the Board of Trustees of the Leland Stanford Junior University Extending the Term to June 30, 2017 for an Additional Fee of \$4,841,415, and Approval of a Related Budget Amendment Reducing the General Fund Budget Stabilization Reserve to Offset a Reduction in FY 2016 Fire Department Revenues.

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20. Approval of: 1) a Professional Services Agreement With RMC Water and Environment for Development of a Recycled Water Strategic Plan in a Total Amount Not-to-Exceed \$2,000,000; and 2) a Cost Sharing Agreement With the Santa Clara Valley Water District Under Which the District Will Fund 90 Percent of Strategic Plan Consultant Costs; and 3) an Amendment to the Fiscal Year 2017 Budget Appropriation for the Wastewater Treatment Fund.

Mayor Burt: Please vote. That passes unanimously on an 8-0 vote. Thank you all for your comments. I hope that those who did not understand that, one, this is not a new Item. This has been a three year process including a commitment to the voters two years ago and subsequent Council meetings and other public hearings on the subject. It is far from a parking garage that would have a net increase in trips to Downtown. It is part of a three-legged plan that will have extensive reduction in trips to Downtown. Sorry for the misunderstandings.

**MOTION PASSED:** 8-0

## Action Items

21. PUBLIC HEARING: Adoption of two Ordinances to Update the City's Below Market Rate (BMR) Housing Program as Recommended by the Finance Committee: (1) Repealing Municipal Code Section 16.47 (Non-residential Projects) and 18.14 (Residential Projects) and Adding a new Section 16.65 (Citywide Affordable Housing Requirements) and; (2) Establishing Housing Impact Fees and Housing In-Lieu Fees for Residential, Nonresidential, and Mixed Use Developments. The Proposed Ordinances are Exempt From the California Environmental Quality Act (CEQA) per Sections 15378(b)(4), 15305 and 15601(b)(3) of the State CEQA Guidelines. The BMR Ordinance and Fees Were Recommended for Adoption by the Planning and Transportation Commission on November 30, 2016.

Mayor Burt: Our next Item is a public hearing, which is adoption of two ordinances to update the City's below market rate housing program as recommended by the Finance Committee. The first being repealing Muni Code Section 16.47 and 18.14 and adding new Section 16.65, Citywide affordable housing requirements. Two, establishing housing impact fees and housing in-lieu fees for residential, nonresidential and mixed-use developments. These ordinances are exempt from California Environmental Quality Act (CEQA). The Below Market Rate (BMR) ordinance and fees were recommended for adoption by the Planning and Transportation Commission on November 30th of this year. Director Gitelman, welcome.

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Hillary Gitelman, Planning and Community Environment Director: Thank you, Mayor Burt, Council Members. I'm Hillary Gitelman, the Planning Director. I'm joined by Eloiza Murrillo-Garcia, our Senior Planner on housing affairs, also Cara Silver, Senior Assistant City Attorney, Eric Phillips from the firm Goldfarb and Lipman, and Sarah Graham from the firm Strategic Economics. All of us have been working on this for quite some time. I wanted to thank Finance Committee Members of the Council who heard this back in June or July, Planning Commission Members who heard this over the last several months, and also the public and advocates who have participated along the way. We know this is a super complicated policy issue, and we've provided you with some additional materials at places this evening. I just wanted to make sure that you had those. First, there was a Packet that included the Planning and Transportation Commission (PTC) Minutes, the Planning Commission Minutes, from November 30th. Unfortunately that meeting was so near in the past that we didn't have the Minutes when the full Packet went out, but we provide them to you. Because of their length, I hope you will forgive us. Luckily, we have at least one of the Planning Commissioners here this evening, who I hope you will invite to speak after Staff's presentation. He will be able to answer any questions you have about their deliberations on November 30th. Also in that Packet that you got today, we have a slightly revised version of Attachment H, just with some clarifying changes, nothing changed dramatically there. We provided a spreadsheet that showed a couple of sample projects and how the new fees would apply to those projects. With that, I'm going to hand it off to Eloiza to start the presentation. We will get going.

Eloiza Murillo-Garcia, Senior Planner: Good evening, Mayor and Council. As Hillary mentioned, I'm Eloiza Murillo-Garcia. I'm the City's Senior Housing Planner. Our recommendations for tonight are to conduct a public hearing; consider recommendations of the Finance Committee and Planning and Transportation Commission; to adopt an ordinance updating the City's below market rate or BMR housing program; and to also adopt an ordinance establishing housing impact fees and housing in-lieu fees for residential, nonresidential and mixed-use development; and finally find these actions exempt from CEQA. Just to give you a little bit of background on this Item. The City currently has a 15 percent inclusionary requirement for residential for-sale development projects with five or more units. In-lieu fees are applied to fractional units and, when building affordable units, is deemed infeasible. The City has not been able to impose similar requirements on rental housing since a 2009 court decision known as the Palmer decision. On the commercial side, the City currently charges commercial impact fees for affordable housing based on a 2002 nexus study. One of the primary reasons the City is undertaking this project is because our recently adopted Housing Element, which was adopted in November of 2014, called for

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updating our nexus studies. It also called for considering an impact fee on rental housing and to apply the inclusionary requirements for three or more units. The City entered into a contract with Strategic Economics and Vernacza Wolfe Associates, piggybacking on a countywide collaboration and San Mateo County. Final drafts of two studies, one for commercial and one for residential, were completed in November of 2015. After the studies were completed, there were multiple hearings that were held both at Finance Committee and the Planning and Transportation Commission. The primary objectives of this project. The first is to consolidate the commercial and residential fee programs into a single, uniform ordinance codified in a new chapter, 16.65, by repealing Municipal Code Sections 16.47 for nonresidential projects and 18.14 for residential projects. Also to give the City the ability to charge an impact fee for rental housing. As I mentioned before, because of the Palmer decision the City has been unable to charge an impact fee for rental housing since 2009. Another objective is to give developers the opportunity to build affordable units rather than pay a fee. On the commercial side, to differentiate the fee structure so different uses would have different fees. Finally to simplify the in-lieu fee for residential development. The goal is to apply a fee per square foot instead of the current method, which is to apply it to—which is seven and a half percent of the sales price for each unit. I'll give you a very quick overview of the methodology. As Hillary mentioned, we do have our consultant here. She can give you some more information if you have questions on the methodology. For the commercial nexus study, the first step was to develop prototypes. There were prototypes developed, one for hotel and one for office, medical and R&D. A third prototype was considered for retail restaurant and personal services. Given that this product type has rarely been constructed in the City in recent years, it was decided not to study that prototype. Another step in the methodology was to determine employee density, also to look at the number of new worker households created and worker household incomes. The study also looked at the affordability gap between the cost of purchase housing and the cost to build. The study came up with a maximum justified fee calculation as well as a maximum feasible fee analysis and finally came up with a recommended fee. Similarly for the residential study, the study developed prototypes for four different housing types: single-family detached, single-family attached, condos and rental housing. It also determined the household income of residents and disposable income, the number of new worker households created and the worker household incomes and also looked at the affordability gap and then came up with a maximum justified fee calculation, a maximum feasible fee analysis and recommended fees. As previously mentioned, the Finance Committee did hold two hearings on this Item, back in February and also in June of this year. This slide demonstrates the specific Finance Committee recommendations that were made. The first recommendation was to

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prepare an ordinance and a fee schedule, which varied from the consultant recommendations, in the following manner. On the commercial side, the recommendation was to increase the office and R&D fee to \$60 a square foot. On the residential side, the recommendation was to decrease the single-family detached fee to \$50 a square foot. Another recommendation was to explore options to allow office and R&D and hotels to reduce their impact fees by providing affordable housing on or offsite or by deed restricting existing units as affordable. Both of these recommendations are reflected in the draft ordinances. Similarly, the Planning Commission held three hearings on this Item in July, August and November. This slide shows the PTC's recommendations. The first one is to phase in the commercial impact fees over a period of five years. Those fees would be subject to an annual review. The second is to have deed restrictions that are no longer than 55 years for alternative projects using tax credit financing; also to require applicants who wish to provide rental units onsite to focus on low-income households. The second and third recommendations are reflected in the draft ordinances. Another recommendation was to increase the single-family detached fee to \$95 a square foot as opposed to the \$50 per square foot that was recommended by the Finance Committee. Finally, to set the rental housing fee at somewhere between \$10 and \$20 a square foot similar to nearby jurisdictions. I'll now turn it over to Hillary.

Ms. Gitelman: Thank you, Eloiza. We're going to go deeper into the numbers in just a minute. First, let's step back to the big picture issues in this ordinance. First, as Eloiza mentioned in the severing of our objectives, we're adjusting the inclusionary requirement that currently applies to for-sale housing from projects of five or more units to projects of three or more units. That was called for in our Housing Element, and it's a significant policy change. In addition, for mixed-use development we've made the requirements of this ordinance apply even below the three units. If we have a mixed-use development Downtown and there are one or two penthouse units on top, they would be subject to these fees. Third, we have made the ordinance work such that if you have a residential ownership development of more than three units, the inclusionary requirement would apply, and you don't get to deduct the existing units that are being removed on the site. We can talk about specific examples in that if you're interested. Also, we're talking about making sure that the commercial fees apply to any new gross square footage. Currently, there's an exception or an exemption in the Code for existing square footage that's converted from, for example, amenity space to gross square footage. We're eliminating that exemption. If you have an existing building and you're creating new gross floor area within the building, it would be subject to these fees. Other issues in the ordinance. At the Finance Committee's direction, we've included multiple alternative means of compliance. A commercial project could meet its requirements,

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instead of by paying the fee, in any number of ways. There are also alternatives available for residential projects. We've updated and included a new protest procedure. Getting to the fees themselves, we're going to start with commercial first. As you know, we currently charge commercial impact fees on commercial land uses of about \$20 a square foot. The consultant report, which is in this table, the February 2016 proposal, suggested that we could increase the office/R&D fee to \$35 a foot and the hotel to \$30 a foot. The Finance Committee reviewed the two nexus studies and the recommendation and suggested changing the fee for the office/R&D up to \$60 a foot rather than \$35 as recommended. I'm going to show you how that compares to other jurisdictions in a minute. The PTC looked at this and recommended going forward with the Finance Committee's recommendation. The only change being that they suggested phasing in that office/R&D fee. On the residential side, let's go to the next table. The first three rows here are ownership housing projects. The last row, the bottom one, is about rental housing. On the ownership side, as Eloiza indicated, we currently have an inclusionary requirement of 15 percent for projects of five or more units. Where an applicant can't pay that fee or has a fractional unit, we charge this in-lieu fee. Currently, the in-lieu fee is calculated at 7.5 percent of the sales price which, as you can imagine, is extremely difficult to administer because we have to wait until the units are sold and then try and go back and collect the fee, rather than other impact fees that are typically collected at the time of building permit issuance. The consultant report recommended that we change the fee structure and charge this in-lieu fee at \$50 a square foot for two of the prototypes and \$95 a square foot for single-family detached. On the rental side, they recommended again the \$50 a square foot. The Finance Committee adjusted that slightly. They adjusted down the single-family detached fee to \$50, the same as all the other types. The PTC made two changes. On the single-family detached, they went back up to \$95, as the consultant had recommended, to better reflect the actual cost of constructing that kind of unit. On the last row there, the market rate rental housing, they suggested a fee of somewhere between \$10 and \$20 a square foot, suggesting that the City Council set it within that range based on a comparison to other jurisdictions. Let's look at the other jurisdictions now. Here's the commercial fees in other jurisdictions first. This detail is provided for you in Attachment G of your Packet this evening. If you'd like more detail, there are lots of footnotes that go along with each one of these rows. Basically you'll see on the hotel side, other jurisdictions are setting their fees between \$2.50 a foot up to about \$18 a foot. Remember, ours is already at about \$20, and the recommendation is to go to \$30. On the office/R&D side, you'll see that there's again quite a range in nearby jurisdictions, everywhere from \$5.44 a foot up to \$25 a foot. Again, our current fee is around \$20, and the consultant's recommendation was \$35. The Finance Committee and the Planning Commission recommended \$60,

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which is reflected in the draft ordinance you have. On the housing side, again this is all found in Attachment G. I'm going to focus on the rental provision of this only—that's the second-to-last column—because we're not proposing a big change on the ownership side. On the rental side, other jurisdictions range from \$17 a foot in Mountain View to \$25 a foot in Cupertino to \$43 in some cases in San Carlos and higher even than that, I believe, in the East Bay. Here in our draft ordinance, we're proposing the \$50 a square foot amount and then, of course, the Planning Commission has recommended between \$10 and \$20. Both the Planning Commission and Staff heard from quite a few stakeholders in the course of developing and bringing forward these ordinances. We heard, I think, questions about what are the goals here, are we trying to raise money for building affordable housing or are we trying to get affordable housing units onsite. Related to that was this question, are we setting too high a bar for a developer to pay the fees instead of developing the units onsite. We've created kind of a feasibility test. A for-sale developer would have to provide the 15 units onsite unless they came up with another alternative that was acceptable to the City or some of those alternatives were infeasible and then they could pay this in-lieu fee. Stakeholders also talked about this issue of comparables to other jurisdictions and that issue about the duration of the affordability restriction for tax credit purposes, which we did reflect in the ordinance based on Planning Commission input. As indicated earlier, we have a representative of the Planning and Transportation Commission here. I believe Commissioner Waldfogel is in the room. I hope you will invite him to address the Council after the Staff presentation. We're then hoping that you will conduct a public hearing. We are, of course, available to answer questions and would look forward to receiving your comments. We're hoping that you will see fit to adopt the ordinances this evening, in which case they would become effective 60 days after a second reading. The last slide is just a repeat of our Staff recommendations. Thank you.

Mayor Burt: Thank you. Why don't we hear from Commissioner Waldfogel on behalf of the Planning and Transportation Commission, and then we can have questions and then open the public hearing. Welcome.

Asher Waldfogel, Planning and Transportation Commissioner: Mayor Burt, Vice Mayor Scharff, Council, thank you for giving me a couple of minutes. Also, thank you, Director Gitelman, for a very balanced discussion of a complicated topic. I don't want to duplicate the Staff Report. Happy to answer any questions about deliberation. I just want to make a couple of comments, if that's okay, if I've got a minute or two to do that. In the course of the PTC deliberation, which went over three meetings, there was a lot of discussion of whether impact fees are a veiled way to send an anti-development message, whether that's true or not. There was also a lot of

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discussion about comps. I'll come back to that in a minute. A lot of discussion, as Director Gitelman mentioned, about whether we should have preferences for inclusionary housing versus fees to fund below market rate housing. To answer some of this, Commissioner Rosenblum and I were tasked in a subcommittee to reach out to a few constituencies and try to at least collect a little more information. We reached out to some market-rate developers, affordable housing developers and some policy advocates to see what they thought. From market-rate developers, we did get a response. There's a general sense that Palo Alto is a hard place to work, hard to develop, but they didn't think that impact fees per se were the cause of problems. Of course, they would prefer to have lower, no fees, but I don't think anyone said they will stop doing projects if there are fees. I think the sense was there is some signaling going on, and we probably should look at that. We should look at process; we should look at whether we're easy or hard to work in, but fees are not necessarily the fulcrum of that discussion. Let's see. From the affordable housing community, we did hear a preference for impact fees over inclusionary units. I think that's something that you as a Council should come back to and probably get to the bottom of, maybe not at this meeting, but over the course of the next year. They did bring in some worries about whether fees will stop development. A lot of those seemed to be anecdotal concerns. Nonetheless, we should get to the bottom of that as well. As far as comps, from housing policy advocates we heard that the right fee in any community is very market driven, that the right fee in Redwood City or the right fee in Mountain View may not be the right fee in Palo Alto, that you really have to look at micro-market comps, that parts of San Francisco maybe the right comps to look at for Palo Alto. Again, we got some mixed discussion about whether those neighboring town comps are the right things to look at or not. I could go on, but maybe I'll just stop and see if you have any questions. Thanks.

Mayor Burt: Council Member Schmid, was that for Commissioner Waldfogel?

Council Member Schmid: Yeah. Thank you. I found the PTC Minutes very enlightening. Unfortunately, we got the November 30th at places and have not had a chance to look at it. Are there any detailed comments made in the November 30th meeting that changed or addressed issues that were not addressed in the earlier Minutes?

Mr. Waldfogel: That's a great question. I think the biggest thing that came up in that meeting was a discussion about the rental impact fee. There was some advocacy for zero. There was some advocacy for \$50. As a Commission, the compromise was this middle number, \$10 to \$20, which was driven by comps. Again, I think this is something that you as a Council should look at, whether new rental housing is aimed at a lower-income

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constituency than ownership housing. If you believe that, then that would be a strong argument for a lower fee or no fee. If you believe that it's aimed at a market-rate clientele, then you may take the view that the same fee should apply for ownership and rental. I think that was the most vigorous topic that was discussed at that meeting.

Mayor Burt: Thank you. We can now return to the Council for questions of Staff before opening the public hearing. Does anyone have any questions at this time? Council Member DuBois.

Council Member DuBois: I had a question, Hillary, on one of the changes. I tried to read through this massive amount of information on this Item. What's the impact of the deed restrictions being no longer than 55 years? What was the thought behind that?

Ms. Gitelman: That's a great question. It came up with a lot of emphasis at one of the PTC's earlier meetings. It really only has a bearing on when alternative projects are proposed. If someone proposed rather than the inclusionary requirements onsite or paying the fees, what they'll do is put their money or dedicate land towards an all affordable housing project, 100 percent affordable, and that project uses tax credits, then anything longer than 55 years would constrain the ability of the project to use tax credits. We put that in the Ordinance. I can probably find the section for you.

Council Member DuBois: It's not to imply that a longer—I guess we currently have 95 years. Is that right?

Ms. Gitelman: It's just so the deed restriction would be less than 55 years. That's where we—maybe Cara knows. Page 699.

Cara Silver, Senior Assistant City Attorney: The Ordinance is drafted in a way where the deed restriction shall be for 99 years; however, it can be reduced to 55 years for tax credit projects at the Council's discretion.

Council Member DuBois: We're hearing that's needed to fund the projects themselves. Kind of a general question. The study was done about a year ago. Why did it take so long to come to Council? Why did it go to PTC three times?

Ms. Gitelman: As the Council Members are aware now having waded through this, it is a complicated set of policy questions. The consultants made some recommendations, but they're only recommendations. This really becomes a policy decision based on the City's view of these land uses, your assessment of our own fee structure and other jurisdictions, where you want to set that. It did take a couple of meetings at the Finance Committee

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and three at the PTC. I think in the course of those, we hashed out a lot of issues that, I hope, will benefit the Council's deliberations.

Council Member DuBois: Was there any concern about the quality of the nexus study or the data in the study?

Ms. Gitelman: I don't think so. I think we used the consultant and the methodology that was used by all of the jurisdictions in San Mateo County and really piggybacked on that effort. Many jurisdictions in San Mateo County have gone on to adopt the fees, so they used the same methodology and got to the finish line and adopted the fees. That was comforting to all of us, that we weren't forging entirely new ground here. It was a reasonable methodology that others have used.

Council Member DuBois: Just a question about switching from a percentage of sale to a fee per square foot. I see pros and cons of both ways. Obviously, I think it's easier to administer and charge the fees upfront. Was there much of a discussion about—I guess the pro of a percent of sale is that our ordinance doesn't need to be updated; it tracks the market. As sales are higher, we get a percentage of that. Was there much discussion about that change?

Ms. Gitelman: I think the Finance Committee did talk about that a little bit. Maybe some of the members of the Committee can weigh in. Our feeling, from Staff's perspective, is that the operational advantage of charging a per-square-foot fee is substantial. Those fees are adjusted annually in the budget process based on cost of living increases. It's not like they'll be totally left behind. Also, there was in our view an advantage to charging a fee similar for rental and for the for-sale units. It just makes a much simpler fee schedule for folks to understand.

Council Member DuBois: Is it possible for a project to change, where they would say it's for sale and pay the fee, and then turn it into rental later on in the project?

Ms. Gitelman: I guess that's theoretically possible. We find that developers usually walk in the door knowing what they like to develop. They'll either propose a rental project or a for-sale project.

Council Member DuBois: A similar question. There's this idea that exempt projects that convert to nonexempt uses would then be charged an impact fee. How are you going to track that?

Ms. Gitelman: That's a good question. I think we would have to do our best when something changed from—I'm going to have to ask for Cara's help on

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this. The gross square foot thing is the thing that I'm aware of, where right now we have this exclusion or exemption for existing square footage that's converted to gross square footage, which would no longer be available to applicants. Do you want to add?

Ms. Silver: Yeah. Generally this comes up when somebody applies for a tenant improvement. That's when we start looking at use and occupancy permits and that type of thing. That's where it's typically tracked, I think, at the Development Center.

Council Member DuBois: Is it in the ordinance? Is it then due immediately?

Ms. Silver: It's due upon building permit.

Council Member DuBois: I kind of jumped in here, but at some point I'd like to hear from the Finance Committee, some of their discussion. Thanks.

Mayor Burt: I'd be glad to break from the questions at this time if the Finance Committee has any additional comments beyond the Staff Report. Council Member Filseth.

Council Member Filseth: Just real briefly. Obviously the challenge of affordable housing is how to pay for it. In general, it's hard to get purely market-based solutions because other kinds of developments tend to have a lot better economics. There are impacts on affordable housing demand, both from commercial development and from market-rate housing development. The nexus study is an attempt to quantify that. We saw that operationally simplifying the process was a big win, particularly given there's facility to update the rates. Our goal was to get as much funding as possible for affordable housing out of this process. The nexus study comes up with a couple of different kinds of numbers, but the maximum justifiable number is their attempt to calculate the actual impact on demand for affordable housing. All the numbers we were talking about were substantially below the justifiable numbers. We thought that it was appropriate to focus on the maximum amount you could get for affordable housing. The tradeoff is if the fees are too low, then you're leaving funding on the table, which you could otherwise use. In principal, if the fees are too high, then you discourage the market-rate development that funds the affordable development. You're trying to find the optimal point. In Finance, we discussed this a little bit too, as did the PTC. I think we generally felt that at the level of fees involved, we didn't see a huge disincentive to development, clearly not for commercial, even for market rate. I mean market-rate housing is so high in Palo Alto. A one-bedroom condo sells for almost \$1 million. A difference of \$10,000 or \$20,000 on the fees we didn't think was going to be a huge impact. On three specific things. On the single-family

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housing fee, I think we just felt it was odd to have a housing rate lower than an office rate. That was consistent with the other ones. On the other hand, there are so few single-family houses built in Palo Alto these days that the numbers in any case, whether it's \$50 or \$95, would be very small. Second, on the other communities issue, yes, the fees that we looked at, that we thought were appropriate for Palo Alto, were higher in a lot of other communities. It could be that we're missing something or it could be we're just farther in front of the problem as far as Palo Alto goes. In these kinds of things, communities have a tendency to look at each other and see what everybody else is doing. It could be that we're just further out in front. Finally, it's tempting to look for some symbolism in the different fee rates relative to different kinds of development. Maybe some are more desirable than others. Really we thought the focus ought to be on, again, what's the maximum support we can get for affordable housing and just focus on that as opposed to trying to influence developers one way or another through the fee manipulation. Thanks.

Mayor Burt: Council Member Schmid.

Council Member Schmid: I'd just make a comment on the Finance Committee. I voted that all the residential fees should be \$30 rather than \$50. Two questions, technical questions. The Finance Committee has recommended a substantially lower rate for rental housing as opposed to owned housing. A finance question on that. Anyone who looks at the City finances knows that property tax is an extremely important basis for the City and for all local governments. Rental property is not owned by individuals but by companies or enterprises, which would mean over the long run there would be a severe tax consequence if we provided incentives to rental housing rather than owned housing. We notice that the commercial enterprises each year pay less property tax. They used to be around 40 percent; they're down to 25 percent and fall each year. Did either the PTC have a discussion of the tax consequences of lowering the incentive on rental property versus ownership or did the consultant or Staff have a point of view on that?

Ms. Gitelman: Thank you, Council Member Schmid. I think I recall this conversation from the Finance Committee meeting. We don't view these impact fees really as an incentive. We did not look in-depth at revenue consequences other than looking at the money that would be gained for the City to put towards affordable housing.

Council Member Schmid: Was there any discussion at the PTC? Just a note, I guess, that that is an issue. Secondly, Appendix G has been noted many times as an important document. It's Packet Page 1004. We have

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comparisons of pricing and cost, which provide incentives, for both the office and the variety of residential spaces. The line in the middle is a recommended fee scenario from the nexus study. If you adjust it by the prototype size and further by the number of units that were discussed in the text on Page 958, you can calculate the ratio of charges for a new worker as opposed to a new resident. We know that Palo Alto has a very high ratio of jobs to employed residents, and we need housing. The way I work those numbers out, rental employed residents are paying five times the fee that would be charged to an individual worker. The others are well over a 10:1 ratio. That seems to me to be a great incentive for any developer to invest in offices. We are increasing the incentives to invest in offices. Is that a correct interpretation of the data?

Ms. Gitelman: Again, Council Member Schmid, I believe I recall this conversation from the Finance Committee and probably could find it in the Minutes. We don't think of these fees as things that are being charged to individual workers and individual residents. They are charged to developers. We don't think of them as incentives for one form of development over the other. I think the Finance Committee, as Council Member Filseth indicated, did take your point about the balance between the residential fee amount and the commercial fee amount. That was the derivation of the reduction from \$95 to \$50 a square foot for the single-family detached prototype. When it got to the Planning Commission, they looked at what it really cost to build a single-family detached unit and again suggested that that fee for that prototype be raised back up to \$95 a square foot. I think we're looking at this slightly differently. Your point is well taken, and it was to some extent reflected in the Finance Committee's recommendation. Although, I recognize not sufficiently to garner your support at that time.

Council Member Schmid: Thank you.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. A couple of things. If I buy a single-family lot in Palo Alto of which a house previously existed, I build a house. Do I pay this fee or not?

Ms. Gitelman: If you buy one single-family lot that has a house and you replace it, you will not pay this fee.

Vice Mayor Scharff: If I buy a lot where the house has been torn down—I see a bunch of them around. Right now, they're vacant lots. The one right next door to my house, for instance, has been vacant for 10 years. Do I still not pay the fee?

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Ms. Gitelman: If you buy two lots and they have houses on them and you tear them down and replace them, you will not pay this fee.

Vice Mayor Scharff: Got it. I just don't understand the exempt versus the nonexempt. Maybe someone could just explain that again to me. I completely don't understand it. I know that's probably me, so I apologize.

Ms. Gitelman: There is a section in our Zoning Ordinance, which I have marveled at quite a number of times, that provides that existing office space that's converted from amenity space or storage space to gross square footage is exempt from paying the fee. This would eliminate that exemption. If someone were to convert storage space to office space or retail, they would pay the fee.

Vice Mayor Scharff: Got it. The next question. When I read the CEQA thing, I just thought it was curious. It says—first of all, you said you want us to find the actions exempt from CEQA. Is that different than what you've normally asked us? On fees, I don't recall actually asking us to find it exempt from CEQA before. If so, what would the basis be for us for finding it exempt from CEQA if we're supposed to make that kind of decision?

Ms. Gitelman: If you look on Packet Page 706, there's an explanation in Section 5 of the ordinance. We're actually relying on a few different arguments or rationales for the exemption. One is related to increasing fees. The other is related to the other policy changes we're making here. We feel comfortable with this recommendation.

Vice Mayor Scharff: If we went with the maximum allowed fee, which I forget—for commercial it was like 200 and something—and if we believe that that would stop all commercial development in its tracks, would this be exempt from CEQA or not? Would we make that finding or would we not make that finding?

Ms. Silver: It depends on—if you're just maintaining the status quo, that's not necessarily going to have ...

Vice Mayor Scharff: No. Say we'd be raising it. Say we decided today we were going to raise it to the maximum, which I forget. It was like 200 and something—237. We decided that would create a moratorium. Would we then make that finding on CEQA or would we decide that we couldn't make that finding on CEQA?

Ms. Silver: If you're essentially creating an office moratorium, the question would be if there were projects that wanted to redevelop and they couldn't develop as office, what would they redevelop as. If you would find that they

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would develop as something else that would have environmental impacts, then maybe you couldn't make that finding.

Vice Mayor Scharff: What I thought was sort of interesting—I'm trying to put this in context—is Director Gitelman said to, I believe, Council Member DuBois that other jurisdictions have adopted these fees based on a nexus study, and that gave us comfort and stuff. Other jurisdictions, it seems, have had very low fees frankly. I don't see any jurisdiction that has gone up to obviously the maximum fee they could have or frankly the maximum feasible fee. When we're at the maximum feasible fee, I do wonder if we have a CEQA issue. I guess I want someone's opinion on whether or not we might have a CEQA issue or if I should just not worry about it. It seems it could go either way, maximum feasible.

Eric Phillips, Special Counsel: Good evening, Vice Mayor Scharff. My name's Eric Phillips; I'm special counsel to the City from Goldfarb and Lipman. One of the justifications for the CEQA exemption in this case is what the City is acting on is a financing mechanism that would be used to fund future projects that they themselves would be subject to CEQA. The identification of a mechanism to collect that fee and generate that revenue is itself not a project or a commitment to an individual project. That's what allows you to claim that these actions are exempt from CEQA. If you were taking actions that created a level of development or set fees so high that development was not feasible, you wouldn't necessarily compromise your ability to claim that CEQA exemption, but there could be other legal issues that are raised. If you'd like, we can spend some more time talking about that.

Vice Mayor Scharff: That's actually very helpful. It's not a CEQA issue. There might be other legal issues then, but not a CEQA issue in terms of the maximum feasible. My other question is this is a nexus study. Most things rely upon the inputs you put into it. Right now, when you look at maximum feasible, you're thinking to yourself, "Construction costs are X." You're thinking to yourself, "Interest rates are Y. Labor costs right now are this cost and that." I would think it wouldn't be—they come up with a number, but I would think there would be a margin of error both ways on this. What other communities seem to have done has been well below the maximum feasible, so it doesn't really matter. If you're 50 percent of maximum feasible, who cares? When you're right at that, I guess I wanted to get a sense of—does anyone have a sense of how, I guess, sensitive these numbers are?

Ms. Gitelman: Vice Mayor Scharff, if I can just add one note of caution. We've provided in Appendix G what other jurisdictions have adopted in terms of their fees, but we didn't do the research to go back and find out

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what their maximum feasible was in their nexus study. I think your point is well taken. In many cases, the other jurisdictions have set a fee below those that you are currently considering. I don't know about the feasibility.

Vice Mayor Scharff: I've got to take a little issue with that. I understand the point. When you look at their numbers, they are so much lower, especially on hotels, which is where we're at maximum feasible. Everybody else is like \$10 in Cupertino, \$2.50 in Mountain View. I'm going to say that hotel economics are not that different. I find that hard to believe. Even if I look at office/R&D and medical, we're proposing \$60. Apples in Cupertino. It's a little hard to believe that their office market isn't really strong. I think these numbers are low enough. San Francisco is at \$16 to \$24. I'm just saying it doesn't seem that we can say, "We don't know what their maximum feasible." I would guess they're not that far off from us, at least San Francisco and Cupertino, places like that, to be so much lower. Menlo Park, our neighbor next door, at \$15. I'm a little concerned that when we're right there at the maximum feasible, we are making things infeasible and we may not know it. I just wanted to get some comment. I see you're ready to speak.

Ms. Gitelman: Ms. Graham is here and can perhaps speak to the maximum feasible in other jurisdictions.

Sarah Graham, Strategic Economics: Sure. Hi. I'm Sarah Graham with Strategic Economics. I did want to note that for some of these comparable cities, the studies were actually completed many years ago, and they were simply updated in 2015. These fees that are in place in some of the comparable cities do not represent 2015 studies necessarily. The exceptions that I know of are Redwood City, which we conducted the study for them at the same time that we conducted it for Palo Alto. The market fundamentals are actually quite a bit different in San Mateo County and for several of the cities in San Mateo County. I'm afraid I don't have the study itself at my fingertips. A fee of \$20 per square foot very well may have been the maximum feasible. It is a different market there, particularly in northern San Mateo County. I know San Bruno currently is considering fees that are set closer to that maximum feasible, not at the maximum justified which is a totally different number, but at the maximum feasible. Menlo Park, those fees are from a study conducted many years ago. They have not adopted the updated fees yet on the study. That's still in the future. Somebody else mentioned that comparing to other cities is not necessarily apples and apples.

Vice Mayor Scharff: Thank you very much.

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Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Thanks to Staff for the presentation and also the consultant for weighing in. As a member of the Finance Committee, I just wanted to make a quick comment, also to provide a little bit more background for colleagues. I'll just do that for now. The question was raised about what the goal was. I think that one of the goals that we discussed and prioritized in the Finance Committee was actually getting units built onsite as opposed to having developments just pay into an in-lieu fee, etc., recognizing some of the social benefits of having below market rate units mixed in with market rate units and wanting to make sure that we didn't just defer for the future, but could actually see some affordable units built in the nearer term. I do think we may have missed some unintended—not spent enough time thinking about some of the potential unintended consequences of prioritizing in that manner. If you have BMR units onsite, they tend to be—Staff, correct me if I'm wrong on any of this. My understanding is that at this point if you have BMR units onsite, they tend to be either the median income levels or just below median income levels. Whereas, the very low or extremely low income-level BMR units tend more often to be those done in, say, nonprofit-run affordable housing projects, whether it's by Eden Housing or Palo Alto Housing, etc. For those projects, they rely on our affordable housing fund. If we were to set the fees so high that everybody said, "I'm a developer. I'm developing a project of whatever kind rather than paying the in-lieu fee, the fees are so high. There's an exemption if I provide the units onsite. I'll just provide the units onsite," then we end up—if we do end up going down that path, we might end up with a very slim affordable housing fund. That might be one of the unintended consequences of the policy approach which we prioritized when it was in Finance. I did want to acknowledge that. I think that was an oversight on our part. Based on my conversations with people in the affordable housing community since it came to Finance, I do want to recognize that, I think, was an oversight on our part.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I certainly am hearing what you're saying, especially regarding the feasibility. However, as you look at this from just a common sense standpoint, it really is pretty dramatic. If you look in particular at office/R&D, that goes from \$20 to \$60. I'm hearing what Council Member Filseth said, which is it's a balancing act to figure out what you could be leaving on the table for the affordability versus what would stop people in their tracks from actually building it. Looking at this, I think—maybe I'm wrong—it sounds almost like a shot in the dark. We're saying, "We think this is what would work. We have done a study with an outside consultant,

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which is what we do." I'm not feeling convinced that some of these numbers really make sense for us as a community. We really want to go ahead and do some building, but this looks like—if I were the builder, I'd be kind of daunted by this.

Ms. Gitelman: Thank you, Council Member Kniss. I did put that slide back up on the screen as it shows our current fees for office/R&D are about \$20 a foot. The consultant's initial recommendation was \$35 a foot. The Finance Committee had the discussion that Council Member Filseth indicated, and their recommendation was \$60, which is the maximum feasible amount for that land use type.

Council Member Kniss: I hear that. Those are the statistics that you're giving to me, but I guess what I'm asking you for is something that's more subjective than objective. You do this for a living. I'm looking at this and thinking, "If I were to look at this and think this is how we're going to get our affordable housing, I would question whether or not, by hitting the very top of the rate that we think could be paid, we're really putting money into affordable housing." What you're saying is this is the decision that was made by our Commissions, not by you, and simply was studied by our outside consultant and felt that this didn't go over the top for the feasibility.

Ms. Gitelman: That's right. This does come down to a policy decision. We hope we've given the Council all the ammunition with which to make this decision. It's not an easy one.

Council Member Kniss: You would not disagree that there's a certain amount of subjectivity here. Thanks.

Mayor Burt: I just have a couple of questions. First, there was an earlier question around how we would deal with change of use and whether we could actually monitor and regulate that. Do we currently or could we have an annual self-certification, which is signed by property owners upon penalty of perjury? I used to have to sign those things, and I always made sure we abided by them if I was going to put myself up personally to a legal liability. Do we have such a requirement now or could that be part of the ordinance?

Ms. Gitelman: We don't have that to my knowledge. Although, we do have the new Business Registry which would be an opportunity to collect the data. I'm just not familiar with it.

Mayor Burt: I'm not talking about a data collection. I'm talking about a certification that it's continuing to be used without change.

Ms. Gitelman: We do not currently have such a program.

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Mayor Burt: That wasn't my question. That was one part. Could we do that and could we incorporate that in the ordinance?

Ms. Gitelman: I will have to defer that to counsel. I think that would be quite a change to this ordinance.

Mayor Burt: Really? Just a monitoring or requirement that they not change with—illegally change.

Ms. Silver: Legally it's possible to do. I don't know that we could give you language on the dais tonight, but it certainly is possible. It could be a good follow-up item for later ordinance amendments.

Mayor Burt: I think I heard the answer clearly on Vice Mayor Scharff's question around potential CEQA impacts. I probably am going at it from a different perspective in that I'm not particularly concerned if these fees were to slow the rate of office development in the community and, thereby, help address our jobs/housing imbalance. Aside from that, I couldn't understand why there even might be a CEQA consequence of not building office. CEQA would be triggered if we took some action that had environmental consequences. It's just like on the Comp Plan. When we look at maximum scenarios, that doesn't mean that doing less than that has a CEQA consequence, does it?

Ms. Silver: That's correct. I think, again, it was—the remarks I had made earlier were if there were a finding by the Council that imposing the maximum feasible office rate would have a very significant impact on office development and that the other type of development you could assess with certainty that would occur would in fact have environmental, that's very speculative.

Mayor Burt: That's if something else got developed, but not merely the absence of developing office.

Ms. Silver: Correct.

Mayor Burt: Council Member Holman.

Council Member Holman: Just one follow-up to that, the same issue. Let's just suppose, for purposes of this discussion, that the higher impact fees would put a hiatus on office development. Looking at what else might be developed, isn't anything else that's going to be developed under our current zoning already considered as part of our Comprehensive Plan EIR? For there to be a significant impact, there would have to be a change of zoning that

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would allow something else or a greater intensity of something else. I'm not seeing how there would be any environmental impact.

Ms. Silver: I think that's a good point.

Council Member Holman: Thank you.

Mayor Burt: We're ready to go to the public. At this time, we'd like to open the public hearing. Our first speaker is Bonnie Packer, to be followed by Candace Gonzalez.

Public Hearing opened at 7:58 P.M.

Bonnie Packer: Good evening, Mayor Burt, Council Members. My name is Bonnie Packer. I'm President of the League of Woman Voters of Palo Alto. The League of Women Voters applauds the City's continuing efforts to provide mechanisms for the provision of housing for those with very low, low and moderate incomes. The League has historically supported both Palo Alto's inclusionary housing program and the assessment of housing impact fees for nonresidential development for the affordable housing fund. These programs have provided many below market rate rental and for-purchase homes and have been a valuable source of funding for very low, low and moderate income housing developments in Palo Alto. For this reason, the League supports the proposed Citywide affordable housing requirements ordinance and the housing impact fees that have been recommended by the Planning and Transportation Commission. In our comments to the PTC on this ordinance, the League noted the difficulty in balancing the desire to ensure there is a robust affordable housing fund to support development of multiunit housing for those very low, low and moderate-incomes versus the desire to have a certain amount of below market rate housing units sprinkled throughout the City. The Commissioners' thoughtful discussions on this and other important policy issues were the basis for their recommendations regarding the ordinance and the associated fee schedule. The League supports the PTC impact fee recommendations that differ from those of the Staff recommendations for the following reasons. An impact fee on new rental housing that is comparable to neighboring cities, that is between \$10 and \$20 a square foot, would alleviate the negative impact to renters who are already struggling to pay the current exceedingly high rental rates. The impact fee of \$95 per square foot on new detached market-rate housing would help maintain an affordable housing fund. The League realizes that the effect on the City's affordable housing policies and goals of the fee schedule is unknown. Therefore, we support the PTC proposals that the impact fees for nonresidential developments be phased in over five years and that all impact fees be reviewed by the PTC on an annual basis. While

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the League supports the Citywide affordable housing requirements ordinance, we still have concerns that the thrust of the ordinance is to favor onsite below market rate units as opposed to the payment of fees into the affordable housing fund. We noted in our letter to the PTC the following. While the League supports policies that allow for provision of units for those with moderate incomes, where it is feasible for a developer to do so, the League notes that this ordinance may have the consequence of producing much less cash for the affordable housing fund. Today cash from this fund can be leveraged to obtain other sources of funding, for example through the Federal tax credit program, for the development of many more units for those with very low, low and moderate incomes, that can otherwise be produced when a developer provides units on or offsite rather than paying the housing impact fees.

Mayor Burt: Thank you.

Ms. Packer: Thank you for considering our comments. Thanks for the extra time.

Mayor Burt: Our next speaker is Candace Gonzalez, to be followed by Pat Sausedo.

Candace Gonzalez: Good evening, Mayor Burt and City Council Members. First, I want to thank the Planning and Transportation Commission, especially the subcommittee, for really doing their due diligence on this topic with the help of City Staff. On behalf of Palo Alto Housing, I'm not here to comment on exactly how much the fees should be, except that they should be in line with neighboring jurisdictions. We're concerned that if they are significantly more than our neighboring cities combined with more restrictive zoning and land use regulations here, it will discourage development altogether. No new development will mean no funds for the affordable housing fund and no onsite BMR units. With onsite BMR units, we can build—we are able to serve those in the low to moderate-income households, that's 60-120 percent of the area median income. We just saw a great example of this over the summer when we helped Hohbach lease 18 out of 86 BMR units, serving 60-100 percent of the area median income. With the affordable housing fund, we serve extremely low to low income. That's 30-60 percent of the area median income, and that's the majority of our projects that we build. As you've heard, we leverage the affordable housing fund into tax credits and gain three to four times as many units, if not more. We really want to see a balance, and we really want the ordinance to show some flexibility regarding onsite versus in-lieu fees. More importantly, I think, as we move forward with this topic, if the goal is really to increase the affordable housing stock, we really need to reconsider our

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zoning and land use regulations. We really need to zone to allow for affordable housing so that we can build a financially feasible and financially reasonable project. Thank you.

Mayor Burt: Thank you. Pat Sausedo to be followed by Dennis Martin.

Pat Sausedo: Mayor and Council, I'm Pat Sausedo, Executive Director of NAIOP Silicon Valley. The commercial real estate industry association representing over 160 commercial realtor development companies throughout the Bay Area and Silicon Valley. On behalf of NAIOP, first I would like to extend an appreciation of Staff and the various Commission Members and Council Members that have taken so long to study the commercial linkage fee issue. It is complicated, and it can be daunting in many, many ways. That being said, NAIOP does not support the \$60 a square foot commercial linkage fee. At \$60, the City of Palo Alto, if adopted, would more than double, more than double the highest current linkage fee throughout Silicon Valley and most of the Bay Area, if not all of the Bay Area. As we've heard this evening, our best understanding is \$25 in Cupertino is just about the highest linkage fee we see to date. We really recommend that your linkage fee mirror as close as possible no more than the highest linkage fee we currently see here in the Silicon Valley region. With all due respect, to adopt a \$60 fee at this point in time really does send to many within the business community an anti-business message. We really hope you think about this long and hard and not exceed the current highest linkage fee in the Silicon Valley region. Thank you very much.

Mayor Burt: Thank you. Dennis Martin to be followed by Stephanie Munoz.

Dennis Martin: Good evening, Mayor and Council. I'm Dennis Martin, speaking on behalf of the Building Industry Association of the Bay Area. BIA Bay Area members build thousands of rental and for-sale units through the Bay Area obviously. We are very interested in what happens here in Palo Alto. Very interesting discussion tonight. I don't blame the Council for their questions regarding how do we decide what a fee is. The study does not give you the right information. It's unfortunate because you've spent a lot of money on it. You should have better information than you have. The Building Industry Association has long held that these studies are merely a legal cover for municipalities to adopt these fees. In terms of being able to tell you what you should be charging, it's not good at all. We don't support these studies. We never have. We've challenged them across the Bay Area. With that in mind, we generally support, I would suppose, the Planning Commission's recommendations on rental fees. The for-sale units, you don't really build any single-family housing here that our members would be interested in. One or two units at a time isn't going to do it for us. You may

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build some condos or some townhouses somewhere down the line if it could be financially feasible. Our recommendations would be don't overcharge. These fees and all of the impact fees that are being levied against development now, whether it's traffic or schools or parks or water or sewer or any of those, eventually affect the bottom line because development is the total cost of fees, total cost of construction. All of these figure into whether or not that project is going to go. You should be taking regional consideration. By that, I mean Silicon Valley region, not San Francisco, the people's republic of Berkeley and other municipalities or jurisdictions that really aren't anything like this community. Work with your neighbors because this is where housing should be built for the jobs that are being located here. Finally, do some incentives. We supported the City of Fremont's lowering of their rental impact fees so that they could incentivize rental housing and cutting in half the fee for what they term affordable by design, what you may consider microunits, located near transportation. Those are some ideas to consider. Finally, I'd like to congratulate the City Manager on his retirement and taking the opportunity tonight—this is what I hear, he's retiring. Yes? I was premature.

Mayor Burt: Our Police Chief is retiring.

Mr. Martin: Thank you for noting that housing could be built on many vacant lots in the Downtown area.

Mayor Burt: Thank you. Our next speaker is Stephanie Munoz, to be followed by Leslye Corsiglia.

Stephanie Munoz: Good evening, Mayor Burt and Council. I'd like to call to your attention this week's *Palo Alto Weekly*, which all of you see and hopefully read. There is an editorial by the publisher. It says, as we learned all too well during the 2013 debate over Measure D and the failed senior housing proposal on Mayfield, the biggest obstacle to any affordable housing project is the sky high cost of land in Palo Alto. It makes it practically impossible to build affordable housing. I'd ask you please to go home and pick up that paper and read the editorial and think about it a little bit. I hate to sound like Scrooge—nobody wants to be a meanie. We really cannot afford to give to affordable housing recipients the same degree of amenities that are purchased by very wealthy people. Don't look at me as if I'm an elitist-type person. There are 6,000 homeless people; they are getting nothing while people are examining the feel good premise that low-income people deserve the same kind of housing as high-income people. No, they don't. The result of pretending that they do is that they get nothing. There are people outside tonight, and it is cold, cold, cold. We've got to build some affordable housing. I would recommend that you think about little

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bitty units for single people, divorced people, never married people, widows. I believe that they could be beautiful and they should be beautiful and they should be comfortable, have hot water. They have to be small so that you can fit enough of them in the square feet that you want to see on any different site. Maybe you could go up a story. I think I'm hearing from this Council that you are willing to be selective about the height and that you would consider doing that. I think that there is a number of small units that could pay for itself. We haven't done that. You do have to realize, as we saw with the infamous urban redevelopment, to some degree it's counterproductive to kick out poor people so that you can build affordable housing. Thank you.

Mayor Burt: Thank you. Leslye Corsiglia to be followed by Herb Borock.

Leslye Corsiglia: Thank you, Mayor and members of the Council. I'm Leslye Corsiglia; I'm Executive Director of Silicon Valley @Home. I really want to thank the Council, the Staff, the various Commissions and Committees that have been talking about this issue and appreciate the thoughtful conversation. I know that this is really tough. I couldn't agree more that it's a balancing act of finding a fee that will provide for the affordable housing and not unduly impact development. As a side note, I was the director of housing at the time that the City of San Jose approved both its inclusionary ordinance and its housing impact fee, so I have been through these conversations before and understand them well. I'm only going to make a few comments today. We did submit a letter to you that has more detail. I did want to say that we recommend adopting a rental fee at \$25 per square foot. The range is between \$17 and \$25 as the Staff had noted. In San Jose, it is \$17, but we believe with the housing prices here that the market is a little different than it is in San Jose. We believe that \$25 is a fee that would work. We also, though, believe that there should be ability for alternative actions. We believe the same for for-sale housing, that there be alternative compliance options. For ownership, we support an ownership fee at \$50 a square foot, but we are suggesting that that be started at \$25 a square foot and that it slowly be moved up to \$50 and, again, evaluated each year to make sure that that works. Alternative compliance options include things like flexibility for developers that would allow them to build either onsite or offsite, to pay the fee or to include the units in their project. What we're suggesting is different from the Staff's recommendation of first of all inclusionary and then going through a series of decision points on whether or not an alternative compliance option would work. We suggest that we look to the option that would provide more affordable units. If a fee would provide more affordable units than onsite, then we think that's the ultimate goal, to achieve more affordability. Lastly, I would just end with saying that I agree that this is an important step forward, but we would still

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like to work with the City to do other things like identify surplus property or underutilized properties around the City and looking at making the development process more smooth. We're really thankful that you're having this conversation. We'd like to be a part of it in the future. Thank you.

Mayor Burt: Thank you. Herb Borock to be followed by Mark Mollineaux.

Herb Borock: Good evening, Mayor Burt and Council Members. The various proposed fees all have the effect on developers' profit. The commercial fees being raised, it has been suggested that they shouldn't be raised and should be the same as they are in other cities. The speaker didn't say that the price charged for leasing that office space should be the same as in other cities. I believe a higher fee might lower some developer profit if they can't pass it onto their tenants, but I think they can well afford it. The residential for-sale, it's just the opposite. The fees suggested would bring in less money than we currently get for the same size for-sale property. Even at \$95 a square foot, I believe that's less than it was last calendar year. I think instead of relying upon an invented prototype in the analysis, which just provides a legal justification for doing what you might do for policy suggestion, you go back and take a look at how much in-lieu fees you received from various for-sale projects, and then calculate what the per square foot would be for that entire project. I believe you will find that, once you add the escalation each year to for-sale prices, you'll be getting much less money under the proposal than you would now at 7.5 percent. In regards to rental projects, you currently can't charge a fee because under the BMR program that fee is inextricably linked to the percentage of units that you would have in an inclusionary zoning project. Here, the ordinance proposes to do the reverse, but they're still linked. I'm not satisfied that the rental linkage would survive a court challenge. We currently have a 7.5 percent in-lieu fee instead of a 15 percent BMR inclusion, but there is a Comprehensive Plan program, H-1.2.1, that says when a loss of rental housing occurs due to the subdivision or condominium conversion approvals, the project shall require 25 percent BMR units. That would result in a 12.5 percent fee. I don't see anything in the report that deals with implementing that program in the Comprehensive Plan. I think the best use of the money is to preserve existing affordable housing. The same structure of financing is there because the same low-income tax credits are available for preserving affordable housing. Thank you.

Mayor Burt: Thank you. Mark Mollineaux to be followed by our final speaker, Winter Dellenbach.

Mark Mollineaux: Hi there. My name is Mark Mollineaux. I graduated from Stanford and now am living in Redwood City. You have to ask what is the

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point of something like this. Is the point to help Palo Alto be more affordable? I would say that should be the goal. Having a high percentage of below market rate housing imposes a burden. It may be worth it; it may not be worth it. You have to say it does impose a burden. It makes it on the margin less likely more things will be built based upon this requirement. However, it does not make it more affordable to build. It does not lower the cost of land. I think it's important to say it has—we're talking about impact rates on building new things. That's something that's going to make it more expensive to build things. There is nothing ever being discussed about impact fees on holding things. We heard Vice Mayor Scharff talk about a vacant house next to him for 10 years. That's a much bigger problem than the fact that people maybe aren't building as much or the right kind of things they should. I think the problem is we're not building enough and people are just leaving land be inefficient. There is an impact on this. When you don't use land efficiently, there's less land to go around, and that drives the cost of land up, and you have a vicious cycle in which land gets more and more unaffordable, and then no one can afford housing anywhere, except people who are already locked in. Looking at an impact fee on holding would be a very elegant solution to all this. Over in Vancouver, they're doing things such as targeting vacant housing and just taxing it much higher. This would be a good start. Does this really matter very much? I'd say it matters a little, a very little. It will change the way something in Palo Alto—what it will consist of. It will lower the rate of housing, but you're not building anything anyway. I don't think it really matters in that sense, because nothing's happening right now. As far as big picture changes, you need to look on the fact, as Council Member Filseth was saying, that the economics just make it—it doesn't make sense to be building housing. This is a very big thing around the entire picture of housing. It has to do with land misuse. I would say that when land is being misused, when people are holding onto land and not paying for it through holding fees, you have to look at some of the fundamental reasons. Prop 13 is at the top of the list. As far as making more housing, I think it might be better to look at a target for housing. Say this many below market rate housing units are our goal to build this year. How can you make this happen? I would say look at community land trusts as being a good solution. If you zone land to be used and to be held for people under a certain income level per se, but they give up the property rights of profiting off the land, they could actually create more housing. Thank you for your time.

Mayor Burt: Our final speaker is Winter Dellenbach. Welcome.

Winter Dellenbach: The chart that was up comparing all of the cities to each other—I read the papers. One of the things that I see are these recurring

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stories about cities, towns up and down the Peninsula and how many of them are having discussions about these fees. Lots of them. Some cities don't have any fees. They've never had any fees. They're just starting discussions about let's have some fees. It's so shocking to me. When I was in Cincinnati visiting cousins once, I discovered the entire City of Cincinnati has no recycling. There's no program. It was so shocking to me. There are cities on the Peninsula that have nothing. It makes me nervous when we starting comparing Palo Alto to other cities on the Peninsula. Really? Menlo Park, the city right next door to us, the city that just a few years ago was sued because they hadn't done a Housing Element in 20 years and had not built any affordable housing or not much in 20 years, so we're comparing ourselves to Menlo Park. Mountain View that just about a month or maybe a little more, I read in the paper new development just under 600 units of housing or maybe a little over. Their inclusionary zoning was about 8 percent of below market rate housing. I don't want to be compared to those cities. I want Palo Alto to look at Palo Alto and make decisions about Palo Alto based on what we know about Palo Alto. We have a feasibility study. It's called a feasibility study for a reason. What we know using our independent judgment, what we elected you folks for, the residents of Palo Alto, not developers who use Palo Alto as a cash cow or whatever, what we are coming to you for, we want you to use your best judgment here. Other cities are probably watching you. They're willing to perhaps learn something from your decisions here. Maybe they'll raise their impact fees some in a sensible way, not a crazy way, a sensible way. Don't be thinking that everybody else has the answer. I think very often we have the answer. A couple of other random thoughts. Please don't give private parties, in this case developers, the ability to decide if they're going to build onsite affordable housing or pay in-lieu fees. Keep that for yourself. I've read the little Code section that has you—keep control of that. The City needs to control whether it's going to be in-lieu or whether it's going to be onsite. Keep control of that. Deed restriction 55 years, I don't know the answer. Cannot that be renewed? You go 55 years if there's a tax credit, but can it be renewed at the end of 55 years? That might be a nice question to ask some of the smart City Council people. I hope that, if you've heard from developers, you will stay the course. That's it. Thanks.

Public Hearing closed at 8:25 P.M.

Mayor Burt: Thank you. We'll now return to the Council for discussion.  
Council Member Kniss.

Council Member Kniss: A few more questions. I think I want to get practical for a minute. How many projects do you have that are waiting to be approved, in the pipeline, right now?

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Ms. Gitelman: Off the top of my head, I'm not going to be able to tell you precisely. Are you talking about commercial or residential?

Council Member Kniss: Commercial, R&D.

Ms. Gitelman: We have a couple of larger replacement projects, the replacement square footage in the Research Park. We do not have any measurable projects office/R&D outside of that.

Council Member Kniss: In the area where we have currently essentially a moratorium anyway of 50,000 square feet, we don't have any projects that are coming along?

Ms. Gitelman: We may have some smaller projects, but we just don't have any that have triggered that review under the annual limit.

Council Member Kniss: Just to repeat some of the things. I didn't hear Ms. Gonzalez mention this tonight. To have affordable housing, you have to have affordable land. We haven't talked about that yet, which is probably the most essential part of having affordable housing. We're talking about providing land—we're talking about money to build with. We really haven't talked much tonight about the land. One other aspect of this that I would mention is that there is a fair amount of money available for affordable housing from Stanford. I'm looking to see if Ms. Gonzalez would nod to that. More of that is going to be available as they go forward with the new General Use Permit. For me, this feels as though we're heading in the wrong direction and not looking at how we really can provide affordable housing. I'm troubled about that. We haven't provided any affordable housing in Palo Alto, I think, maybe since 2011 or 2012. I think that was the last that went in. We looked at Maybell in 2013. As far as I can see, we haven't even flirted with the idea since. Being one of the people who just did run for office, there was no issue that was more discussed than affordability. We did a poll here at the City that indicated 75 percent of the people are worried about the cost of housing. I don't see this heading in the direction I would like to head as yet. Essentially, I think we're not hitting some of the very bottom line issues of affordable housing.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Hang on a second. Just the last speaker's question in terms of choosing alternatives, is the burden still that they have to prove it's infeasible to do it onsite? Has that changed in terms of demonstrating infeasibility?

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Ms. Gitelman: The provision currently proposed in the Ordinance—it's on Packet Page 701—is a feasibility test. If you remember, this came up in the Council's deliberation of the Maybell subdivision. Currently, there's no kind of definition of feasibility. The Council was troubled at having to make that decision without any further basis or findings in the Code. We've suggested some in that first paragraph on this page. The Planning Commission heard this as well from some of the advocates; they thought maybe this was setting too high a bar. I think it's still subject to interpretation, but the Council could direct us to dial this back to what the current Code includes, if you think it's too tough a test.

Council Member DuBois: Thanks. For me, I'm glad that this is finally here. It's an important step in implementing our Housing Element. It's a little bit of a paradox in some ways. We sit here and say we don't have enough money to build affordable housing. We're talking about raising impact fees maybe to a level where we could actually support developing some actual affordable housing. We're trying to strike that balance, but I think it's time to get serious and really enable some housing construction. I think the first step is really agreeing to what problem we're trying to solve. For me, it's how do we charge fees that actually result in affordable housing. This is a chance for us to lead. I do think other cities are watching us. This has been a discussion for over a year. There's an opportunity here to make a statement. I do think we need to keep in mind that this is a high quality nexus study. It's clear data; this isn't just opinion. We live in an expensive area. Impact fees have not kept up. The pace of government is slow. I've had some housing advocates who deal with affordable housing tell me that they've looked at the study, and they find it to be good and sound. They support us increasing our fees. I think we have a choice; do we want to really enable building affordable housing or do we want to continue to have development that doesn't raise enough money to fund affordable housing? Most of the recommendations, I think, are right smack in the middle of the feasibility range. Housing, we're well below the feasible amounts. I think the only question—hotel, retail is below the feasible amounts. People are raising the issue about office/R&D, which is at the max feasible. I think we have to look at our history of development, the last several years, where we've been getting all office, and we haven't been getting anything else. I also want to say I appreciate what the Finance Committee did around single-family homes. Maybe that was symbolic, but I do think we should encourage home ownership. I think it really is the foundation of community, long-term residents. It makes a lot of sense to me to have the same rate for rental housing and purchase housing. I expect this will be a long item, but when you're ready I would actually move the Staff and Finance Committee recommendation. I look forward to really starting to fund some

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affordable housing projects. I don't know if you would like me to wait or I can ...

Mayor Burt: Go ahead, and we can continue discussion.

Council Member DuBois: I would move the Staff and Finance Committee recommendation.

Council Member Holman: Second.

**MOTION:** Council Member DuBois moved, seconded by Council Member Holman to:

- A. Adopt an Ordinance updating the City's Below Market Rate (BMR) Housing Program by repealing Municipal Code Section 16.47 (non-residential projects) and 18.14 (residential projects) and adding a new Section 16.65 (Citywide Affordable Housing Requirements); and
- B. Adopt an Ordinance establishing housing impact fees and housing in-lieu fees for residential, nonresidential, and mixed use developments; and
- C. Find these actions exempt from the California Environmental Quality Act (CEQA) per Sections 15378(b)(4), 15305 and 15601(b)(3) of the State CEQA Guidelines.

Mayor Burt: That's a Motion by Council Member DuBois, seconded by Council Member Holman. Would you like to speak further to your Motion?

Council Member DuBois: No. I think I just did.

Mayor Burt: Council Member Holman.

Council Member Holman: Yes, thank you. Thank you for the Motion, Council Member DuBois. I would argue that—I don't remember who it was, so it's certainly not personal—this isn't anti-business message that we're sending. It's actually a message we're sending that we're serious about creating housing. For housing fees of \$50 a square foot, it's a very small portion, a very small percentage, of what housing units sell for in this community. There are any number of other things that are in place in Palo Alto now that make housing more expensive that we could act on. I won't go through a litany of those now, but there are many other things that we could do. As to affordable housing projects, this Council just recently talked about its willingness to do specific zoning for affordable housing projects or even to go back to having PCs if they were for all affordable housing projects. I don't think this Council is sending a message that's it's anti-housing. I don't think

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that's the message that should be getting out there. I think Council Member DuBois is right. I think other cities are looking to us to lead. We heard the consultant say that the studies in a lot of other cities are very old. What also is happening in some other cities is they aren't using, as I'm observing it at least, impact fees. They're negotiating what they're getting as a part of large projects. They're using other ways to try to get housing. I think that's really all I need to say. I'd be open to creating some latitude in Number 1 on the top of Page 701. I'll wait to see if anybody else really wants to do that or not.

Mayor Burt: Council Member Schmid.

Council Member Schmid: I think it's important we reconnect with the Housing Element, because tonight we really are fulfilling the requirements of the Housing Element as part of our Comp Plan. The Housing Element on Page 78 said there is a concern that the commercial developers are not paying an equitable share of funds for affordable housing. At the bottom of the Page was the results from the previous six years where housing fees collected from new residences were \$13.7 million. Commercial fees for affordable housing were \$11.7. That table did not even count the cost of inclusionary housing, probably equivalent to another \$5 million. In essence, the Housing Element tells us that housing was paying about 70 percent more for affordable housing than commercial properties. Yet, during that six year period, commercial property was adding three jobs to every employed resident. In other words, we're growing at three times the rate. That was the issue that the people working on the Housing Element said we need to address that. That's why the big jump in fees for commercial properties. Now the PTC discussions carried on that element. I was struck by the fact that virtually every member of the PTC said, "We have a problem with housing. The problem isn't just affordable housing, but housing that's affordable to workers. The incentives in the City are such that developers in any mixed-use area will choose office space over housing." One member of the PTC said, "We don't build housing in Palo Alto. We put a few units in on the top floors of offices to get bonuses, but no one is coming forth with big housing projects in mixed-use areas." How do we assure, how do we get back to that? I think the goal of the Housing Element request and the goal of the feasibility study, the nexus study, we just did was to show us how we could raise the relative fees on commercial properties. I'm a strong supporter of both the PTC and the Staff recommendation, Finance Committee recommendation, that we go to a \$60 fee on commercial properties and that we do keep the residential fees lower. I think as some people have said what's important is the message we're sending out. I think it is an important time that we send out the message that our community is based upon the people who live here, the residents. We need to keep a

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vibrant residential sector. I guess I would make one modification, a friendly amendment if possible, that we accept the PTC's recommendation that rental units be charged a fee of between \$10 and \$20 per square foot. Given the fact that our goal here is to change developers' incentives, not just to maximize money but to change developers' incentives.

Mayor Burt: First, Council Member Schmid, I think for purposes tonight, you need to not have a range. We're looking at actually setting fees.

Council Member Schmid: I would suggest then \$20.

Mayor Burt: Open to the maker and the seconder.

Council Member DuBois: I appreciate your point, but I do not support adding that. I think it's important that, like I said, rental or owned housing actually be the same fee.

Vice Mayor Scharff: I'll second that.

**AMENDMENT:** Council Member Schmid moved, seconded by Vice Mayor Scharff to add to the Motion, "accept the Planning and Transportation Commissions' recommendation that Market Rate Rental Housing be charged a fee of \$20 per square foot."

Council Member Schmid: I think what we're really dealing with is potential areas in the denser parts of town, parking spaces that the City owns, parts where there are jobs in commercial districts within walking distance, walkable areas. That's where the potential for real change in housing could come. You want to create an incentive that a developer can look and say, "The City is interested in getting housing in mixed-use areas. They are sending a signal that that is a process that would help our community." I'm in favor of what the PTC has recommended for denser rental apartments.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. Tonight there's a couple of things I wanted to say on this issue. The first is I was really pleased to see Leslye Corsiglia here. I don't know if any of you know. I've worked with Leslye on many issues on a regional basis for housing. Leslye is the Executive Director for SV @Home, which is the voice of affordable housing for Silicon Valley. There is no one who cares more about affordable housing than Leslye. For Leslye to come here tonight and tell us to go at \$25—I assume that's a range. To go with \$20, that means that the people who do affordable housing are telling us to not do \$50, to do that \$20 to \$25 range. I'm not really interested in talking about sending a message and saying we have the

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highest fees and we're going to raise the most money. I'm interested in producing housing. I'm interested in producing affordable housing, and I'm interested in producing market-rate housing. We actually for the first time in Palo Alto, since I've been on the Council—I don't remember before that, the last time we had a large apartment complex. We've actually had two large apartment complexes come forward. We've had the one on Sheridan, and we've had the one on Park Boulevard. Both of those are fairly large apartments for Palo Alto. We are just starting to see apartments being built in Palo Alto, I think, for the first time in like 20 years. I can't think of any other apartment complexes literally in 20 years before that. I don't really want to impose a \$50 fee where we go ahead and we may stop this, where we're actually getting some apartments. We all talked about how important affordable housing is and how important creating new housing is. If we really believe that, we should vote for Council Member Schmid's amendment. That's really what we want to do here, actually produce the housing, not just say we have the highest fees and, therefore, we are theoretically going to produce more affordable housing. I'd urge you to support this.

Mayor Burt: I've cleared the board just so that people can hit their lights to speak specifically on the amendment. Council Member Wolbach.

Council Member Wolbach: I'll also be supporting the amendment. As I alluded to earlier, I actually think we made a mistake at the Finance Committee. Council Member Schmid tried to warn us at the time. Based on further discussions with people who work in the nonprofit sector, who work on actually trying to build and provide and manage affordable housing in our community and in the region, I realized that we did have an oversight. As I mentioned before, our goal was to focus really just on getting units onsite, but that's not the whole picture. We are, for instance, using our affordable housing fund as centrally important in trying to preserve Buena Vista. If we didn't have some funding in that affordable housing fund, we wouldn't be able to do that. We talk about balance. There are a lot of different things we're trying to balance here. One of those is having some units onsite, which is useful, and also having some funds so that we can do other projects, whether it's supporting Buena Vista or helping with an expansion or a future affordable housing site. We need to have a little bit of both of those. Without repeating them all, I'll echo everything that Vice Mayor Scharff just said. I'll also point out that there was—the maker of the original Motion made a couple of comments that I think might have been a little contradictory, but he'll have an opportunity to weigh in. One of those was to say that we should really, as I understood, be focused on what we want, which is affordable housing. He followed up by saying we should prioritize and encourage home ownership. Those might not be compatible, but they're

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certainly not the same thing. If our goal is to make sure that people have reasonably priced roofs over their head, then let's stick to that and figure out whatever it takes to do that. If our goal is to encourage people to live in a particular type of place or to tell people we want you to own and not rent, that's a different goal. We can have an argument and a good discussion about whether that's also a useful goal. I actually think the opposite, that we need more rental places. There are a lot of people in Palo Alto who would be very, very happy to rent. There are about 45 percent of Palo Altans now who do rent. A lot of people prefer that choice. I don't think that should be our goal. Since I heard that stated by the maker of the original Motion as one of his priorities, I just want to say that I don't think that's the point of this discussion. I will be supporting the amendment.

Mayor Burt: Council Member Filseth.

Council Member Filseth: As I think about this, I want to go back to the balance here. One of the characteristics of it is if we get it wrong, at least from the perspective of affordable housing, it's not as big a deal as we might think. If the fee is a little bit higher than it should be, we get a little bit less development, if in fact we do. It offsets itself a little bit versus a lower fee and more development. I go back to Commissioner Waldfogel's comment about it doesn't appear that impact fees make, at this level anyway, a big impact on how developers make decisions. I concur with Vice Mayor Scharff. I think we ought to be focusing on the ability to build housing, not sending messages and symbols and stuff like that. The question in my mind as we talk about this is if we cut the impact fee in half, will we get twice as much development as a result? That's what it would take to get the same amount of money. I certainly don't believe it's true for office/R&D development. Is it true for rental development? I don't know. That's what's going through my mind as I think about that. If we cut the fee in half, are we going to get twice as much stuff built? That's what it would take to keep the same amount of support for affordable housing.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Just a couple of clarifying comments. I don't think affordable housing and encouraging home ownership are incompatible. We're talking about a fee for market-rate rental versus, say, condos. At that level, these are going to be market rate; they're going to be very expensive. We're talking about \$25 a square foot for market rate. Given a preference, I would like to build more affordable, ownership properties, so those will be maybe more condos. I'd like to be able to generate money for affordable housing and really generate a reasonable amount there. I don't think anyone said we want to be the highest rate for the sake of being the highest

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rate. I certainly didn't say that. I think what we want to do is to actually be able to afford to build—that our rates are high enough that we can afford to actually develop some affordable housing.

Mayor Burt: First, I have a question. Do these fees apply to 100 percent affordable housing projects?

Ms. Gitelman: No.

Mayor Burt: Second, I'm going to support the amendment. I do want to say that Council Member Filseth—his question I don't think is the correct one, because we actually have two different objectives, not one. We have raising affordable housing fees to subsidize affordable housing and to assure that we're not significantly reducing the amount of affordable housing being built. It doesn't come out that, therefore, the fee should have some direct correlation to how much housing will be built. There are a lot of factors. As Commissioner Waldfogel stated, the fees whether they're on the commercial or the residential are not the principal determining factor on whether these projects will get built. They have to do with our zoning most of all and secondarily about other soft costs associated with development in our City. I do want to add that the rental housing market appears to be changing significantly in our region and in Palo Alto. We recently had the proposal for 100 percent market-rate housing at the VTA lot on the corner of El Camino and Page Mill. We haven't had a project like that come forward in my memory. We'd had other subsidized, but this was 100 percent market. It's been a long while since we had anything quite like that. We do have to acknowledge there are other factors. When we talk about the zoning factor, it's not just what the floor area ratio is but other costs associated including parking. I think we've had a real misnomer and disservice by a lot of the conversation including even some of the press that has called projects being underparked, when in fact we saw from Palo Alto Housing Corp. just a few weeks ago that they have multiple projects that are reduced parking versus our formulaic parking. They are overparked. I hope we move away from this term of underparked being used to describe any project that has less parking requirement than our general formula. We can be reduced parking and overparked at the same time. I think we have evidence that that's actually occurring. I just wanted to state those things in the context of the other aspects of this discussion. I'll be supporting the amendment. I see no more lights. Let's go ahead and vote. That passes on a 6-2 vote with Council Members Holman and Filseth voting no. We will now move onto the main Motion. Some of the colleagues have not spoken to the main Motion. If you have not spoken to it, you're free to bring it up again. I will say that we're at five minutes to 9:00, so we're now starting to run behind schedule.

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We're not starting to; we're now well behind schedule. Let's just bear that in mind. Council Member Kniss.

**AMENDMENT PASSED:** 6-2 Filseth, Holman no

Council Member Kniss: Speaking to the Motion as it is, I can't support it. Let me go through why, and I won't try changing the numbers. Although, I admire that the last number was just changed. Looking at this, starting with the office/R&D, which is going to be tripled, I don't think of us as an anti-business community. I think of us as hopefully a balanced community. Somehow, as I look at that, I have trouble thinking that when you triple one particular fee regardless of what the nexus study might have said or supported, it simply doesn't make common sense to me more than anything else. As far as the hotel fee, I would have kept that at the \$20, because one of the things we have said is hotels really do produce the money that we need for infrastructure and a variety of other things that we've been talking about over the past 4 years. Retail, at least we have left that at that price. I don't think we have enough—I was going to ask Ms. Gitelman how many single-family homes do you think are built in Palo Alto in a year? Single family, just absolutely single.

Ms. Gitelman: It varies year to year quite a bit. In the last fiscal year, we added about 30, 35 single-family homes.

Council Member Kniss: In going from \$50 to \$90 a square foot, you're not going to make a big dent quite honest. In fact, what you're going to do is—the builder is going to pass that cost along, and we're going to be known as a community that charges even more for housing than we have before. That's simply ...

Ms. Gitelman: If I can just clarify one point. The amendment that just passed dealt with the rental side. On the ownership side, we currently charge a fee if developers don't comply with the 15 percent inclusionary requirement. At the level that the Finance Committee recommended for sort of detached, that's actually lower than what we've calculated the fee would be at 7.5 percent.

Council Member Kniss: At the \$95?

Ms. Gitelman: At \$95, it's roughly comparable. It kind of depends on exactly how much the units cost. The ownership side is really quite different than the rental side, because we currently have this inclusionary requirement and in-lieu fees. This ordinance does not represent a significant departure.

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Council Member Kniss: Thanks for clarifying that. Getting into the market-rate, single-family attached, once again I guess what you would say there then is you think that is the same issue?

Ms. Gitelman: Again, we have an inclusionary requirement that currently applies. The in-lieu fee that applies to fractional units is currently 7.5 percent of sale price. These fees are already quite significant.

Council Member Kniss: I would agree. Rather than breaking these down one-by-one, those are the ones that I have difficulty with. I'm not going to be able to support the Motion as a whole.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. I have been having a little bit of trouble with the for-sale housing fee. I can't judge it versus the fee we've had. We don't get a lot of condo projects. Condos really are affordable for-sale housing. They're often starter homes for people to get into the market. I am worried about discouraging it. I'm trying to figure out, frankly, if we should go also at the \$25 fee where then we ratchet it up over time and see how that goes. I guess I want to get a sense from Staff of have we—I can't remember. Since I've been on Council, I don't remember a lot of condo projects coming through. I know there's been one or two, I think. Do you have a sense of how many have come and what we currently charge versus what this fee is?

Ms. Gitelman: We haven't had a lot of projects in the time that I've been with the City, but we did have that 16-unit subdivision quite recently. We've run the numbers on that.

Vice Mayor Scharff: You mean Maybell?

Ms. Gitelman: Pardon me?

Vice Mayor Scharff: You mean Maybell?

Ms. Gitelman: Yes.

Vice Mayor Scharff: That's single-family homes.

Ms. Gitelman: Yes. I'm sorry. Were you asking about single-family detached?

Vice Mayor Scharff: I was asking about condos actually. I realize that's the only—that's probably the only single-family home project we're going to ever

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get of detached single-family homes. I don't think we have that much land where you can get those. Anyway.

Ms. Gitelman: On the condos, off the top of my head I don't have a good example. We do have the calculations for the prototypes. It's in Attachment H and provided again in your At-Places Packet. It shows in the last column, for the condominium prototype that was used in the study, what we would—the current inclusionary requirement of 15 percent, the cost to the developer if our current in-lieu fees were paid. For that prototype, it was a total of \$3.6 million. The cost to the developer if the units were provided onsite in foregone revenues got to \$4.7 million. I should have done this as per unit. The current in-lieu fees per unit, about \$104,000 foregone revenues about ...

Vice Mayor Scharff: Wait. What I'm trying to do is get an apples to apples. If you're saying \$50 a square foot, \$104,000, is that 50 bucks roughly?

Ms. Gitelman: If you charge \$50 a foot, it would be about the same, about \$105,000.

Vice Mayor Scharff: It's about the same on the prototype unit?

Ms. Gitelman: Yes.

Vice Mayor Scharff: We don't think we're drastically raising these fees?

Ms. Gitelman: That's right.

Vice Mayor Scharff: That's sort of where I wanted to get. I guess I could go either way on that. Now, I'm going to make a plug on the hotel thing. Going from \$20 to \$30, what concerns me is the \$30 is the maximum feasible on hotels. That means that we could be discouraging some hotels. That's what that tells me. I look at all the other cities, and they have really low hotel fees. Obviously, other cities are also concerned that they would discourage hotels. I'm saying that the value of the hotels are outweighed to the City by any small amount of money you may raise on going from \$20 to \$30. In fact, I don't know what the effect of this would be on hotels. If it even discourages one hotel that makes \$2-\$4 million a year in Transient Occupancy Tax (TOT) for the City, on an annual basis that would be a really bad fiscal decision for the City. I think we should stay at the hotel of \$20.37 that we currently have. I'd say the value of the hotels is probably more than the value of an individual retail or a restaurant, etc., in the City. We should prioritize not damaging the ability to get hotels in the City, especially where our budgets are and the fact that we use a lot of that TOT to fund our infrastructure plan and we're having cost overruns all the time in terms of

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our infrastructure. I would make an amendment that we leave the hotel at \$20.37.

Council Member Kniss: Second.

Vice Mayor Scharff: I don't know. Was it friendly?

Council Member DuBois: No.

Vice Mayor Scharff: I'd rather have you weigh in.

Council Member DuBois: No. I'd (inaudible).

**AMENDMENT:** Vice Mayor Scharff moved, seconded by Council Member Kniss to add to the Motion, "retain Hotel fee at \$20.37 per square foot."

Mayor Burt: I want to try to encourage us to limit debate on what are fairly small differences. Council Member Holman, were you wanting to speak on that? Why don't you go ahead?

Council Member Holman: Just very quickly. This is so inconsequential. Remember what Palo Alto has is a zoning bonus for hotels that other communities do not have, to my knowledge.

Mayor Burt: That's right. Council Member DuBois.

Council Member DuBois: I think we're kind of playing this on both sides. On this one, I think Staff, Finance Committee, PTC all agreed on \$30. On one hand, we're saying these fees are not determining factors in projects.

Vice Mayor Scharff: I'm not saying that.

Council Member DuBois: On the other hand, we're saying we are. What we're doing is we're eating away at our affordable housing fees by lowering I said I think what we're doing here by changing some of these numbers is we're eating away at our affordable housing fees, where the difference between \$20 and \$30 is not going to determine whether a hotel gets built.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I think I'm going to reluctantly support the amendment in this case. I do think that there's an interest in not going all the way up to the feasible level on any of these. I think we all understand the reasoning for that. I hope we won't go all the way to the feasible level. Something below the feasible level is important, and that's what's offered here.

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Mayor Burt: I'll just chime in that the zoning bonus that we have for hotels so drastically outweighs this additional \$10. It's not even comparable. On the high end of what we've had in town, we had the Epiphany Hotel that, I think, sold for \$1 million a unit. I don't know what the average size of the units are. I just did a little math. If it was 200 square feet, which is pretty good sized, big for a hotel room—I think it's probably bigger than most of those are—it would be \$2,000 for a unit that sold for \$1 million. The notion that that's going to be a make or break even if it was a hotel at half that value per room, I don't think flies. I will not be supporting the amendment. Let's go ahead and vote. That fails on a 4-4 vote with Council Members Schmid, DuBois, Burt and Holman voting no.

**AMENDMENT FAILED:** 4-4 Burt, DuBois, Holman, Schmid no

Mayor Burt: Now, we'll return to the main Motion. I'll go ahead and chime in. I have a question. Mr. Borock raised an issue about a Comp Plan policy on replacement of affordable housing. Do you have any feedback on that, Director Gitelman?

Ms. Gitelman: Yes. We do address that in the ordinance. I found it when Mr. Borock was speaking. I will try and find it again.

Mayor Burt: While you're doing that, I'll take your word for that.

Ms. Gitelman: I found it.

Mayor Burt: You did, you say?

Ms. Gitelman: It's at the bottom of Packet Page 696. It's Provision 16.65.030(A)(c), projects that convert existing rental housing to condominiums have this big ...

Mayor Burt: I wanted to make sure I'm clear on whether this Motion does or does not include the Planning Commission recommendation that the commercial rates would phase in over five years.

Council Member DuBois: Just to be clear, the Motion was for the Finance Committee, so it (crosstalk) ...

Mayor Burt: That does not include it then. Wait a minute. I just want to be ...

Council Member DuBois: ... does not.

Mayor Burt: It does not.

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Council Member DuBois: Council Member Kniss also seemed to be talking about \$95. This is at \$50 a square foot for market-rate, single-family detached.

Mayor Burt: I'm not in support of having the commercial development get a break. I do want to mention Vice Mayor Scharff had raised these comparisons to other surrounding cities. I was checking, confirming my recollection that, for instance, our office rate compared to San Jose or Santa Clara is in the neighborhood of two and a half times the office rate. If you look at it that way, the correlation between their fees and ours don't look so out of kilter especially given, as Council Member DuBois stated, that a number of locales are looking at what we're doing. We're liable to see some increases in fees in the region in this coming year or so. Finally, I just want to say at a high level one of the real drivers for us to be able to add housing and affordable housing in our community is addressing our transportation issues. If we are able to do that on diminishing our trips to our targeted areas for greater housing of our two downtowns and along El Camino, we really achieve two things if we have successful TDM programs. One, we're going to have a lot—maybe three things—more appetite in the community for housing growth. Second, we will have lower costs to build the housing if we can demonstrate that the parking requirement, which is a huge driver in all development, does not need to be as high in certain circumstances for certain types of housing at certain locations as is our formulaic approach. Third, reducing those trips to those downtown areas does what we were talking about earlier this evening, frees a huge amount of City-owned property in our downtown areas of surface parking lots. They're not all going to be available at once. This is going to be a longer-term program. The more we accelerate that process of solving our local traffic problems and parking problems, the sooner we will be able to dedicate more of that land toward affordable housing projects. Those might be combination projects, where there would be some level of public parking and affordable. We don't know that it would necessarily be a 100-percent affordable project there. In any event, that becomes enabled by solving the transportation problem. Solving the transportation problem solves the parking problem, enables the housing including affordable housing. I just want to make sure we're keeping our eye on that ball. Council Member Wolbach.

Council Member Wolbach: I just want to make sure that I'm very clear before we vote on this Motion. I don't think I'd spoken to the main Motion prior. I just want to go through these one at a time and make sure I understand them and that I'm getting the numbers right. For office and R&D, this Motion as it currently stands would adopt a \$60 per square foot fee. Is that correct?

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Council Member DuBois: Yeah.

Council Member Wolbach: That is what the maximum feasible was according to the nexus study. Was that correct? For hotels, we've just established that is the maximum feasible. I spoke against that. Let's see. For single-family detached, it would be \$50, which is below the feasible. Retail and restaurant, it was not really applicable because the nexus study didn't really identify that. Single-family attached, it's at \$50, which is less than the feasible. If I'm getting any of these wrong, either the maker or Staff please chime in. Feel free to interrupt me. Market-rate condo, we're looking at \$50, which is less than the \$75, which was the maximum feasible. For market-rate rental, we did reduce it to substantially below the feasible. Again, I do think that it is—it puts us in a tough spot as I think we all know. I'm not talking about politically. I think it puts us in a tough spot if we adopt fees that are all the way at the maximum feasible. I'll just state that again. I'll make a friendly amendment to—I have a couple, but I'll do them individually—lower the office and R&D to \$40 per square foot. I'll hope that that is a friendly amendment.

Council Member DuBois: No. (Inaudible) discussion (inaudible). Sorry.

Vice Mayor Scharff: I'll second it.

Council Member DuBois: The same discussion we just had around hotel.

Council Member Wolbach: It's seconded by—did I hear that I've got a second for that one?

[Ms. Gitelman nods her head throughout this and does not speak.]

**AMENDMENT:** Council Member Wolbach moved, seconded by Vice Mayor Scharff to add to the Motion, “lower the fee for Office/R&D to \$40 per square foot.”

Mayor Burt: You've already spoken to it. Do you need to speak again?

Council Member Wolbach: No, I don't.

Mayor Burt: Vice Mayor Scharff, do you need to speak again?

Vice Mayor Scharff: Just briefly. I think Council Member Wolbach is correct. Only in Palo Alto could we decide to double the fee and be decided that we shouldn't go at 300 percent of the fee. I agree with Council Member Wolbach. To move it all the way up to the maximum feasible and triple the fee seems like an extreme move. Doubling seems like we're addressing the problem. Tripling it seems extreme. I believe to be moderate in all things.

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Mayor Burt: Council Member Kniss, I know you spoke on this particular subject earlier. If you want to speak again on the amendment, go ahead.

Council Member Kniss: I'll speak that I'm going to support the amendment. I doubt that it will pass. I will support it. I support what the Vice Mayor just said. We're going from tripling it to doubling it. It's pretty questionable, but I will be supporting it.

Mayor Burt: Please vote. That fails on a 5-3 vote with Council Members Wolbach, Scharff and Kniss voting yes.

**AMENDMENT FAILED:** 3-5 Kniss, Scharff, Wolbach yes

Council Member Wolbach: I do have a couple more amendments to offer. I'll try and make them really quick. I'd like to—hopefully a friendly amendment for market-rate single-family attached that we reduce the fee from—instead of the \$50 that we adopt a fee of \$35 per square foot.

Mayor Burt: I don't hear a ...

Vice Mayor Scharff: Second.

**AMENDMENT:** Council Member Wolbach moved, seconded by Vice Mayor Scharff to add to the Motion, "set the fee for market rate single family attached to \$35 per square foot with a reevaluation after one year."

Mayor Burt: Vice Mayor Scharff. Do you need to speak to that?

Council Member Wolbach: Nope.

Mayor Burt: Vice Mayor Scharff, you need to speak to it?

Vice Mayor Scharff: I'll speak just briefly. I don't really want to incentivize rental housing over market-rate housing. I want them both to be on an equal playing field, I think. I think this is probably a good idea. I was also struck when Leslye said we should probably start at \$25 and move it up. I would like to reevaluate this after a year. Would you put that in the amendment, that we could reevaluate where that fee should be? If we decide to phase it in.

Council Member Wolbach: I'm fine with that.

Mayor Burt: Council Member Holman.

Council Member Holman: Just a quick question to Director Gitelman. Isn't this one where you said—I shouldn't ask it that way. Is this one where you

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said if we were at \$50 a square foot, we're basically where we are at the seven and a half to 10 percent of the sales price?

Ms. Gitelman: This one would be also below what we would get if we charged an in-lieu fee under the current ordinance. The current ordinance, using the prototype for single-family attached, would be \$124,000 per unit. This would net us about \$105,000 per unit.

Council Member Holman: We're going backwards.

Ms. Gitelman: At \$50. I'm sorry. To go below \$50 would be quite a bit less.

Council Member Holman: We're going backwards. I certainly will not be supporting this.

Mayor Burt: Council Member Filseth.

Council Member Filseth: Everybody wants a fee cut, but it's going to get paid for out of affordable housing.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I just want to say I'm losing track of what we're doing here. I think we're taking money away from affordable housing. I'm not really sure why. We spent a year on this. I don't know. I think we should think about the numbers we're proposing.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I don't want it to get lost. I hope it'll go back into the main Motion. I think we should do exactly what the Vice Mayor just suggested, evaluate this after a year. We make these huge decisions without then going back and looking to find out how much more will we have in affordable housing at the end of the year. Will we be getting toward actually providing affordable housing? Also, will we be getting toward affordable housing that is beyond the just affordable housing amount? Just the kind of housing that somebody could afford, who moves here and just wants to buy a house. As many of you know who have gone looking at houses, it's pretty hard right now to find anything that's reasonable.

Mayor Burt: I will say that as I anticipate our trends locally and regionally, we certainly have severe demands on market-rate housing. We have new workers coming into this region month by month, literally by the many thousands if not tens of thousands. That new workforce is generally a very highly paid workforce. It's squeezing out the social and economic diversity

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that we had struggled to maintain in our region. I really fear that we're going to continue to hollow out any semblance of a normal balance to our region if we don't have different and more active measures to change that. I don't think the primary measure is to focus principally on market-rate units and continue to build office at the rate that we've building it, and drive the demand more and more, while we then chase our tails with trying to keep up with market-rate units for those new workers that have come to our region at the expense of people how have lived here and provide vital functions and are being driven out every month. I won't be supporting the amendment. Let's go ahead and vote. That fails 6-2 with Council Members Wolbach and Scharff ...

**AMENDMENT FAILED:** 2-6 Scharff, Wolbach yes

Council Member Wolbach: I'll offer only one more very quickly. I'll offer a friendly amendment for market-rate, single-family attached and market-rate condo to retain the 7.5 to 10 percent of sales price. I'm offering that because I do not want to go backwards. As I said before, at the risk of repeating myself again, I think we need to remember the problematic nature of going to the full feasible amount. Rather than go to the full feasible amount, which I'm opposed to for reasons that we should all understand, and not wanting to go backwards, I'd move again that with market-rate single-family attached and market-rate condo we retain the current 7.5 to 10 percent of sales price.

Council Member Kniss: I'll second that.

**AMENDMENT:** Council Member Wolbach moved, seconded by Council Member Kniss to add to the Motion, "retain the fee for market rate single family attached and market rate single family detached."

Mayor Burt: Did you need to speak further to your Motion?

Council Member Wolbach: I'll just say that the comments that were made opposing the previous Motion, I agreed with them. It brought me no pleasure. Hopefully this is something we could agree on.

Mayor Burt: Vice Mayor Kniss—Council Member Kniss.

Council Member Kniss: Hillary, we are doing that calculation correctly, right? What Council Member Wolbach is saying is let's go back to the 7.5 to 10 percent in order to make sure we're maximizing what we get from this particular single-family—the ones we've just been discussing.

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Ms. Gitelman: That's right. Going back to the current methodology would not address some of the objectives we had for this fee update. It would actually end up in the prototypes we've been discussing costing the developer more than if we went with the \$50 fee in the Motion.

Council Member Kniss: That's exactly what we want as the desired outcome. Thank you.

Mayor Burt: Council Member DuBois.

Council Member Dubois: I know it's getting late. I just feel like I need to respond. I asked this question. I think, Hillary, you said the operational costs of sticking with this far outweighed the benefits of sticking with it. For that reason, I don't think I'm going to support the amendment.

Mayor Burt: I think for reasons stated by members of the public who are affordable housing advocates, it's a tough call, but I'm not going to support this amendment. It's less clear to me, but I'm not going to do it. Let's vote. That fails on a 6-2 with Council Members Wolbach and Scharff—Kniss, excuse me, voting yes.

**AMENDMENT FAILED:** 2-6 Kniss, Wolbach yes

**MOTION AS AMENDED RESTATED:** Council Member DuBois moved, seconded by Council Member Holman to:

- A. Adopt an Ordinance updating the City's Below Market Rate (BMR) Housing Program by repealing Municipal Code Section 16.47 (non-residential projects) and 18.14 (residential projects) and adding a new Section 16.65 (Citywide Affordable Housing Requirements); and
- B. Adopt an Ordinance establishing housing impact fees and housing in-lieu fees for residential, nonresidential, and mixed use developments; and
- C. Find these actions exempt from the California Environmental Quality Act (CEQA) per Sections 15378(b)(4), 15305 and 15601(b)(3) of the State CEQA Guidelines; and
- D. Accept the Planning and Transportation Commissions' recommendation that Market Rate Rental Housing be charged a fee of \$20 per square foot.

Mayor Burt: Let's return to the main Motion. Are we done with discussion? Let's vote on it. That passes 5-3 with Council Members Wolbach, Vice Mayor

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Scharff, and Kniss voting no. It passes. Thank you all for your participation. We will be moving onto our next Item.

**MOTION AS AMENDED PASSED:** 5-3 Kniss, Scharff, Wolbach no

22. PUBLIC HEARING: Adoption of an Ordinance Amending the FY 2017 Municipal Fee Schedule to Reflect Development Services Cost of Services Study and FY 2017 Annual Adjustment.

Mayor Burt: Our next Item is a public hearing, which is an adoption of an ordinance amending the fiscal year 2017 Municipal Fee Schedule to reflect Development Services cost of services study and for fiscal year 2017 an annual adjustment. Welcome, Peter.

Peter Pirnejad, Development Services Department Director: We're just expecting one more Staff person, but we can start without them. First let me just introduce my new Senior Management Analyst, Brad Angell. He joins us almost two months now and has been picking up the pieces since my former manager went to Office of Management and Budget (OMB). She's still here, and we still have the benefit of that institutional knowledge. With that being said, the recommended Motion you have in your Packet before you is to follow through with the Finance Committee's recommendation that the Council adopt an ordinance, Attachment A, to update the fiscal year 2017 Municipal Fee Schedule to adjust Development Services muni fees based on the completion of a cost of services study and adjust it by the annual inflator applied to the municipal fees from fiscal year 2016 to Fiscal Year 2017. This Item went to Finance Committee on November 15th. Development Services presented it, and it was approved 4-0 without any amendments. We did have some deliberation around the cost of some of the fees. We talked through that as well as some potential help that might come along to seniors or people with fixed income that couldn't afford some of the fees. We have some news to share about that if the Council is interested. Simply put, I'll run through the PowerPoint just as a review.

James Keene, City Manager: Can I just jump in for a second, Peter?

Mr. Pirnejad: Yes, sir.

Mr. Keene: Let me go back to the 4-0 vote. The Council's policy typically is to put an Item on Consent, but this is required to have a public hearing, so we're here for the public hearing. In many ways, the Council might want to focus on the extent that this is the opportunity to hear from the public on this. It is coming with a 4-0 vote from the Committee. Thanks.

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Mr. Pirnejad: Thank you. With that, let's jump right to—I'll skip over this. The objective is really to be cost neutral. We're raising the fees to basically pay for themselves. All the Staff charges, overhead and direct charges are layered on top of the cost of the staffing and their compensation. We set the fee based on what it would cost to recover the cost of doing the work. What we're bringing forward is a recommendation to adjust the fees at 100-percent cost recovery. We did this by first collecting data, then building the cost structures, and then calculating the full cost recovery through the service, and then setting the fees according to that analysis. Dan Edds, our consultant is here to answer specific technical questions if you might have any, as well as the Office of Management and Budget is here to answer questions as well. With that, what I'd like to do is entertain any questions before I dive into any answers that we think you might have questions to. With that, I'll turn it back to the Council.

Mayor Burt: Are you saying that you have answers that you have teed up?

Mr. Pirnejad: We do.

Mayor Burt: Why don't you go ahead and just give us what you think we're going to ask, and then we'll ask what remains.

Mr. Pirnejad: We wanted to just follow up with some of the questions that the Finance Committee had. What if somebody's on a fixed income and can't afford some of the improvements that they want to do to their home? We did some research, knowing full well that there's nonprofits that help in this. Sure enough, Rebuilding Together, Habitat for Humanity are two nonprofits that will step in and help people with fixed income to address some of these critical needs. Brad can address some of these in more detail.

Brad Angell, Senior Management Analyst: Both organizations provide services here in this County and, if necessary, in Palo Alto. They usually have a maximum income that's allowed. For Rebuilding Together, their maximum goes all the way up to \$55,000 per year. It's about the same for Habitat for Humanity. It's definitely within the range.

Mr. Pirnejad: Finally, there was a question that came up about what would a typical cost be for a kitchen remodel, a bathroom remodel, a residential remodel. We did the math and basically came up with the current versus the proposed fee. In a kitchen remodel, the current fee is about \$1,800. The proposed would be \$1,883. Very minor change.

Mayor Burt: Wait a minute. Under the basis of our last Item's discussion, we're going to see more bathrooms and fewer kitchens?

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Mr. Pirnejad: Possibly. We just issue the permits. They come with what they want. We just try to expedite the process as best we can. Bathroom remodels, like I mentioned. Residential remodels are going from \$4,000 to about \$4,900. Minor changes. You'll notice that in a bathroom remodel the price actually goes down. Is that right?

Mr. Angell: Yes.

Mr. Pirnejad: Because we changed our per fixture fee. Good news in some cases. You might see more bathrooms. That's a good thing.

Mayor Burt: That cover it?

Mr. Pirnejad: That does.

Mayor Burt: Any questions? Vice Mayor Scharff.

Vice Mayor Scharff: This is sort of a practical question. I noticed plumbing fixtures. We used to charge \$3 each. Now, we charge—is that a flat fee of \$88? Is that how that works? If I have a bathroom and I have a shower, a thing. We were charging \$3 each per fixture, and now we're charging a flat \$88.

Mr. Pirnejad: Yes. We went from a per-fixture fee to a flat fee with the thinking that once you're on a job site, whether you check one fixture or 20 fixtures, you're already there. The cost of travel should be taken out of the equation. The cost to go and do the one fixture is a little higher, but we're assuming that you're going to be doing multiple fixtures when you're at the site doing an inspection.

Vice Mayor Scharff: This is my practical question. I'm in my shower, and I decide I don't really like this showerhead. I go onto Amazon.com, order a new showerhead, unscrew my showerhead, screw the new one on. Would I need a permit for that?

Mr. Pirnejad: I don't know. Do you do it with the lights on or off?

Vice Mayor Scharff: I don't know. If I do it with the lights off or on ...

Mr. Pirnejad: I could bring my building official to ask specific questions about what would require a permit.

Vice Mayor Scharff: My question is a serious one.

Mr. Pirnejad: For a showerhead, no. (crosstalk)

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Vice Mayor Scharff: This is a fixture. It says fixture, so I'm confused as to if we're requiring people to change it out.

Mr. Pirnejad: A toilet would be another example. You would need a permit to change out a toilet. There would be a flat fee for that toilet exchange.

Mayor Burt: On that shower fixture, I see maybe one of your Staff members is ...

Mr. Pirnejad: George Hoyt is our Chief Building Official.

George Hoyt, Chief Building Official: Good afternoon. Good evening, I'm sorry. To answer your question, Vice Mayor Scharff, you would not need a permit to simply change out that showerhead. However, as a good citizen, we would expect you to install one that meets the minimum flow rates for water conservation by the State.

Vice Mayor Scharff: Of course. That's why I would be changing it out.

Mr. Hoyt: Exactly. Technically, for a toilet you really don't need a permit to do that. The reason why we reduce the per fixture—increase per fixture is because we're moving to a valuation-based fee. Currently, we are charging a valuation-based fee on these type of permits. Now, we will just be charging this minimum fee of \$88 to go out and do the inspection. That recovers the cost of the inspection.

Vice Mayor Scharff: I've got one other question that's practical like this. This happens to people all the time, and I hear about it. It's happened to me before in the past. Your water heater goes out, and there's water all over the floor. What are you doing? You are calling someone that night. They come out and replace your water heater. Before it looks like it was a \$5 permit fee. Now, it's a \$105 fee. Water heaters are like \$80 if I recall. Maybe I haven't bought one in a while.

Mayor Burt: You haven't bought one in a while.

Vice Mayor Scharff: I guess I'm really just wondering how we go from \$5 to that much. I've installed my water heater. Now with a big price like that, am I really going to call you and have you come out?

Mr. Pirnejad: That's a good question. I don't mean to raise eyebrows. The \$5 fee to inspect a water heater means that we're collecting fees for other permits and subsidizing the water heater fee. What we're trying to do is make sure that every fee stands on its own and it pays for the services that it would receive. We're not bleeding permits, some to subsidize others. The

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actual cost of sending an inspector out to inspect the water heater with all the overhead is reflected in the proposed fee. Now, we do understand that the—could this potentially affect the number of people that get water heater permits? It's hard to say.

Vice Mayor Scharff: How important is it to get a permit on your water heater?

Male: It's when you do an after-the-fact inspection.

Mr. Pirnejad: If the question is can you change your water heater on the weekend and then come in on Monday and get a permit, sure. We would want you to do that. To the point of is this going to affect the number of permits that we get, as it is I don't think we get every water heater that gets replaced. They have a 10-15 year lifespan. We have tens of thousands of water heaters in the City. We don't get tens of thousands of water heater permits. Is this fee going to change that? Probably not.

Vice Mayor Scharff: Thanks.

Mayor Burt: Let's go to the public. We now open the public hearing. We have one speaker card from Elena Levitsky Kurotrina. Excuse me.

Public Hearing opened at 9:35 P.M.

Yolanda Levitsky Kurochkina: It is what it is. It's my legal name. Hello. Good evening again. Thank you for all of you being here and putting all of your thoughts today into the new project developments for year 2017 and talking about below-market rental units and further down reflect Development Services cost of the services study. What I like to bring to all of you attention, project developments for community cost, is it ever going to be transferred into—apartment buildings transferred into the CIDs? We're talking about major issue in Palo Alto, which is scarcity of the land. To talk about two or three newly developed homes in the future, in 2017, and to waste all of the times and minds into three homes, built homes, I think it's a little bit ridiculous. Did anyone ever give a thought to transfer some apartment buildings into CIDs, common interest development? And to apply some costs into the—is the builders? I cannot understand yet who is the builder or who will be a project manager into ... As I said, scarcity of the land, where to go unless people stop moving into Palo Alto and perhaps find different lands. We're in Silicon Valley. After Silicon Valley, there is California. After California, there is Oregon, Washington State, and then the East Coast, in the Central. What I see right now, it's a little bit of tightness and neatness into one or two projects. I don't see actually handling really cause of the meetings. Thank you.

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Mayor Burt: Thank you. Our next speaker is Stephanie Munoz.

Stephanie Munoz: Let me share with you my experience with the cost of permits. I have a rental in Mountain View. The tenants had a very teeny-tiny fire in a television. It just got some smoke around. No big deal. The insurance took care of it, no problem. However, the firemen came in; they smashed the electrical panel, and they wet down the walls. That made it necessary to replace the electrical panel and replace the wall board. The tenants said, "This might be a good time to upgrade the 60-year-old, knob electrical wiring since the sheetrock has to come off anyway." I said, "Sure. I'll call." Biggest mistake of my life. I called the building department and I said, "I want to know what your new requirements are, because I'm going to upgrade the electricity in my little house." I thought they'd be delighted. "We don't tell you that," he said. "No, no," he said, "You come in with a drawing of what you want to do. If we approve of it, we'll give you a permit. By the way, the permit doubles if you start work without a permit." I said, "By the way, where is this house?" Of course, they knew where the house was because we had to replace the electrical panel. I said, "I'm not really sure I want to bring you into this at this point. Maybe I won't replace the electricity." They were out there the next day. On their first attempt, they were turned away by a workman who was there. He said, "I'm so sorry. I can't let you in, but I'm sure the owner will. Just let me call her." Off they went, leaving behind a stop work order, which is also a subpoena. I went to them—I want to give you the punchline to this. It turned out they also wanted me—the tenants had also taken a bathtub out, and they wanted me to have a permit to put the bathtub back. It was going to be \$1,000. Give me a break. I will not do it if it's against the law, but I'm not going to rent this out. My husband and I are just going to live in it. It's our little retirement place. "No," said Shelly, "You can't live in it. You can't do anything except amass fines and amass fines until finally the house is boarded up." I thought, "My God. Is this the United State of America that I'm living in? We sent off young men to die so that people wouldn't have to suffer communism." It was one of the bad days ...

Mayor Burt: Thank you.

Ms. Munoz: ... of my life.

Public Hearing closed at 9:41 P.M.

Mayor Burt: We will now return to the Council. I'll entertain a Motion. Vice Mayor Scharff.

Vice Mayor Scharff: This is my actual concern with this whole thing. It seems designed for people that are doing major or minor remodels for the

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most part. I just want to make sure that for your individual, one-off things, we're not creating the price too high. I have some concerns about things like—I don't know what they mean, outside cooking booths. Does that mean if we have a block party and someone brings a pizza oven, is that an outside cooking booth? These fees go up quite dramatically for some of these things.

Mr. Pirnejad: What I can say—I can turn it over to Dan for a more detailed explanation if you so choose. What we tried to do is go through our entire permit process, all the different types of permits that we issue, and look at non-valuation-based fees, the fees that are issued to a specific type of work, a fixture, a switch, a this, a that, and looked at exactly the time and Motion it would take to actually provide that permit. Both the plan check aspect as well as the ...

Vice Mayor Scharff: I understand what you did. I guess my concern is are we going to be stopping community activities and things like that. I notice we now have a special events fee that we never had before. Is a block party a special event?

Mr. Pirnejad: Let me turn to ...

Vice Mayor Scharff: When was it? We put in that you can get money from the City to do a block party. Are we now going to charge a fee to do that of like \$400? Is it a special event or are these not special events? I just don't want us to do things tonight that I don't know what we're doing.

Mr. Pirnejad: Maybe you can help. What Page are you referring to?

Vice Mayor Scharff: I'm on Packet Page 1025 at the bottom. The last Item is special events fee. It says new, \$368.

Mr. Keene: Can you see the baseline Page number or not, Greg?

Vice Mayor Scharff: No, I can't because we write over those.

Mayor Burt: It's 22A.

Vice Mayor Scharff: They're all 22A.

Mayor Burt: I'm sorry.

Vice Mayor Scharff: It's the last page of your fee schedule, if that's helpful to you.

Mr. Pirnejad: Which fee are you referring to?

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Vice Mayor Scharff: We have a new fee, the last one. It says special events fee, which never existed before. It's not just that; that's a clear one. My broad concern is—we actually give neighborhood grants to have block parties and stuff like that. I just don't want us to be—because we're so focused on having this cost recovery, it's fine if you're doing a remodel. Are we damaging our ability to have block parties? Are we taking the fun out of Palo Alto?

Mr. Keene: Are we adding new fees to situations that we haven't done before? Forget the pricing.

Mr. Pirnejad: Not that I'm aware of. These are all amendments to fees that are already in place.

Vice Mayor Scharff: There was no special events fee before.

Mayor Burt: That's new.

Mr. Pirnejad: The special events fee was ...

Mayor Burt: It says new.

Mr. Pirnejad: I'm sorry. Now I just see that.

Mayor Burt: There's others that say new. Look above it.

Mr. Pirnejad: There's deleted. We consolidated some, and we added others. Maybe I can have Dan and George come up for a minute and see if we can address some of these. Our intent was to learn—the last time we did a fee study was in excess of 10 years ago. A lot has changed since then. Many Code cycles have changed since then. New requirements have come on line. Our intent is not to stop block parties. Our intent, for example, if there is a tent going up, to make sure that that tent doesn't collapse on people. That's the intent.

Vice Mayor Scharff: I realize that's not your intent. Now there's a food truck fee in here too, that Council Member DuBois just mentioned to me. I like having food trucks at these things. I don't think I can support this unless we have a clear sense of—you come back to us and say these are the ramifications of doing that. I don't want to be that person up here that I don't pay attention to what happens here. Now people are not having block parties. Take Halloween, is that a special events fee now that we close off those blocks in Old Palo Alto, which is a great community activity?

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Mr. Keene: Let's just see if the Fire folks can talk. A lot of this is guided by the need for the Fire Department to come out and do an inspection. Clearly there is a threshold that you have to reach before that happens.

James Henrikson, Fire Marshall: Good evening. Vice Mayor Scharff, to answer some of your questions. The special events, there's a whole Committee that—a special event comes into the Police Department. There are members from Planning, Police, Fire, etc., that weigh in, in terms of how big of an event this is. We're not talking about a backyard party, for example. We're talking about when HP had the 20,000-square-foot tent that cost ...

Vice Mayor Scharff: How about Halloween?

Mr. Henrikson: Halloween where?

Vice Mayor Scharff: Halloween in Old Palo Alto, when we block off a little part of Waverley and then Waverley Court and those streets. How about that?

Mr. Henrikson: The Committee gets together, and it's based on how large the tent is, whether it needs to have an engineer come out and make sure it's not going to blow over and kill people, which has happened in parts of the country. How many ...

Vice Mayor Scharff: There was no tent on Halloween.

Mr. Henrikson: No tent. Is there going to be generators? Is there going to be cooking booths? Is there going to be electrical cabling run? It's really on a case-by-case. This is not meant to be prohibitive by any means. For instance, the tent is for much larger structures that actually have to be secured to the ground. It's to verify that they are structurally intact, and they're not going to get picked up and injure people. Most of these fees are only kicking in once the Committee comes back and says, "They're doing a 20,000-square-foot tent. They have four generators. They have 27 food trucks. We need someone to go out and just make sure that they're lined up so that we have means of egress." It's not for the small neighborhood events.

Vice Mayor Scharff: Why do we need a food truck fee? If I have one food truck come to a neighborhood event, we now have a \$180 fee for that? That's the way I read this.

Mr. Henrikson: No, that's not the way. Again, it's based on the way that the Committee builds it out.

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Vice Mayor Scharff: It doesn't say anything for special events for the food truck. It just says food truck permit.

Mr. Henrikson: I know. That's a little vague and ambiguous in the naming. We would have to get you a better vetted program from the Special Events Committee.

Mr. Keene: Can I just jump in? When we're looking at a special event, this isn't the only issue we deal—we deal with issues other than, say, basically fire safety or building inspection kinds of concerns. As a matter of fact, much of what we do is just approval of a street closure, for example. The fact that folks will go out and put up picnic tables or whatever and serve food, have some lanterns or whatever it is, any of those sorts of things are not at all in this category.

Mr. Henrikson: Correct. 90 percent of neighborhood events do not make this threshold. This is for the large events, like I said, where there's going to be cabling that people could trip over, large generators that could start fires in conjunction with cooking booths. More like the art and wine festival or, for example, the Gilroy garlic festival. Things where you have large numbers of vendors and you're just trying to make sure that the public is not put in harm's way. For the smaller events, Fire and Police, as City Manager Keene pointed out, go out and just confirm that it's a safe event. These fees are not applying to those small events. It's only when the Committee weighs in and says, "You've reached thresholds." They're not written here, and I apologize for that. We can sit down with the Special Events Committee and have some form of rubric brought up.

Mr. Keene: Could we also, if even need be after the fact, just get a report on the number of these special event permits that we actually give, that (crosstalk) to cost. My impression is ...

Mr. Henrikson: The number is very low.

Mr. Keene: ... that it's very low.

Vice Mayor Scharff: You're saying then that the food truck permits that you have here are only for special events. They don't apply if I have a neighborhood (crosstalk)?

Mr. Henrikson: Correct. There's a discussion going on countywide in terms of we don't want to discourage food trucks, but we want to make sure they are permitted at some level in terms of their fire suppression, their venting, where they're keeping their extra propane tanks. The discussion on a countywide level is still ongoing. The discussion is leaning towards having

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the health department include four or five criteria for the Fire Department in their annual inspection. We would not charge a fee; it would just be built into the health inspection fee. This is again for a very large event where you're going to have, say, 20 trucks. It's to go out and make sure that the way they're laid out and where all the extra propane tanks are being stored is safe, there's a means of egress, and people are not going to be put in harm's way. This is not for small events. It's not for individual food trucks being permitted.

Mr. Keene: Let's just separate out the fact that there's a permitting process for a food truck that is done, say, once a year or whatever. That's very separate from any special event. It's not like every time you get a food truck, if you had it come to your neighborhood, you have to have an inspection or whatever. What you're really saying is beyond the regular food truck permitting that's a requirement to be able to operate a food truck. If you have some Woodstock of food trucks, trying to deal with all the compounded impact of it as far as all the electricity or generators or whatever it is.

Mr. Henrikson: Correct. Forgive me for bringing up the countywide portion, but that's just to reiterate that we're looking at that as part of the health inspection. The food trucks will be able to come and go to neighborhood events and whatnot. It's just for the very large events where you're going to have a food truck area, that the Committee can then choose to go that route.

Vice Mayor Scharff: Thank you.

Mayor Burt: Council Member Holman.

Council Member Holman: Maybe we owe some apology here. When this came to Finance, we really focused on the Development Center fees and didn't really pay much attention to the kinds of things that Vice Mayor Scharff has brought up. I have had a number of people tell me that the Know Your Neighbor grant is pretty much gobbled up by fees that people have to pay to have block parties and neighborhood parties. I don't know quite what to do with this. I see the very last thing here is air-supported structures. Does that mean a play structure? The fee now is going to be \$782. There are inflatable structures that are part of parties all the time.

Mr. Henrikson: The air-supported structure is the term in the Code. It's really, in our fee schedule, for the large tents. Again, the 20,000-square-foot Hewlett Packard party tent, where structurally it needs to be approved by an engineer, the way it's secured to the ground, so that updrafts, winds

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don't blow it off the ground. I think we're talking tents in excess of 200 square feet need to be evaluated.

Council Member Holman: It says tents and canopies. It doesn't talk about air-supported ...

Mr. Henrikson: It's not talking about your inflatable jumpy house. That's not ...

Mayor Burt: 200 square feet is 10 by 20. Something that's 15 by 15 exceeds it.

Mr. Henrikson: That's just direct from Building Department in terms of evaluation of structural integrity and them picking up off the ground. It's not ...

Mayor Burt: (crosstalk) every time it's used, right?

Mr. Henrikson: That would be ...

Mr. Pirnejad: Every time it's installed, not every time it's used. If it's installed once (crosstalk).

Mayor Burt: That's what I'm referring to when I say used. It's not an individual user that I meant by that.

Mr. Hoyt: Mayor Burt, I would say that the majority of these smaller tents we're not aware. They're erected; they're utilized; they don't come to our attention. If they go through the special event process, where they're these larger events, we get involved in Development Services, Building Division and Fire to review them and make sure they're safe for life safety aspects.

Mayor Burt: Let me just say that I'm hearing and to some degree share concerns that, on the one hand, you're saying that there's a Committee and there's a lot of subjective judgment that's exercised. We're also hearing that there are—I've heard of others myself—occasions where some of this is stifling, whether it's block parties or neighborhood events. We really don't seem to have not just lack of clarity on the boundaries, we don't even seem to have much in the way of the boundaries except some boundaries that are literally over-restrictive but not necessarily routinely applied. I always hate laws that are written real restrictively but say we don't enforce it or we only enforce it some of the time. I want to ask how can this set of concerns be addressed and is there a way to approve this update tonight and loop back in a timely manner with some better guidelines for how these various discretionary approvals are addressed.

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Mr. Keene: I think we can do that too. I think that, concurrent with this but post even coming back on that, I'd like to be sure we really have a good process for folks being able to complain to us or comment without any difficulty, so that we have a way to continuously learn from what the experiences are. We're going to have to set some thresholds or dividing lines. We may find we do need to modify them if it still was over-restrictive or whatever. We need to be able to hear from folks that it's really interfering with things or whatever. I think we'll come back, we'll loop back, we'll do our best estimate. We'll even have a count. I know we sort of think we like the party. I don't think parties are breaking out all over Palo Alto all the time, and we have just lots of these that are really in or out. I think we could get you some data on at least what we're doing on the permit side. That always feels a little different from whether it's permitted or not. That's a whole different issue. That's on anything, whether or not somebody goes and gets a permit.

Mayor Burt: I want to loop back to one earlier question that Vice Mayor Scharff raised on this example of a single plumbing fixture fee formerly versus a flat bathroom rate. I understand to a degree from a cost recovery basis if you've got a whole bathroom that you're going to inspect versus one fixture. You've got your transit costs and you're setting up the appointment. Those are all fixed costs. I have a hard time thinking that it's really quite the same cost for one fixture as a whole bathroom. It's not the linear rate that we had formerly of ten fixtures cost ten times as much as one. We also need to consider another factor besides pure recovery, which is are we setting up a system where there's either an unfairness. If somebody's got one fixture they want to replace, they're going to pay an enormous fee or a high fee, far exceeding the cost of the fixture. Our inspection fee far exceeds the cost of the fixture and the installation. Something seems wrong there. I understand from your cost recovery rationale why that's approximately the case. Second, are we setting up a situation as a result of that where people aren't having them inspected or we're encouraging people to violate our Code. I don't think that's a good thing either. I think we've had too narrow of a set of considerations in setting these fees, whether it be the special events or the ones I just cited. Now, I'm struggling with what do we do tonight. Is there a way to go forward or should we really have this loop back? If we don't go forward, some of these are updates and increases in costs to reflect our increases in costs. Others are substantive changes. It's the substantive changes in how we calculate and what we charge against that we're struggling with, not that you have a five percent increase in your total cost this year and you have to pass along five percent. We'd like to be able to go forward with that. I think we've got some problems with one criterion for a given fee when there maybe should be several.

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Mr. Pirnejad: Like I mentioned, the last time these fees were updated was over a decade ago. What we're trying to do is make sure, when we looked at the fee study, that we address all the different types of fees. Albeit the fee schedule that you have before you is probably one of the most complicated fee schedules that I've seen in my 20 years in government, because we've tried to be as specific as we can to all the different nuances and categories of fees, which is part of the reason we've had so many different categories of these special event fees. Would we charge a fee for every single thing that's one? No, that wouldn't make sense, because then the fee would be astronomical. There is a level of judgment. With these type of fees, they are fixture fees. They are per fixture or per thing that we're charging. There is some judgment that's going to be had when we're collecting the fee. Secondly, what we're trying to do is make sure that the department is cost neutral. Right now, with fire prevention ...

Mayor Burt: I think we're completely on board on the cost neutrality concept. We need to have that balanced against some other issues. I'm not sure we yet have that balance. Let me turn to Council Member DuBois, see if you've got a thought on how to proceed.

Council Member DuBois: I just have a question. Maybe we're missing some information. Is there a threshold of project that requires a permit? To Vice Mayor Scharff's earlier question about replacing a showerhead, most of this looks like it's for major remodeling or minor remodeling.

Mr. Pirnejad: Forgive me because I didn't give the entire background. Maybe it would help to explain that this is going to be a two-part process. The first part, we're looking at non-valuation-based fees. These fees are based on fixtures. The next phase is going to be looking at valuation-based fees, which look at an entire structure and say the cost to build this structure would be X, and the building permit would be based on that number. These fees are a bit more ...

Council Member DuBois: For an existing structure ...

Mr. Pirnejad: ... intricate. They don't address every situation because there's the valuation-based fees, which is 80 percent of our revenues. This is only 20 percent, so it's a very small piece of our total revenues.

Council Member DuBois: Is there a threshold of what defines a project that requires a permit?

Mr. Pirnejad: Absolutely, yes. The ICC definition. We can have our Chief Building Official explain.

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Mr. Hoyt: I don't have the ICC definition with me, off the top of my head. The bottom line is the Code does have exceptions for general maintenance. Replacing a fixture when it's gone bad, replacing a toilet when it's gone bad, a showerhead when it's gone bad, electrical receptacle, you do not have to come in a get a permit to do that type of work. It's when you're putting in a new shower or you're putting in a new tub and you're adding that fixture and the associated plumbing or the associated electrical; that's when you need to come in and get a permit for the work. That's what these fees are created for, to recoup those inspection costs of going out and providing that inspection.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: I think Mayor Burt summed it up well. We don't want to do any harm to a lot of these neighborhood events and other things. We want to understand this a little bit better. I would like us to go back to Finance. I guess that's where it came from, right? To go to back to Finance with the guidance to Staff to look through these fees, make sure that they don't affect events, try and make them less judgment. I'm totally with Mayor Burt on that. It seemed that you could pile on a bunch of fees or you could not. It's a bunch of judgment. I hate the idea that I come in and get the wrong the person at the counter, and then—I'd like a lot more of that. You've heard the discussion. Come back to Finance, and let's get this done.

Mr. Keene: Can I make a suggestion? If that's what you want to do, that's just a small portion of these fees. Why don't you direct us to remove the special event-related fees. We'll look at it and say that includes—if I get the bouncy house to come to my house or if there's a block party.

Mayor Burt: I think that's good. What about this category? I haven't really waded through these enough to know how many circumstances where we're basically charging an average fee for, say, a bathroom if you only need a single fixture. That's another category that I'd like a second look at.

Mr. Pirnejad: Could we possibly address that question with our expert since he's here? How we approach the fixture fee, the old versus the new, might give some clarity ...

Mayor Burt: If we can do that real quickly.

Daniel Edds, Capital Accounting Partners: Thank you. I'm Dan Edds with Capital Accounting Partners. It was my privilege to provide the cost analysis. What I'm hearing is really what is the definition of a fixture. I think George did a really good job. It's not routine maintenance kinds of changing out fixtures. It's not changing out the faucet and the shower.

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Correct me, George, if I'm wrong. It's you change out the entire shower, and there's various fixtures that have to go in that along with the plumbing and the electrical. It's doing all of that. It's not swapping out small faucets.

Mayor Burt: Is that written somewhere?

Mr. Edds: It is written, George, in the California Building Code?

Mayor Burt: That's a definition of a fixture in the Code?

Mr. Edds: He's the expert.

Mr. Hoyt: A fixture would be a toilet, a shower component, a lavatory.

Mayor Burt: It's clear somewhere in our Code?

Mr. Hoyt: Yes, it is.

Mayor Burt: It's not judgmental?

Mr. Hoyt: It's not judgmental. It's actually a definition of a fixture. It's in the body of the Code under definitions.

Mayor Burt: That's helpful. Thanks.

Mr. Hoyt: I think one thing that we're not considering is our current practice that says I was going to install a new shower. I would have charged the shower fee as it was, which was very low, and an established valuation from the contractor to install that. Use the valuation table to come up with that fee. For instance, I wouldn't be charging a \$5 fee to install a shower and get a permit. I'd be charging a \$50 fee that is based off the valuation and the fee. We're in the current process of trying to create these valuation-based fees for new construction and these non-valuation fees for smaller components such as kitchen remodels and bathroom remodels.

Mayor Burt: Thank you. I'll just add if we have a Motion that directs a portion of this back to Finance rather than the whole, I don't want Staff to feel like we're asking for everything to be explicit. I would think it's probably going to be more appropriate to have written guidelines that describe the boundaries rather than try to say here's the exact place if you're 210 feet of a jumpy house, you've got a permit. If you're 190, you don't. I think that's also misguided. I think there does have to be some judgment. Right now, it's just like whatever the Committee decides as opposed to here's the framework in which we say approximately this is a little event and this is a medium event and this is a large event. How do we

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describe those things? I don't think the other is very feasible either. That's probably why you've built in something that has this much subjectivity.

Mr. Hoyt: I would just add one thing, Mayor Burt. That is in one of our work plans for 2017, to coordinate between Building Division and Fire Division to establish that guideline.

Mayor Burt: You want to take another crack at it?

Vice Mayor Scharff: I do. I don't want to be too prescriptive. I was going to really just say come back with this Item to Finance to address the concerns raised today.

Mayor Burt: The City Manager's request was to carve out the areas that we have concerns on and allow the balance to proceed.

Mr. Keene: You need to adopt the program as identified with pulling out the events-related items. We'll have that report at Finance. If somehow we didn't go far enough or whatever, we can deal with it then.

Vice Mayor Scharff: What you're suggesting is that we adopt tonight, but we carve out any issues relating to ...

Mr. Pirnejad: Special events.

Mayor Burt: Special events.

Vice Mayor Scharff: ... special events or that might impact neighborhood block parties or that might impact ...

Mayor Burt: Why don't we just say community events?

Vice Mayor Scharff: ... community events. Your issue on the one-off thing, do you feel ...

Mayor Burt: I'm okay now.

Vice Mayor Scharff: You're okay on that. Why don't we do that?

Mayor Burt: I'll second that. Do you need to speak further? I don't either. Council Member Wolbach.

**MOTION:** Vice Mayor Scharff moved, seconded by Mayor Burt to adopt an Ordinance to update the Fiscal Year 2017 Municipal Fee Schedule to adjust Development Services Municipal Fees, based on the completion of a Cost of Services Study and adjusted by the annual inflator applied to Municipal Fees

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from Fiscal Year 2016 to Fiscal Year 2017 with the exception of Fees that could impact community events.

Council Member Wolbach: I just wanted to follow up because I also share this concern. I was a little uneasy when it came to Finance before. The term I heard used was general maintenance or routine maintenance. There's a general maintenance exception currently. I just wanted to make sure I was really clear. That's in our Code; that's in the State Code. If it's in the State Code, it's at least referenced by our Code?

Mr. Hoyt: That is in the State Code, and it was adopted just a couple of months ago. It'll be effective—the new version will be effective January 1st.

Council Member Wolbach: Is there any explicit reference to that in our Code or it's just kind of assumed?

Mr. Hoyt: It's in the State Code as we have adopted it.

Council Member Wolbach: That sets me at ease on that issue. Thanks.

Mayor Burt: Council Member Holman.

Council Member Holman: There needs to be something else that's clarified besides the special events. I don't think I misunderstood this. At Finance, Council Member Wolbach and I struggled with this. If we're just going to swap out a toilet, swap out this or that—we had this conversation about maintenance, which is very different than the conversation that we've had tonight. As I've understood it this evening, if you're going to replace a toilet that's gone bad or if you're going to do an environmental upgrade, you wouldn't be charging the \$81. At Finance, we were told you would be charging the \$81. We even did a thing about—one of us went online and said a new toilet basically costs X amount of dollars. We were adding like half again the price of the toilet to it. There's a disconnect between what we were understanding at Finance and what we're being told tonight. Somehow or other that needs to be clarified.

Mayor Burt: You have to convert that into an amendment to the Motion to have it actionable.

Council Member Holman: The amendment would be for Staff to return with Finance with clarification about what a project is and what a repair is. Maybe you have different language.

Mayor Burt: Is that acceptable to the maker?

Vice Mayor Scharff: Yes.

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Mayor Burt: It's fine with me too. Council Member Schmid.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "direct Staff to return to the Finance Committee with a definition of a 'Project' versus maintenance."

Council Member Schmid: That took care of the issue I had.

**MOTION RESTATED:** Vice Mayor Scharff moved, seconded by Mayor Burt to adopt an Ordinance to update the Fiscal Year 2017 Municipal Fee Schedule to adjust Development Services Municipal Fees, based on the completion of a Cost of Services Study and adjusted by the annual inflator applied to Municipal Fees from Fiscal Year 2016 to Fiscal Year 2017 with the exception of Fees that could impact community events. Direct Staff to return to the Finance Committee with a definition of a "Project" versus maintenance.

Mayor Burt: We have a Motion before us that seemed to capture things correctly. Yes?

Vice Mayor Scharff: Yep.

Mayor Burt: Let's vote. That passes 8-0. Thank you all very much.

**MOTION AS AMENDED PASSED: 8-0**

Mr. Keene: Two more items and then a Closed Session, correct?

Mayor Burt: Yeah. Two Closed Sessions, yes.

23. Resolution 9653 Entitled, "Resolution of the Council of the City of Palo Alto, Colleagues' Memo Reaffirming Palo Alto's Commitment to a Diverse, Supportive, Inclusive, and Protective Community."

Mayor Burt: We have the next Item which is a Colleagues' Memo reaffirming Palo Alto's commitment to a diverse, supportive, inclusive and protective community. I think we all have the Memo before us. We don't need to really recite or reiterate what is in the body of the Memo. Let me turn to Council Member Wolbach. Would you like to add anything beyond what's in the Memo?

Council Member Wolbach: Could we go to the public first on this one?

Mayor Burt: First, I'm going to you. You can decline. That's how we're doing it. If you want to speak to the content of the Memo, to introduce it

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any further, I'm providing you that opportunity to do so. If you don't, that's fine. Then, we'll go to the public, and then we'll come back to the Council.

Council Member Wolbach: That sounds good.

Mayor Burt: I see no lights, but I don't have speaker cards, do I? This group up here. Sorry. We have a lot of speakers. It's a late hour. First, I'll just encourage people to be as succinct as we have not been. Each speaker will have up to 2 minutes to speak. Our first speaker is Bonnie Packer, to be followed by Alice Smith. Welcome.

Bonnie Packer: Good evening again, Mayor Burt, Council Members. I'm Bonnie Packer, President of the League of Women Voters of Palo Alto. I want to say that the League of Women Voters at the national, State and local levels believes that no person or group should suffer legal, economic or administrative discrimination and that due process should be afforded to all persons including the right to a fair hearing, a right to counsel, right of appeal, and a right to humane treatment. For these reasons, the League of Women Voters of Palo Alto urges you to adopt the resolution of the Council of the City of Palo Alto to affirm Palo Alto's commitment to a diverse, supportive, inclusive and protective community. Thank you.

Mayor Burt: Thank you. Anyone else who wishes to speak needs to bring a card forward at this time. Alice Smith to be followed by Valerie Stinger. Welcome.

Alice Smith: I'm very pleased to be here to speak on this. I'm happy that Cory came out with what he's done. I sent a resolution to you all two weeks ago, which was the San Francisco resolution, which is perhaps a little more specific. However, I'd like you to also go to the business community in Palo Alto, to the entire community that supports Palo Alto to encourage that no person in Palo Alto will be asked to sign any register based on their national origin, on their religion, on their sex, on whether or not they take abortion seriously or not, whether they support the environment or any other cause. We live in America. I want you to be encouraging every person to vote. I want you to make sure that citizens are recognized. I want you to support undocumented. I want you to support the police practices, which are outstanding. If you look at the Palo Alto Police procedures, they do not ask such questions as what is your citizenship. They go investigate what the crime or the reason they've been called. They do not take into account what your citizenship is. I encourage the City to continue all those policies and to go further, to make sure that no one in Palo Alto will ever be discriminated on the basis of race, religion, color, creed and all of us have the right to assemble, that we have the right of free speech, that we support our press,

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that we make sure that anyone who speaks will have an opportunity to speak regardless of what their basis of anything is. What I see in America right now is very unsettling. The fact that they put people in charge of natural resources who are exploiters of resources instead of protector of the public, we have a duty of care. I know Palo Alto will stand forward, but I want you to get the business community to stand forward, and they won't pass on any names. I think you need to really take an assertive position here. Thank you.

Mayor Burt: Thank you. Valerie Stinger to be followed by Jane Stern.

Valerie Stinger: Good evening. It's Valerie Stinger. You may know me from the Human Relations Commission, but I'm speaking tonight as an individual. I wanted to speak to thank the initiator and the collaborators for this resolution. I think it's always valuable to examine and recommit to our values. This strongly speaks to the diverse and inclusive community that we are. The Human Relations Commission is committed to a community of tolerance and respect. We have several activities ongoing, which I wanted to describe quickly to you. The first is a forum that's following up on a forum that we did in March on Being Different Together. That forum looked at implicit bias. We're going to be running a series of community events beginning in February that's called Being Different Together: Taking the Conversation Deeper. Our objectives are to build a community which can talk through difficult issues, create an opportunity to network and develop a dialog about diversity in Palo Alto, to grow personally in our ability to listen and appreciate diversity, and to become a model City for respect and tolerance. Individual Commissioners have also supported other community groups. We have just recently endorsed a community program that will address immigrants and allies, and that will be held in January. Thirdly, we have a subcommittee that will be beginning an exploration of workers' wellbeing in Palo Alto. Finally, our January Agenda, we'll be looking at a discussion about priorities and our work plans related to building a community of tolerance and respect. These are some of the activities which are ongoing. I believe they give legs to this resolution. I support this resolution, and I look forward to your observations and suggestions to the HRC to implement the spirit of this Colleagues' Memo. Thank you.

Mayor Burt: Thank you. Our next speaker is Jane Stern, to be followed by Jerry Schwarz.

Jane Stern: Good evening. This will be short and personal. I'm speaking in support of the Memo to reaffirm Palo Alto's commitment to a diverse, supportive, inclusive and protective community. I've been a high school guidance counselor for most of my adult life. I've seen the power of the

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dream act. I've worked the last five years in East Palo Alto with women who have been living in the shadows, so their children might succeed in a world that's very competitive. Last but not least, I am but one generation away from a Holocaust survivor. We must do something, and we must do it at the local level, and we must be loud. Thank you for considering this resolution.

Mayor Burt: Thank you. Jerry Schwarz to be followed by Lisa Craig.

Jerry Schwarz: I am in complete support of the spirit of this resolution and of the thoughts that go in it. I would like to see some concrete action behind this. I have two ideas, both of which should probably go to Staff in some form. Santa Clara County last week began the process of adopting procedures to support immigrants in legal cases or in deportation cases. I was at that meeting, and there was some mention of cooperation with cities, specifically with San Jose. I'd like to see some Motion towards cooperation with Palo Alto. I don't know what form that would take, but I'd like to see it investigated. The other thing I'm concerned about is bigoted graffiti. I don't know what procedures are in place in Palo Alto for dealing with that kind of thing. Many years ago I reported some scribblings on a sidewalk, and they were cleaned up in a week or two. If that's happening again, I'm pretty sure there's graffiti appearing; although, I don't have any specific incidents. I think it would need some attention to make sure that that kind of graffiti gets cleaned up. I'm sure there are lots of other things that people can think of. I'd like to see some direction to Staff to look at actions that can support this Memo besides just the good words.

Mayor Burt: Thank you. Lisa Craig to be followed by Kari Barclay.

Lisa Craig: Good evening, City Council. Thank you for your time. My name is Lisa Craig. I'm a Barron Park resident. I'm here with my colleague, Kari Barclay, from Stanford Sanctuary Now. We've been working to try to build a bridge from Stanford through Palo Alto to East Palo Alto and create a sanctuary region. We'd like to extend that out to Menlo Park. We know there's a movement there and in Redwood City. We'd like you to consider not only supporting this Memo but also supporting the notion of becoming a sanctuary city and reaffirming our commitment to that movement and bridging out to other communities to, again, try to create a region of safety for our community, where people are feeling very threatened and children are concerned about their parents disappearing. Again, this political climate is very concerning. I think January would be a great time to declare ourselves a sanctuary city. Thank you.

Mayor Burt: Thank you. Kari Barclay to be followed by Sarah Almond Pike.

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Kari Barclay: Hello. My name is Kari Barclay. I speak as a Stanford graduate student and as a member of Stanford Sanctuary Now. Right now, I'm speaking to support the resolution but also to advocate the inclusion of the word "sanctuary" in the statement itself. As far as I understand—correct me if I'm wrong—Palo Alto right now undertakes the minimum legally required cooperation with ICE, making it to all effect, intents and purposes a sanctuary city already. To use the word "sanctuary" in the statement in the Memo would make that commitment public and would make it affirmative so that we can publicly support all immigrants in our community. It also helps to build connections with other cities around the Peninsula and with Stanford itself and their efforts to be a pro-immigrant space. Even if it might seem like a nebulous category of the sanctuary itself, it underlies a commitment that we can then back up with policies that do support immigrants within our community. Thank you.

Mayor Burt: Thank you. Sarah Almond Pike to be followed by Winter Dellenbach.

Sarah Almond Pike: Hi, good evening, Mayor Burt and Council. I'm a Palo Alto resident, and I sit on the Board of the local United Nations Association. I too, like the others, wish to voice my strong support for this resolution. There's been a lot of speech in the last few months, not all of it has been hateful but some of it has. Words truly do matter. I've spoken with high school students, like others here, who are fearful that their parents will be deported. That will limit their ability to continue their education. I know of residents of color who have lived here for decades, who have been told to go back to where they came from. I have friends who are researchers, scientists and teachers and who, like myself, are legal residents and who have wondered if they need to consider leaving the United States. I have female friends who are concerned that sexist comments and behavior will go unchallenged. (Inaudible) these words, they do matter. They have real consequences. As others have said, actions also matter. While I support this resolution and think it's an amazing first step, more importantly I hope that it'll lay the foundation for action in 2017 and beyond. I know all of us here will be looking to the current and future members of Council to really live out these values in the coming years. I applaud the Council Members who drafted this resolution and, again, want to urge you all to vote in its favor. Thank you.

Mayor Burt: Thank you. Winter Dellenbach to be followed by our final speaker, Phyllis Cassell.

Winter Dellenbach: The night of the election I got a text from someone at Buena Vista, so happy to tell me they were celebrating and wanted me to

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know that all 19 members of their family went with their new citizen to vote, to support their new citizen in voting for the very first time. They were very excited and very happy about that. A few days later, I saw said new citizen who's a good friend of mine at his work site in Downtown Palo Alto. He was full of concern because of the outcome of the election, because all the members of his family are legal except one, who was in the process of getting his Deferred Action for Childhood Arrivals (DACA) papers. These are the papers the kids get to—parents came here and the kids were in the process of becoming legal. His papers were a problem. Suddenly, they were realizing that they had a family member that was in a very compromised position. Then, they realized that in fact perhaps they weren't in such a compromised position, because then all of the kids that were legal could be, with simply a president saying go get them, in the greatest jeopardy imaginable because all of those kids that were legal had registered, had given all of their identifiers, all of their contact information. Everybody knew where they were, and they could easily be found out. All it would take would be a president giving the order to go get them and to deport them. I don't know if you know that the good, smart immigration lawyers are telling people, again, that are perfectly legal to be sure to be back in this country by January 20th. What you're doing tonight is important. Strengthen it as much as you can in the future. Thank you.

Mayor Burt: Final speaker is Phyllis Cassell.

Phyllis Cassell: I guess my t-shirt works out; it's the Grinch. I want to thank you for doing this, writing this resolution. I don't have any dramatic things to say, except that I'm frightened. I shouldn't be frightened. There are members of my family who fit not the traditional person who comes over on the Mayflower. I'm concerned. I want to thank you very much for standing up. I'm afraid we've got a lot to do.

Mayor Burt: Thank you.

James Keene, City Manager: Mr. Mayor, may I just make a very minor comment, just really quickly, for the gentleman who talked about graffiti? I just would again let folks know that we have a mobile app. You can go to the Apple store or Android; it's called Palo Alto 311. It's got a very easy graffiti interface. It's actually one of the biggest uses that we have for the app, and it's an easy way to report graffiti. You'll get messages and tracking on when it has been cleaned up. That's Palo Alto 311. Thanks.

Mayor Burt: Council Member Holman.

Council Member Holman: Obviously, being one of the signers on this, I'm happy to move the resolution.

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Council Member Wolbach: Second.

**MOTION:** Council Member Holman moved, seconded by Council Member Wolbach to adopt a Resolution affirming Palo Alto's commitment to a diverse, supportive, inclusive and protective community including the addition to Section 1, Paragraph Four, "living, working, and visiting" after "privileges of everyone."

Council Member Holman: Also would suggest one amendment to it, just a little one that, I think, is an important one, that Bob Wenzlau had recommended to us. In the fourth paragraph on the second page, it says "the City of Palo Alto recognizes, values and will proactively work to ensure the rights and privileges of everyone." This is the change: "living, working and visiting Palo Alto." It's to add those words. Will the seconder, whoever it was, accept that?

Council Member Wolbach: I'm not sure that it's necessary, but I'll accept it.

Council Member Holman: It's clarification.

Council Member Wolbach: It doesn't hurt.

Council Member Holman: It strengthens it. Thank you. That's all I have to say.

Council Member Wolbach: That's fine with me.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Let's actually just check this. It would be "living and working in or visiting."

Mayor Burt: We'll get it. Do you want to ...

Council Member Wolbach: Speaking to the resolution, first let me say thank you to everybody who stayed late and came to speak in support of the resolution. Thank you also to Mayor Burt and also Council Members Holman and Kniss who helped push this forward, who helped draft it, offering amendments. I don't know how much more I can say beyond what's been said by members of the public. I do want to address a couple of things that were raised though. First on some of the specific suggestions that were offered. I also agree that and my hope is that this resolution will be a first step and not a final step in reinforcing and taking further action over the course of the next month and the next year and following years to continue Palo Alto's long tradition of being an inclusive community. That's why this resolution says that we are reaffirming. Palo Alto has had these values for a

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long time, and there's never been a greater need in recent years to reaffirm. The opportunities are several. We've heard people recently talking about some specific things like women's rights, transgender rights, immigrant rights, etc. I think each of those we will need to take up in greater detail. We chose not to go into great policy detail in this case, because we wanted to bring it forward quickly. We wanted to send a message quickly. This definitely does open the door to further communication. If the City Manager has anything he'd like to weigh in on as far as how Staff might view this resolution and if it provides any support for Staff to take any actions or to maintain current policies.

Mr. Keene: May I say two things? I'll respond to that real quickly. Before that, just clarification for the public. The Council's Colleagues' Memo process limits four Council Members to be able to sign onto a Colleagues' Memo. It's designed to be a minority of the Council and is taken up by the whole Council. If we didn't have that limitation, there would have been other folks who would have signed onto the Colleagues' Memo itself.

Council Member Wolbach: Very true.

Mr. Keene: Just real quickly in response to Council Member Wolbach's comments. Probably the way everybody who's here tonight—it's pretty much given what the values and the practices and the approaches are in Palo Alto, but it's extremely important for the Council to make it explicit, as you are in doing this tonight. It's very important for us to be able to point to the fact that we've had this initiative and directive from the Council, both in my role, with our Staff and City Attorney, in our organization. It's just very helpful in our community. Again, at this point in time (inaudible) mean to be as explicit as possible. This is a first step here. Much appreciated.

Mayor Burt: Maybe it'll help this conversation around what's next. To offer an amendment which is in addition to adopting this resolution tonight, to refer to the Human Relations Commission the subject matter of the Memo for recommendations on implementation measures and additional elements that should be considered by the Council for future adoption.

Council Member Holman: I'll accept that.

Council Member Wolbach: I'll accept that as well.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "refer the subject matter of this Memorandum to the Human Relations Commission, for recommendation of implementation measures and additional elements that should be considered by the Council in the future." (New Part B)

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Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. I also wanted to thank everybody for coming here tonight to support this important topic. It's late. I've got to say this in the right way. A resolution like this is interesting because often we have resolutions that actually don't have real impacts in the world. With the referral to the Human Relations Commission and also the email from Bob Wenzlau, which I think was really significant, which said if I'd had this letter, if I'd had this resolution—I'm paraphrasing—I could have shown this to the parents in Oaxaca and maybe they wouldn't have canceled and they would have come. I think that's a powerful statement. I'm really glad we're making that statement and have that resolution and are telling people that they are safe to be here. Again, I'm really glad we're doing this. Thanks to Cory and the other signers for bringing this forward to Council, and thanks to all of you for coming tonight.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I would echo what the others have said. You've waited a long time, and you certainly have shown your care, your interest and your own concern. I do know that there is an interest in being a sanctuary city. I think that is one of the things we can look at in January. San Jose is definitely a sanctuary city. The entire County of San Jose is very much aligned with that purpose. When I was at the County, we had a very specific understanding that anyone got treated, anyone got the attention they needed regardless of whether or not they had just been made a citizen, as Winter spoke about tonight. It's very important because there's nothing as frightening to someone who is not a citizen as needing medical care or needing food or needing education for their kids. You're constantly afraid somebody will expose you. What we're saying is—we're a little short of saying we're a sanctuary city tonight. In spirit, we're a sanctuary city, and we'll really go forward believing that.

Mayor Burt: I wasn't going to add comments on that subject, but I want to offer that it's easy and it was probably easy previously to have the position of a sanctuary city be a political statement that did not potentially have real world negative impacts on the very people we're looking to help and protect. The functioning in ways similar to that, that this City already does, may in fact be the most effective way to not make a political statement that may have negative repercussions but to actually protect people. I don't know the answer to that question. I think it's something we need to carefully consider. That's why we didn't at this time include reference to that here. I just wanted to offer that. Council Member Wolbach, you have something else?

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Council Member Wolbach: I was just going to ask if we need to do some grammatical cleanup on the amendment added by the maker of the Motion. It would say "living in, working in or visiting Palo Alto."

Mayor Burt: That's fine. Council Member Schmid.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to replace in the Motion Part A, "and" with "or."

Council Member Schmid: A clarification that the second was Council Member Wolbach?

**MOTION AS AMENDED RESTATED:** Council Member Holman moved, seconded by Council Member Wolbach to:

- A. Adopt a Resolution affirming Palo Alto's commitment to a diverse, supportive, inclusive and protective community including the addition to Section 1, Paragraph Four, "living, working, or visiting" after "privileges of everyone;" and
- B. Refer the subject matter of this Memorandum to the Human Relations Commission, for recommendation of implementation measures and additional elements that should be considered by the Council in the future.

Mayor Burt: Please vote. That passes unanimously. Thank you everyone for joining us tonight and staying up late with us.

**MOTION AS AMENDED PASSED: 8-0**

- 24. Colleagues' Memo Regarding Support Funding for the Barron Park Donkey Project.

Mayor Burt: We will now move onto the grand finale, Item Number 24, which is a Colleagues' Memo regarding support funding for the Barron Park donkey project.

James Keene, City Manager: Mr. Mayor, my Staff Report is right here in front of me.

Mayor Burt: (crosstalk) trumped you.

Mr. Keene: I know. We got it.

Mayor Burt: Council Member Holman, did you want to offer any comments beyond the content of the Memo?

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Council Member Holman: Just very briefly. We talked earlier about neighborhood events and how the City supports those in a number of ways. In our neighborhood Town Halls, we support neighborhoods in that way. This is another way that we can support not only the Barron Park neighborhood but the larger community of Palo Alto. The donkeys are a decades-long tradition that have been a part of the larger community and especially the Barron Park neighborhood. I really appreciate colleagues' consideration of this and look forward to your comments.

Mayor Burt: Let's go ahead and go to members of the public. At this hour, we'll have up to 2 minutes to speak for each person. If anyone else wishes to speak, they need to bring a card forward now. Our first speaker is Jenny Kiralti [sic], to be followed by Gary Breitbard.

Jenny Kiratli: I'm Jenny Kiratli. I'm a Palo Alto resident and a donkey handler. I think, especially at this hour, pictures are worth a lot of words. I'd like to take the opportunity to introduce you to our donkeys. Many of you know Perry. For those of you who might not know our donkeys, Perry and Niner have lived there for 20 years. Niner, who's formal name is Miner 49er, died a few months ago. We had a large memorial service for him, attended by over 100 residents despite the possibility of rain. We now have a new donkey, Jenny. I've started to be called "the other Jenny." This is Jenny as she was beginning to settle in. I also want to pay tribute to the very special and dedicated community of donkey handlers, all volunteers, who spend hundreds of hours every year caring for these wonderful animals. They are a caring part of our community, bringing people together. There are about 16 of us. I wanted to mention Doug Moran, who will speak after, also welcomes people to the gate on Sunday evenings. You're all welcome to join us. They're settling in nicely, getting to know each other in not even quite one month that Jenny's been with us. We also have a brief video so you can experience their first meeting. [Video shown.] This is Perry settling in after being away for two months. We don't completely understand why he does this, but he's been doing it a lot. That's Jenny. An example of the dozens and dozens and dozens of pictures that we get every year. Thank you.

Mayor Burt: Thank you. Gary Breitbard to be followed by Doug Moran.

Gary Breitbard: Those are very nice pictures. This is kind of a surprise. I was invited—I thought we were going to close the whole thing. That's okay. We'll do it now.

Mayor Burt: Go ahead. Whenever works.

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Mr. Breitbard: We were invited to sing a song which we just happened to sing at Niner's memorial, which I thought of at the last minute. It's a round that many kids know, but I'm not sure everybody here knows it, so we're going to teach it. Everybody's going to sing, even Council. Maybe you turn off your mikes. We'll teach the round and maybe do it in two parts. I realize this is a different protocol. [A sing-along was held.]

Mayor Burt: Thank you. Doug Moran to be followed by Bob Moss.

Douglas Moran: Hello. To cut down on the number of speakers, if any, would the people who are here to support the donkeys please stand up? Thank you, thank you. I'm Doug Moran. I've been a donkey handler for 20 years. I handle the feeding on Sunday evening. As you saw, I walk up through the park, collecting families, telling them that they can have their children help feed the donkeys. I mean I invite them to share Sunday dinner with a major movie star at his gated residence in Palo Alto. It's a bit misleading to—again you saw pictures of the children at the gate. There are lots of them every time. It's a bit misleading to use the term "neighborhood donkeys." Their care is handled by volunteers from the neighborhood, but visitors come from all around. At many feedings, the majority of the children are not just from outside Barron Park but outside Palo Alto, from San Jose to San Mateo to Fremont. The donkeys provide an important nexus for community building. People stop and, while they're there, they have conversations with other visitors. It is a destination for both Staff and patients from the VA and people working in the Research Park. Families bring their children to see and be close to donkeys, to connect to those parents' backgrounds. It is an important educational resource, allowing children to overcome fears and learn how to deal with larger animals. There are both arranged and informal visits with elementary school classes and preschools. Although, smaller children are the most enthusiastic feeders, I see a moderate number of middle school and high school students and adults, or should I say children of all ages. Why is a the star of four high-grossing pictures, two of which were good, having to live on the charity of neighbors? Inadequate representation. He didn't have an agent, a lawyer or a mobster in his corner when he dealt with Hollywood. They didn't even pay him minimum wage for animal actors, and they didn't give him a credit at the end of the movie. We have tried to get support from DreamWorks, but they have turned us down. Everybody knows that Hollywood has no shame. I urge you to support. Thank you.

Mayor Burt: Thank you. Bob Moss to be followed by Ken Dauber.

Bob Moss: Thank you, Mayor Burt and Council Members. I'm delighted to see this offer by the Council to help support the donkeys. They've been a

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basic feature of Barron Park and Palo Alto for over 75 years. Their retention keeps reminding us of what Palo Alto was originally, a farm town. As you've heard from a number of people, they're very well beloved; they're visited by people from all over the area. They really create a very warm, friendly feeling for the community. The amount of money we're talking about is trivial. I don't think there's any issue there. I think it's important that we try to retain the environmental feeling that we have for our community and to try to work together when we have organizations like the donkey handlers who have been working for nothing for years and years. A little bit of money from the City will go a long way to showing that you care also. Thank you very much for proposing this. I'm sure it's going to pass 8-0. One final thing I do want to say. This is the last meeting of the year and the last Item on the Agenda. Two distinguished Council Members, Mayor Burt and Council Member Schmid, I want to thank both of you for the time and effort and dedication you've put in trying to work for the community, to do the best you can for all of us, all the time and effort you've put in. People don't realize how much time it takes to be a Council Member and to work on the Council and to think about the environment and the benefits to the community, not just your own benefits for hours and days a week. I want to thank you again, thank all of you for your work for the community and for your dedication and your efforts.

Mayor Burt: Thank you. Ken Dauber to be followed by Alice Smith.

Ken Dauber: I can't improve on any of the foregoing comments. What I'll do is speak to you briefly about the financial need that Council Member Holman's Memo speaks about, because it's real and it's important. These donkeys are, as you've heard, a critical part of the community, really hold a special place in the hearts of all of us, particularly our school children in Palo Alto. They also represent an ongoing cost for feeding and veterinary care and so forth, something like \$12,000 a year plus extraordinary expenses, extraordinary veterinary bills. We just went through a process of working on the trees in the pasture, where Jenny and Perry are kept. That was a \$6,000 bill. Niner's death and veterinary care associated with that was many thousands of dollars. As sort of an expense, caring for the donkeys is a real expense, and it requires community involvement. That has been handled largely through fundraising in the past and will be handled largely through fundraising in the future. The Council can play a critical seed role in putting forth matching funds to help stimulate those donations and also to help refill the project's coffers. We have about enough money, assuming that nothing goes wrong, to maintain the donkeys for another year. That's really not where we want to be. We want to have reserves. We want to be in a position where no matter what unexpected things happen, we aren't in a crisis situation with the donkey project. We have the benefit of the support

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of the community. The support of the Council we'll see tonight. I also want to thank Acterra, which is the fiscal sponsor for the donkey project and has provided the organizational stability to help us. Thank you for all that you're doing. I hope that you support this Motion.

Mayor Burt: Thank you. Our final speaker is Alice Smith.

Alice Smith: I don't live in Barron Park; I live in Palo Alto and have done since 1965. The area is one of the gracious open space areas where we bike, we walk, we have our dogs running around. My grandchildren go through there from San Francisco when they come down to get some warmth in the summer. It's a lovely area. I think if you can support the community barbecues and all the other things where you help community, actually the donkey farm itself is a community center, which we should be supporting. If it's connected with the zoo or whatever else you want to do in order to make it logistically possible, I don't know what way you do it, but it's certainly a good use of our taxpayers' money. Thank you.

Mayor Burt: Thank you. Council Member Holman.

Council Member Holman: One quick comment. The donkeys live in the pasture that belongs to James Witt, who wanted to be here this evening. He very much wanted to be here this evening, but family obligations kept him from being here. That's one thing. I would like to move the recommendation that's included in the Colleagues' Memo, which is essentially to commit \$15,000 in Council Contingency Funds, \$10,000 of that being matching and challenge funds. The other \$5,000 to be committed once that challenge is met.

Council Member Kniss: Second.

**MOTION:** Council Member Holman moved, seconded by Council Member Kniss to:

- A. Direct and authorize the City Manager to prepare and execute a Memorandum of Agreement with Acterra to make an initial grant of \$10,000 for donkey-related expenses, and, upon successful private fundraising by the Barron Park Donkey Project of \$10,000, provide an additional City grant of \$5,000; and
- B. Amend the Fiscal Year 2017 Budget Appropriation Ordinance for the General Fund budget by:
  - i. Increasing the Community Services Department appropriation for grants and subsidies in the amount of \$15,000; and

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- ii. Decreasing the Non-Departmental City Council Contingency appropriation in the amount of \$15,000.

Mayor Burt: Did you want to speak further to your Motion?

Council Member Holman: Just one other quick thank you to City Attorney Molly Stump for lining out all the various mechanisms that have to be put in place for this to happen. The other is that we got one email about the expenditure of funds. This is the Council Contingency Funds, which we almost never, ever touch. It couldn't happen for a better reason.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I would only say it was great fun to hear Sweetly Sings the Donkey. Thank you all for being here.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I just want to thank all the volunteers who take care of the donkey and who went through all the turmoil recently in dealing with Niner and also finding the new donkey. Thank you, guys, for all that effort.

Mayor Burt: I would just like to echo appreciation for all the handlers, for Acterra in their role as a fiscal agent and letting us have some nonprofit legal vehicle to handle the funds, to James Witt who provides vital pasture—without that, we wouldn't have a location for the donkeys—and for the broader Barron Park neighbors and everyone else in the community who value and help support them. Let us "bray" that this will be enough. Please vote.

Mr. Keene: His last words.

**MOTION PASSED: 8-0**

Mayor Burt: Thank you all. Unless you want to hang around for our last Council Member Comments.

Inter-Governmental Legislative Affairs

None.

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## Council Member Questions, Comments and Announcements

Mayor Burt: We'll now go to Council Member Questions, Comments and Announcements before we go into our Closed Session. Council Member DuBois.

Council Member DuBois: I just want to say we had a Town Hall meeting last week, which Council Member Wolbach and Filseth and I attended.

Mayor Burt: I'm sorry. Can I before the people leave, because I realize Barron Park folks may want to hear this. Council Member Kniss forwarded to me that we received, I think, today a certificate of recognition by the Silicon Valley Council of Nonprofits for Palo Alto being a 2016 Changemaker of the Year for our advocacy for the Buena Vista Mobile Home Park. Council Member DuBois.

Council Member DuBois: I just wanted to briefly thank Staff for the Town Hall. It was a cold, rainy night. We actually had a good turnout in College Terrace. I know there's another Town Hall tomorrow night in Barron Park.

Mayor Burt: I'll just add about two events last week. The first was I was invited to speak on a Mayor's panel at the American Water Summit in Florida. It was quite a contrast. On the panel amongst others was the Mayor of Flint, Michigan. The water issues that we face versus they face is all too striking in the difference. When I shared our water cost—this was a large national organization of officials and private-sector leaders in the water sector—there was a collective gasp in the room at what we pay for water here. On the other hand, all of the initiatives that that high cost of water drives us to do and makes cost effective were also the sorts of things that this body of people have as an ideal. Our water efficiency measures, our recycling, but also the framing of the water energy nexus where water is—hydro power is 45 percent of our clean electricity. It's also a jeopardized natural resource for us from climate change. We certainly have storm and tidal threats from sea level rise. Water intersects us in ways that are really emblematic of all of its value and impacts. On Thursday, I was able to join the East Palo Alto City Council for their swearing-in ceremony and election of their new Mayor and Vice Mayor. There was a really strong expression of appreciation for the initiative that we launched just a week ago for a transfer of what's a small portion of our water allocation for what is a very valuable and important aspect of their wellbeing in East Palo Alto. It really is something that was even more appreciated by their leadership and their community than I had anticipated. I just wanted to share that with everyone. On that note, we'll go into ...

James Keene, City Manager: Mr. Mayor?

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Mayor Burt: Yes.

Mr. Keene: I'm not a Council Member, but just speaking to the Council since this is our last public opportunity. I just wanted to say as City Manager that Council Member Schmid, Mayor Burt, you're the last two Council Members from the Council who hired me. I remember you interviewed the candidates on Father's Day. I've pointed that out before. That should have been a signal and a warning to me, on a Sunday, Father's Day. I would just echo what has been said, that the Council Members, you're citizen volunteers, the amount of work that you do and the wellbeing of the community, not just the current community but the past and the future. It's been an honor to work as your City Manager with you. I really wish you both the best where you go on from now as far as helping make Palo Alto a better place and other roles. It's hard to believe. Thanks.

Mayor Burt: Thanks. The pleasure's been ours.

## Closed Session

### 25. CONFERENCE WITH CITY ATTORNEY - EXISTING LITIGATION

Subject: City of Palo Alto v. Public Employee Relations Board (PERB) (International Association of Fire Fighters, Local 1319, Real Party), Cal Court of Appeal No. H041407, on Appeal From PERB Case No. SF-CE-869-MAuthority: Government Code Section 54956.9(d)(1)

#### CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees  
Pursuant to Merit System Rules and Regulations (James Keene, Molly Stump, Rumi Portillo, Eric Nickel, Dennis Burns)

Employee Organizations: Palo Alto Fire Chiefs' Association; International Association of Fire Fighters (IAFF), Local 1319; Palo Alto Police Officers' Association (PAPOA); Palo Alto Police Managers' Association (PAPMA)

Government Code Section 54957.6(a).

Mayor Burt: We will now go into Closed Session on conference with the City Attorney regarding existing litigation of the City of Palo Alto versus the PER Board and conference with labor negotiators regarding the Fire Chiefs' Association, the IAFF, Palo Alto Police Officers' Association, and Palo Alto Police Managers' Association.

Vice Mayor Scharff: I make the Motion (inaudible).

Council Member Holman: Second.

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**MOTION:** Vice Mayor Scharff moved, seconded by Council Member Holman to go into Closed Session.

Mayor Burt: We have a Motion for a Closed Session by Vice Mayor Scharff, seconded by Council Member Holman. Please vote. That passes unanimously. Thank you.

**MOTION PASSED:** 8-0

Council went into Closed Session at 11:06 P.M.

Council returned from Closed Session at 11:44 P.M.

Mayor Burt announced that the Council voted 8-0 to authorize the City Attorney to file a Petition for Review with the California Supreme Court in the matter of City of Palo Alto versus Public Employee Relations Board (PERB)(International Association of Fire Fighters, Local 1319, Real Party), California Court of Appeals, Number H041407, on Appeal From PERB Case Number SF-CE-869-M.

Adjournment: The meeting was adjourned at 11:45 P.M.