



CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting
April 22, 2019

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:01 P.M.

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

Absent:

Action Items

14. Connecting Palo Alto Work Plan for Selection of Preferred Solutions to Rail Grade Separation Needs: Approval of Structure and Membership of an Expanded Community Working Group, Work Plan, and Revisions to Alternatives for Further Study; and Direction to Staff to Return to Council With Associated AECOM Contract Amendment.

Mayor Filseth advised that he would not participate in this Agenda Item because his primary residence was located within 500 feet of the Caltrain right-of-way. He left the meeting at 9:35 P.M.

Council Member Kniss advised that she would not participate in this Agenda Item because she owned real property located within 500 feet of the Caltrain right-of-way. She left the meeting at 9:35 P.M.

Council took a break at 9:35 P.M. and returned at 9:44 P.M.

Chantal Cotton Gaines, Assistant to the City Manager reviewed actions taken at the March 18, 2019 Committee of the Whole meeting.

Wayne Tanda, AECOM reported the timeline spanned six months. At the end of six months, the Council had all the information needed to make an informed decision regarding a preferred alternative for an Environmental Impact Report (EIR). Staff proposed formation of a Community Working Group that would meet seven times in the six-month timeframe. Polling and a community meeting were planned prior to the Council's October, 2019 meeting. The Council was able to: 1) expand the Community Working Group and accept its recommendations as presented; 2) expand the Community Advisory Panel (CAP) and allow it to provide input; or 3) expand the Community Working Group and accept its recommendations as one of many inputs. A Community Working Group was going to recommend a

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preferred alternative for the Charleston and Meadow crossing and the Churchill crossing based on existing alternatives already approved by the Council and consider optional Funding Plans provided by the City. The Council was not going to consider polling information or develop any specific local tax measures. The Community Working Group was to be comprised of 12 current CAP members, Stanford University, Stanford Research Park, Stanford Health or Stanford Shopping Center, the Chamber of Commerce, Palo Alto Unified School District (PAUSD) and Friends of the Caltrain Board. Contrary to the Committee of the Whole's recommendation, Staff proposed the Community Working Group not be subject to the Brown Act. The six-month timeline began with Council approval of the Work Plan on April 22. In May, 2019, the Council considered an amendment to the AECOM contract and discussion of criteria weights. The first working group meeting was tentatively scheduled for May 29, 2019. In August, 2019 the working group planned on checking in with the Council. Polling and the community meeting was to occur in October, 2019. Finally, the Council was to select a preferred alternative at the end of October, 2019.

Ms. Gaines explained that some alternatives under consideration for Meadow/Charleston were a trench, a hybrid and a viaduct. Some other considerations were: 1) Citywide, there was consideration of a tunnel; 2) possible Churchill Avenue closure; and 3) a South Palo Alto tunnel with a variation of separating freight and passenger rail. Staff suggested the Council consider a viaduct in the vicinity of Churchill Avenue and eliminating the variation for the South Palo Alto tunnel. Staff proposed scheduling an Agenda Item for the Council to discuss and provide direction regarding a weighting model for criteria. The working group was able to evaluate alternatives with the model. An amendment to the AECOM contract was needed to incorporate Council direction from the March 18, 2019 meeting, including suggestions regarding the Rail Work Plan. In drafting its recommendations, Staff considered the need to progress towards a preferred alternative while community engagement was high, to minimize residents' concerns about property impacts, to engage the business community in revenue strategies and to comply with the timeframe for decision-making.

Vice Mayor Fine noted four votes were needed for the Council to take action.

Council Member DuBois inquired regarding the ability of Mayor Filseth and Council Member Kniss to participate in a discussion of a tax that could fund grade separations.

Molly Stump, City Attorney advised that the revenue item was a general discussion of a schedule, of Staff and consultant work and of a timeline. If revenue generating options focused on projects where Council Members

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were recused, those Council Members may also be recused from participating in those options.

Council Member DuBois requested the primary difference between Options A and C for the working group.

Ms. Stump related that under Option A the working group would guide the discussion to a final decision that the Council would anticipate adopting as presented. Under Option A, the working group needed to be subject to all conflict of interest rules.

Council Member DuBois asked if all the previous working groups had served in an advisory capacity.

Ms. Stump answered yes. Option C was intended to point towards those sets of considerations.

Vice Mayor Fine asked if the working group under Option A was subject to the Brown Act and conflict of interest rules.

Ms. Stump clarified that it would be subject to conflict of interest rules. The Brown Act was a separate issue. If the Council established the body by formal action, including direction to the City Manager to establish the body, the body was subject to the Brown Act.

Council Member Kou requested clarification of potential conflicts of interest.

Ms. Stump explained that a group established as an advisory body was not required to file a Form 700 and was not subject to conflict of interest rules.

Rachel Croft opposed the addition of a viaduct alternative for the Churchill crossing because the structure would have to be constructed on her property line and train passengers could look directly into her backyard.

Jason Matlof requested Council revise the viaduct alternative at Churchill to direct AECOM to consider a viaduct alternative at Churchill or Embarcadero.

Stephen Rosenblum felt a Citywide viaduct was the only equitable alternative. The members of the working group had to represent the entire City.

Megan Kanne hoped the Council supported the informal version of the working group to foster collaboration. A viaduct at Churchill was not necessarily going to resolve the issue at Embarcadero.

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David Shen reported CAP members collaborated outside meetings because the CAP was not subject to the Brown Act. If the working group was subject to the Brown Act, it was possible that they would not meet the October, 2019 deadline.

Barbara Hazlett expressed concern that three members of the CAP were residents of the same neighborhood. She recommended the Council rebalance the CAP membership.

Tom Kellerman supported the inclusion of CAP members in the working group.

Cedric de La Beaujardiere supported an informal working group, elimination of the tunnel alternative and adding a viaduct alternative for Churchill.

Sean Hee opposed the Citywide tunnel alternative and adding a viaduct alternative for Churchill.

Adina Levin, Friends of Caltrain agreed to serve on the working group if the Council chose to include a representative from the Friends of Caltrain Board.

Carolyn Schmarzo supported the alternative that had the least impact on neighborhoods and homeowners.

Council Member Kou wanted to know the rationale for Staff not proposing working group members with expertise in areas such as utilities, historical resources, water and emergency services.

Ed Shikada, City Manager anticipated community members with expertise in relevant areas would participate in working group meetings. Staff was going to maintain contact with known experts. The Community Working Group was not to be the only point of input for the Council and Staff.

Council Member Kou asked if CAP members would need to apply for the working group.

Mr. Shikada stated some CAP members expressed interest in participating in the working group. The working group membership was determined by the working group's role, which was defined by the Council.

Council Member Kou suggested Stanford Health and Stanford Shopping Center be included in the Downtown Coordinated Area Plan, rather than the Rail working group.

Mr. Shikada indicated the list of members was taken from the March 18, 2019 Committee of the Whole meeting. Stanford University representatives

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expressed reservations about their ability to participate in the working group.

Council Member Kou inquired whether the working group was able to request expert guidance.

Mr. Shikada remarked that defining the role of the working group was important in order to control costs. The key distinction of the working group's role was making a decision and providing feedback.

Council Member Kou requested the status of a Study Session with Caltrain regarding its Business Plan.

Ms. Gaines indicated a Study Session had been tentatively scheduled for May 13, 2019.

Council Member Kou wanted to see evidence that the South Palo Alto Tunnel with the variation was infeasible.

Mr. Shikada related that there was no mention of community interest in the alternative once the funding issue was raised.

Council Member Kou believed the tunnel and trench alternatives needed additional study.

Council Member Cormack expressed concern that only two of the working group meetings appeared to be substantive. She supported removal of the Citywide tunnel from the list of alternatives because of the cost and the property impacts. The Churchill crossing and Embarcadero intersection were connected. Under Option B, the working group did not need to file a Form 700 and they were not subject to the Brown Act.

Ms. Stump clarified that the working group would not be subject to the Brown Act if the Council did not take action to establish the working group.

Council Member Cormack inquired whether the working group could provide the Council with input via a list of pros and cons for alternatives.

Mr. Shikada answered yes.

Council Member Cormack noted an application and appointment process for members of the working group. Some members of the community were appropriately engaged in the process, but the vast majority of the community did not understand what was happening.

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Council Member DuBois preferred the working group act as an advisory body. Given time constraints, he did not believe the City Manager should form the working group. He had no preference for the working group being subject to the Brown Act. The working group had the potential to be comprised of residents from different neighborhoods, a California Avenue business owner, and a representative from Town & Country, but no representative from Stanford Health or Stanford Shopping Center because the Friends of Caltrain Board was serving as a technical advisor. Staff with expertise relevant to working group discussions were not to be present for those meetings. He thought the working group should have access to technical information, some cost information and information from experts. More Rail Committee check-ins with the Council needed to be scheduled. Working group meetings ought to be substantive rather than just to review information. He proposed allowing the working group to add two or three new alternatives. He supported elimination of the Citywide tunnel alternative. He wanted less intrusive options at Charleston/Meadow. Creative proposals to improve Embarcadero were needed. He thought the group should be allowed to propose an alternative at Palo Alto Avenue and he expressed concern regarding eliminating the South Palo Alto tunnel alternative. He asked if the budget for the AECOM contract had been expended.

Ms. Gaines reported funds for the existing scope of work were almost exhausted.

Council Member Tanaka concurred with Council Member Cormack regarding the public not being aware of the grade separation discussion and proposals. More polling was needed for alternatives and funding options. He preferred the working group not be subject to the Brown Act. He did not support a viaduct alternative in the Churchill Avenue vicinity or eliminating the Citywide tunnel alternative. He opposed the use of eminent domain.

Vice Mayor Fine generally supported Option C for the working group. A few people with conflicts of interest should be members of the working group. Working group members should be residents of different neighborhoods and a few local businesses. He requested Staff's opinion regarding allowing the working group to propose new alternatives.

Mr. Shikada suggested the working group could brainstorm new alternatives rather than develop specific alternatives. In a workshop setting, the working group discussions had the potential to lead to some new and creative ideas.

Vice Mayor Fine did not wish to preclude the working group from sharing creative and feasible alternatives. The Embarcadero and Churchill issue

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needed to be addressed. Marketing had to be increased. He requested the rationale for the working group not to provide input regarding polling.

Mr. Shikada clarified that the working group should not make its recommendation based on polling.

Vice Mayor Fine reiterated that the freight and passenger service had to be combined in the South Palo Alto tunnel alternative in order to receive 190 funds. He asked for a definition of vicinity for the viaduct alternative near Churchill.

Ms. Gaines explained that the location should be flexible in order to meet engineering constraints and to incorporate mitigations for Embarcadero.

Vice Mayor Fine concurred with removing the Citywide tunnel alternative.

MOTION: Vice Mayor Fine moved, seconded by Council Member Cormack to:

- A. Approve the Rail Grade Separation Work Plan as a follow up to the March 18th Committee of the Whole recommendation including a timeline and process by which the City Council would select a preferred solution to begin environmental review;
- B. Approve Alternatives to be studied by the Community Working Group; and
- C. Direct Staff to return to Council with an amendment to contract C18171057 with AECOM to reflect scope changes and extension to October 2019 for Council selection of a preferred solution.

Council Member Cormack understood the contract amendment for AECOM would be substantial.

Council Member DuBois inquired whether the Council could make recommendations to the City Manager regarding members of the working group.

Ms. Stump replied no. Including such language in a Motion constituted Council action, which would result in a Brown Act body.

Council Member DuBois asked if the Council could direct Staff to invite technical experts to the appropriate working group meetings.

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Mr. Shikada stated Staff and the AECOM team would continue to pursue answers to technical questions. In most instances, agencies were not willing to respond to questions about technical issues.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKOR AND SECONDER to add to the Motion:

- A. Add more check-ins with Council. Redefine the Working Group (WG) meetings to cover more ground;
- B. Alternatives:
 - i. Allow the WG to brainstorm some alternatives such as Embarcadero, Palo Alto Avenue, Meadow and Charleston;
 - ii. Remove city-wide tunnel;
 - iii. Minimize viaducts/elevated trains located behind people's homes; and
 - iv. Consider the trench alternative minimizes construction impacts

MOTION AS AMENDED RESTATED: Vice Mayor Fine moved, seconded by Council Member Cormack to:

- A. Approve the Rail Grade Separation Work Plan as a follow up to the March 18th Committee of the Whole recommendation including a timeline and process by which the City Council would select a preferred solution to begin environmental review;
- B. Add more check-ins with Council. Redefine the Working Group (WG) meetings to cover more ground;
- C. Approve Alternatives to be studied by the Community Working Group including:
 - i. Allow the WG to brainstorm some alternatives such as Embarcadero, Palo Alto Avenue, Meadow and Charleston;
 - ii. Remove city-wide tunnel;
 - iii. Minimize viaducts/elevated trains located behind people's homes;
 - iv. Consider a trench alternative minimizes construction impacts; and

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D. Direct Staff to return to Council with an amendment to contract C18171057 with AECOM to reflect scope changes and extension to October 2019 for Council selection of a preferred solution.

Ms. Stump noted the Palo Alto Avenue crossing had been moved to another process.

Mr. Shikada indicated Stanford University was interested in working with the City to plan the area around the Transit Center. He thought the working group should probably not be involved in that because of the complexities of the area.

Vice Mayor Fine asked if the Council had considered a trench located to avoid shoefly tracks.

Mr. Shikada did not recall. The viaduct alternatives were intended to be located adjacent to the existing tracks.

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to delete Part C. iii. from the Motion.

Council Member Cormack asked if the Council could modify the Work Plan.

Ms. Stump replied yes.

Council Member Cormack related that Part C.i. was too specific.

Council Member DuBois noted the language was "such as."

Council Member Cormack recommended deletion of "Palo Alto Avenue" from Part C.i.

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to remove from the Motion Part C. i. "Palo Alto Avenue."

Council Member Cormack commented that Part C.iv. should be discussed in May, 2019.

Council Member DuBois clarified that he was asking for a new trench alternative with fewer construction impacts.

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to remove from the Motion Part C. "... by the Community Working Group... ."

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Council Member Kou expressed disappointment that Part C.iii. had been removed. She was not able to support removal of the Citywide tunnel alternative, Part C.ii.

Council Member Tanaka was not in support of Part C.ii.

Vice Mayor Fine inquired regarding evidence of the Citywide tunnel's infeasibility that would convince Council Member Tanaka to support its removal as an alternative.

Council Member Tanaka wanted to see a full Citywide tunnel alternative and said the video regarding the tunnel was biased. He accepted a less biased analysis determining a tunnel alternative was infeasible or polling that demonstrated the community's willingness to remove the tunnel alternative.

AMENDMENT: Council Member Tanaka moved, seconded by Council Member Kou to remove Part C. ii. from the Motion.

Council Member Cormack recalled someone with some technical expertise stating construction of a Citywide tunnel within the City's boundaries was not possible. The video demonstrated the possible tunnel alternatives, but they all had eminent domain issues. The cost and impacts of a tunnel alternative were significantly greater than the other alternatives.

Council Member Kou questioned the need for the tunnel alternative to swing out.

Mr. Shikada reported the realignment for the shoefly track was necessary for Caltrain service to continue during construction. Community members had not expressed any technical challenges to the evaluation of the tunnel alternative.

Council Member Kou asked about relocating the tunnel in order to reduce property impacts.

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to minimize viaducts/elevated trains located behind people's homes.

Council Member DuBois supported an alternative that minimized a viaduct's impacts on homes.

Vice Mayor Fine supported it as criteria rather than an alternative. The issues around a tunnel alternative were presented and documented extensively.

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Mr. Shikada reported in a March, 2019 straw poll; one CAP member supported continued study of the tunnel alternative, seven members supported elimination of the alternative, one member supported delaying consideration to a later date and one member did not vote.

Council Member Kou wanted to know the configuration of the tunnel if the shoefly tracks were in a different location. She wanted to consider each alternative carefully so that the community would not have regrets 30 years in the future.

Council Member Cormack agreed to remove Part C.ii. if the Motion contained a specific date for Staff to provide the information Council Member Kou requested.

Council Member Tanaka reiterated his request for polling regarding the community's wishes around the tunnel alternative and the request for technical data demonstrating the infeasibility of the tunnel alternative.

AMENDMENT WITHDRAWN BY THE MAKER

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to remove from the Motion Part C. ii and add to the Motion "Direct Staff to return to Council with an update on the city-wide tunnel."

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to amend the Motion Part C. ii. to change the word "consider" to "ensure."

MOTION AS AMENDED: Vice Mayor Fine moved, seconded by Council Member Cormack to:

- A. Approve the Rail Grade Separation Work Plan as a follow up to the March 18th Committee of the Whole recommendation including a timeline and process by which the City Council would select a preferred solution to begin environmental review;
- B. Add more check-ins with Council. Redefine the Community Working Group (WG) meetings to cover more ground;
- C. Approve Additional Alternatives to be studied including:
 - i. Allow WG to brainstorm some alternatives such as Embarcadero, Meadow and Charleston;
 - ii. Ensure the trench alternative minimizes construction impacts;

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- D. Direct Staff to return to Council with an amendment to contract C18171057 with AECOM to reflect scope changes and extension to October 2019 for Council selection of a preferred solution; and
- E. Direct Staff to return to Council with an update on the citywide tunnel.

MOTION AS AMENDED PASSED: 5-0 Filseth, Kniss recused

Mr. Shikada asked if the Council intended to omit the viaduct alternative at Churchill.

Council Member DuBois indicated the Motion should be "approve additional alternatives" plus the Staff Report.

Adjournment: The meeting was adjourned at 11:51 P.M.