City of Palo Alto (ID # 5146)

City Council Staff Report

Report Type: Consent Calendar **Meeting Date: 10/6/2014**

Summary Title: Business Registry

Title: Adoption of an Ordinance Creating a Business Registry in the City of Palo Alto and Adoption of a Budget Amendment Ordinance for Fiscal Year 2015 for Costs Related to the Implementation of a Business Registration Program for all Businesses Occupying Commercial Space Within the City and Amendment to the Municipal Fee Schedule and Administrative Penalty Schedule

From: City Manager

Lead Department: City Manager

Recommendation

Staff recommends that the Council:

1. Approve an Ordinance (Attachment A) creating a business registry for the City of Palo Alto.
2. Review the updated BRC Questionnaire (Attachment D), and authorize staff to finalize the questions with input from the Transportation Management Association consultant.
3. Adopt a Budget Amendment Ordinance (Attachment B) for Fiscal Year 2015 to increase General Fund revenue estimates for permits and fees in the amount of $250,000 and increase the Development Services Department appropriation by $250,000 for the Business Registry Certificate (BRC) Program and amend the Fiscal Year 2015 Adopted Municipal Fee Schedule to add the Business Registry Certificate Fee in the amount of $50 per business and amend the Administrative Penalty Schedule to include a 50% ($25) penalty upon 30 days late and 100% penalty ($50) upon 60 days late.

Background

Council Direction

On February 24, 2014, the Council unanimously approved a Council Colleague's Memo directing staff to return to Council in short order with a plan for a business registry program that is online, simple to use, and cost recovery in nature (i.e. not meant to generate additional revenue for the City). The Council specifically pointed out the need for the information

especially as it relates to "number of employees, types of businesses, and other information that would be valuable for effective planning purpose."

On April 29, 2014, Council directed Staff to move forward with a two phase framework to implement an annual Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery program with a focus on businesses occupying or planning to occupy commercial spaces within Palo Alto. Staff was further directed (in phase one) to create an online-based BRC program through technology incorporated within the City's existing Permit Management System (Accela), to develop an outreach and marketing plan including stakeholders from multiple types of businesses, and to return to Council for approval of the BRC ordinance and program implementation and launch by 12/31/14, including a plan for initial enforcement.

On September 22, 2014, the Council approved the staff's approach to developing and launching a BRC, and directed staff to return to Council with a Budget Amendment Ordinance (BAO) for Fiscal Year 2015 for the BRC start-up costs, including program development and outreach for the remainder of the fiscal year. The Council also provided guidance and input on a draft ordinance and a draft questionnaire. The staff report from September, which includes the additional minutes and reports from February and April are included as Attachment E. Although the verbatim minutes were not yet available at the time this report was written, the action minutes for 9/22 are included as Attachment F.

Discussion

<u>Ordinance</u>

Staff recommends that the Council adopt the ordinance establishing a Business Registry (Attachment A), which has been updated to include Council feedback and input on 9/22/14. This ordinance requires all businesses operating in a fixed place of business in the City to obtain a business registration certification. To obtain a certificate, businesses must complete a City questionnaire (Attachment D). Home-based businesses and transitory businesses (such as general contractors whose corporate office is located outside of the city) are exempt from the ordinance. Based on Council feedback in September, non- profit corporations will not be exempted from the BRC and businesses will not be required to display their certificates.

Further Council policy direction will be incorporated into the administrative rules regarding the BRC. Companies that have multiple business entities essentially incorporating the same people at the same location shall only be required to file one business registry certificate listing all such entities. Additionally, companies that hire contract (or "1099") employees (such as Real Estate Brokers) and employment groups (such as Physicians/Dental Groups) shall only be required to file one business registry certificate (e.g. not every real estate agent or physician would be required to file a BRC, their information would be included in one general BRC for the business).

Both the Council and the public noted that the City should prioritize implementing the basic structure of the program and over time make refinements as needed.

Questionnaire

Other Cities
Staff analyzed business license and registry questionnaires from many cities in our region and beyond, including cities in Santa Clara and San Mateo counties. The questions addressed in the updated questionnaire (Attachment D) are consistent with standard questions asked within most city business licenses and registries.

Staff has heard concerns regarding company privacy regarding certain information, and certain types of companies (e.g., start-ups in "stealth" mode). Staff will investigate what other cities are doing in terms of privacy and explore mechanisms for keeping certain data confidential. Staff will continue to have conversations with businesses and other cities regarding what information will be collected and published by the City.

Transportation-Related Questions
To date, staff has not found any examples of a business license or registry with a robust transportation-related focus. However, staff was able to find a number of transportation-related questions in Transportation Management Association (TMA)-driven surveys from cities known to have strong TMAs (Boulder, Portland, Austin, etc).

On September 22, 2014, many Council members expressed their desire to have more granular questions included in the BRC (e.g. where employees in Palo Alto are commuting from, and by which modes of transportation). The City's TMA consultant recommends including some high-level transportation-related questions within the business registry itself, and delivering more detailed questions as part of a follow-up market research survey overseen by the TMA. Staff is working with the TMA consultant to properly pose such questions so as to gather key data points (i.e. the proximity of employees to public transit options), while minimizing the number of questions posed by the BRC itself to streamline the application process. Staff anticipates finalizing the questionnaire in October/November prior to the launch of the BRC. More specific transportation-related data gathering will be a focus of the TMA in 2015.

Budget Amendment Ordinance
Staff recommends that Council approve a Budget Amendment Ordinance (BAO) for Fiscal Year 2015 (Attachment B) to cover the administration costs related to the creation of a BRC program. For the first year of the program, the costs are estimated at approximately $250,000, which includes the ongoing support of the Business Registry database and online interface, outreach, temporary staffing, letter and postage, as well as reimbursement for department and citywide overhead. Initially, for this program, staff recommends a conservative estimate that 5,000 businesses will register. Therefore, the Business Registration Certificate program fee is recommended to be established at $50 for Fiscal Year 2015. As staff gains experience with the program, the program will be reviewed and costs assessed as part of future budget cycles.

Based on the program costs, the BRC fee may be amended as part of the annual budget process.

It is important to note that start-up costs for the initial configuration and set-up of the database and online interface estimated at approximately $35,000 are not included in the Business Registry Certificate Fee. These costs are expected to be covered through a reappropriation request from Fiscal Year 2014 scheduled for City Council approval on October 20, 2014. The Finance Committee reviewed and recommended approval for this request at the September 16 Finance Committee meeting.

Municipal Fee Schedule

Based on Council direction, staff worked with the City's consultant to further refine the estimate of businesses in Palo Alto subject to the BRC. Our final estimate includes nearly 10,000 individual business listings, addresses, and (in many cases) phone numbers. Given these numbers and the assumption of 50% participation in the first year (accounting for businesses that have closed, moved, are not subject to the BRC or do not comply), the proposed Business Registry Certificate fee is $50 per business for the first program year, and staff recommends an Amendment to the Municipal Fee Schedule (Attachment C) to reflect this addition. As participation in the program grows and costs are refined, the fee will be reviewed as part of the annual budget process.

Administrative Penalty Schedule

Although enforcement would not be the focus for Phase 1, staff recommends that the Council establish penalties in the form of late fees for non-compliance. Staff recommends that these fees be straight line and be subject to collection activities. Staff would focus on communicating these penalties to businesses in Phase 1 in hopes that the severity of the penalties would induce more compliance to the BRC.

Staff recommends that the council approve an amendment to the Administrative Penalty Schedule as outlined in Attachment B. For being 30 days late, a business would have to pay the original registration fee of $50 plus $25 in penalties, which is equivalent to 50% of the annual registration fee. For being 60 days late with the payment of the business registration fee, a business would have to pay the original registration fee of $50 plus another $50 in penalties, which is equivalent to 100% of the $50 registration fee. It is anticipated that businesses more than 60 days late would be sent to a collection agency.

Timeline/Next Steps

Stakeholder outreach/marketing and development of the tool and program will commence immediately and be ongoing. The ordinance will return for a second reading in November of 2014 and go into effect 31 days after second reading. After working with the TMA consultant and business community, the questionnaire will be finalized by November of 2014. The BRC program will launch beginning in January of 2015, with a 90-day grace period for businesses to

comply (e.g. business registration due March 31, 2015). The BRC will renew annually beginning on March 31, 2016.

In late 2015, staff anticipates that Phase Two will launch, including exploration of an enhanced enforcement plan, and integration with the Use and Occupancy Certificate and other processes.

Staff has begun the preliminary examination/clean up work of other related processes and will begin the process of integrating them with the business registry and return to Council with an update/next steps during Phase Two.

Resource Impact

Staff anticipates a new contract with Accela in an amount not to exceed $42,290 for FY 2015, and a contract with TruePoint Solutions in an amount not to exceed $25,000 in FY 2015. Contract staffing costs for program development are anticipated at $80,000 for FY 2015. Staff will return to Council with ongoing maintenance for Accela and Truepoint as part of the FY 2016 budget process with related adjustment to the annual fee in order to achieve full cost-recovery of the BRC fee.

As discussed in the attached Budget Amendment Ordinance, staff recommends recognizing $250,000 in revenue based on the assumption that 5,000 business will initially particiapte in the program and pay a $50 annual Business Registration Fee. This revenue will cover the first year cost of administration, including the ongoing support of the Business Registry database and online interface, outreach, temporary staffing, letter and postage, as well as reimbursement for department and citywide overhead. As staff gains experience with the program, the program will be reviewed and costs assessed as part of future budget cycles. Based on the program costs, the BRC fee may be amended as part of the annual budget process.

Policy Implications

This is consistent with Council direction on 2/24/14, 4/29/14, and 9/22/14, and will be developed to be cost recovery. The data made available through this business registry will be helpful in achieving many of the programs outlined in the City's Comprehensive Plan.

Attachments:

- Attachment A: Ordinance Creating a Business Registry (PDF)
- Attachment B: BAO XXXX - Business Registry(DOCX)
- Attachment C: Amended Municipal Fee Schedule (XLS)
- Attachment D BRC-Draft Questionnaire_Oct 2014 (PDF)
- Attachment E 9-22-14 Staff Report (PDF)
- Attachment F 09-22-14 MOTIONS (PDF)

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Not Yet Approved

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto Adding Chapter 4.60 to the Palo Alto Municipal Code Regarding Business Registration Program

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Chapter 4.60 (Business Registration) is hereby added to Title 4 (Business Licenses and Regulations) of the Palo Alto Municipal Code to read as follows:

BUSINESS REGISTRATION PROGRAM

4.60.010 Purpose
4.60.020 Definitions
4.60.030 Business Registration Requirement
4.60.040 Exceptions from Business Registration
4.60.050 Fee Required
4.60.060 Application Procedures
4.60.070 Contents of Business Registration Certificate
4.60.080 Term and Annual Renewal of Business Registration
4.60.090 Refunds
4.60.100 Rules and Regulations
4.60.120 Penalties and Remedies

4.60.010 Purpose

The purpose of this chapter is to establish a regulatory mechanism to maintain an accurate record of businesses conducting business in the city in order (1) to develop recommendations on land uses; (2) to better coordinate transportation programs; (3) to assist in zoning compliance and (4) to gather statistical information for other city purposes. This chapter is not intended to apply to home based or transitory businesses.

4.60.020 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings set forth in this section, except where the context clearly indicates a different meaning:

(a) "Business" means any commercial enterprise, trade, calling, vocation, profession, occupation, or means of livelihood, whether or not carried on for gain or profit.

(b) "Business registration certificate" means a written statement issued by the city to a business owner as evidence of registering a business in the city.

(c) "Fixed place of business" means a place of business located in the city boundaries and occupied for the particular purpose of conducting business.

(d) "Home based business" means a home occupation as defined in Section 18.04.030.

(e) "Person" means and includes any business owner, individual, firm, co-partnership, joint venture, association, corporation, estate, business trust, or any other group or combination acting as a unit.

(f) "Transitory business" means a business that is carried on for a short duration (such as pumpkin sales, special events, and filming) or a business that does not have a fixed place of business within Palo Alto (such as landscaping or construction contractors based in other cities).

4.60.030 Business Registration Requirement

(a) No person shall conduct any business in a fixed place of business without first having obtained a business registration certificate, paid the applicable business registration fee and complied with all applicable provisions of this chapter.

(b) The issuance of a business registration certificate under this chapter shall not excuse the business from complying with other applicable Code requirements.

(c) A business registration certificate shall not be transferable.

4.60.040 Exemptions from Business Registration

The following types of businesses are exempt from this chapter;

(a) Home based business

(b) Transitory business.

4.60.050 Fee Required

(a) Every person engaging in business in the city shall pay a business registration fee as prescribed by resolution adopted by the city council.

(b) The business registration fee is not a revenue raising device, but shall bear a reasonable relationship to the service to be performed by the city and the costs incurred by the city in reviewing, processing and acting upon the application.

(c) The city council shall, from time to time, review the resolution fixing the business registration fee and may revoke, modify, adjust, add or determine any amount or rate of such business registration fee.

4.60.060 Application Procedures

Every person operating a business in the city shall apply to obtain a business registration certificate on a form prescribed by the city. Upon receipt of a completed application and any fee required, the city shall process the application and issue a business registration certificate. The application may be reviewed by other city departments or governmental agencies to determine if the business premises to be occupied meet the requirements of federal, state, and local laws.

4.60.070 Contents of Business Registration Certificate

Upon receipt of a completed application and payment of the prescribed business registration fee, the city shall issue to the applicant a business registration certificate which shall contain the following:

(1) Name of business;

(2) Business location;

(3) Expiration date;

(4) Certificate Number; and

(5) Such other information as deemed necessary by the city.

A separate certificate may be obtained for each and every branch establishment or separate place of business in which a business is carried on.

4.60.080 Term and Annual Renewal of Business Registration

(a) Term. A business registration certificate shall be effective for no more than one year. Unless otherwise specified, all certificates shall expire on March 31st. Business registration fees shall be due and payable annually in advance.

(b) Renewal. Business registration certificates shall be renewed annually on a form prescribed by the City. Every application for the renewal of a certificate shall be made at least fifteen days prior to the expiration date of such license. Any person applying to renew a business registration shall submit to the city a completed renewal application and pay the renewal fee.

(c) Alternative Periods. If deemed necessary, the city may establish alternative registration periods for businesses.

4.60.090 Refunds

No business registration fees or penalties collected shall be refundable.

4.60.100 Rules and Regulations

The City Manager may adopt rules and regulations from time to time to implement this chapter. Implementing rules and regulations shall not be inconsistent with the provisions of this chapter.

4.60.120 Penalties and Remedies

(a) Penalties for delinquency. Any person engaging in business in the city that fails to secure a business registration certificate before commencing business in the city or fails to timely renew their license shall pay, in addition to the amount of the license fee, a penalty in an amount to be determined by ordinance or resolution.

(b) Action to collect. If a business fails to comply with the fee requirements of this action, the City may refer the matter to a collection agency and/or the city attorney may file a civil action against any business. Notwithstanding subsection (a) of this section, should court action be required to collect any business registration fee and/or penalties, an additional penalty shall be charged equal to the cost incurred by the city for court action, including but not limited to reasonable attorney fees. All penalties shall be added to the business registration fee and shall become due and payable along with the delinquent business registration fee.

(c) Remedies Cumulative. All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

SECTION 2. Any provision of the Palo Alto Municipal Code inconsistent with the provisions of this chapter, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this chapter.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted this chapter and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the chapter would be subsequently declared invalid or unconstitutional.

SECTION 4. The Council finds that the adoption of this chapter is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline section 15061 because it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment and section 15378(b) (3) in that it involves creation of a governmental funding mechanism or other governmental fiscal activity that does not involve commitment to any specific project that may result in a potentially significant physical impact on the environment.

SECTION 5. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

_____	_____
City Clerk	Mayor
APPROVED AS TO FORM:	APPROVED:
_____	_____
Senior Assistant City Attorney	City Manager

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ORDINANCE NO. XXXX

ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO AMENDING THE GENERAL FUND BUDGET FOR FISCAL YEAR 2015 TO INCREASE REVENUE ESTIMATES FROM PERMITS AND FEES IN THE AMOUNT OF $250,000 IN RECOGNITION OF NEW REVENUE GENERATED FROM THE BUSINESS REGISTRY CERTIFICATE FEE, INCREASE THE DEVELOPMENT SERVICES DEPARTMENT APPRORIATION BY $250,000 FOR THE ADMINISTRATION OF THE CITY OF PALO ALTO BUSIENSS REGISTRY CERTIFICATE PROGRAM, AND AMEND THE FISCAL YEAR 2015 ADOPTED MUNICIPAL FEE SCHEDULE TO ESTABLISH THE BUSINESS REGISTRY CERTIFICATE FEE IN THE AMOUNT OF $50.00 PER BUSINESS.

The Council of the City of Palo Alto does ordain as follows:

SECTION 1. The Council of the City of Palo Alto finds and determines as follows:

A. On February 24, 2014, the City Council unanimously approved a Council Colleague's Memo directing staff to develop a Business Registry Certificate Program; and

B. On April 29, 2014, the City Council directed staff to move forward with a two-phase framework to implement an annual Business Registry Certificate Ordinance and Fee Program as a full-cost recovery program; and

C. On April 29, 2014, the Palo Alto City Council approved staff's recommendation to transfer $35,000 from the City Council Contingency to the City Manager's budget for initial start-up costs for program and technology development, and due to timing between fiscal years, on September 16, 2014, the Finance Committee approved that the FY 2014 start-up funds in the amount of $35,000 be reappropriated to the City Manager's FY 2015 budget; and

D. Pursuant to the provisions of Section 12 of Article III of the Charter of the City of Palo Alto, the Council on June 16, 2014 did adopt a budget for Fiscal Year 2015; and

SECTION 2. The revenue estimate for Permits & Fees in the General Fund is increased by Two Hundred Fifty Thousand ($250,000) in recognition of new revenue generated by the Business Registry Certificate Fee.

SECTION 3. The Development Services Department budget is hereby increased by Two Hundred Fifty Thousand ($250,000) for the administration of the City of Palo Alto Business Registry Certificate Program.

SECTION 4. The Fiscal Year 2015 Municipal Fee Schedule is hereby amended to include the Business Registry Certificate Fee in the amount of $50.00 per business.

SECTION 5. Section 1 of City Council Resolution 9410 (Administrative Penalty Schedule) adopted on May 4, 2014 is hereby amended to add the following penalties/fines:

A. 4.60.120: Failure to pay within 30 days Registration fee plus 50%; and

B. 4.60.120: Failure to pay within 60 days Registration fee plus 100%.

SECTION 6. As specified in Section 2.28.080(a) of the Palo Alto Municipal Code, a two-thirds vote of the City Council is required to adopt this ordinance.

SECTION 7. As provided in Section 2.04.330 of the Palo Alto Municipal Code, this ordinance shall become effective upon adoption.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Manager

City Attorney

Director of Development Services

Director of Administrative Services

Development Services

Planning*

	FY 2014 FEE	FY 2015 FEE
Multiple fees below may apply to a single development project; however, when this fee schedule requires a deposit, only the deposit shall be collected. Processing costs for all permits will be billed against that deposit. If the project requires an environmental impact report or other study requiring outside consultants, a deposit equal to 100% of consultant costs shall be collected in addition to any other deposit or fee required.		
Director's Approval		
Protected Tree Removal	$270.00 plus Other Application Fees on page 21-6	$270.00 plus Other Application Fees on page 21-6
Other Application Fees		
Record Management Fee (Optical disk record)**	$25.00 per file	$25.00 per file
Records Retention**	$4.00/plan sheet	$4.00/plan sheet
Technology Enhancements**	$20.00 per application or permit	$20.00 per application or permit
Business Registry Certificate Fee	Not Applicable	$50.00 per business

* Fees are moved from or shared with the Planning and Community Environment's (PCE) Planning Division to the newly created Development Services Department in FY 2015. FY 2014 Fees shown here were located in the PCE in FY 2014

** Fees shared with Planning and Community Environment as of FY 2015

Business Registry Certificate

Sample Questions

Business Name, Owner, Address, Mailing Address (if different), email, phone

Does your business have multiple buildings/addresses within Palo Alto?

If yes, list (simple pull down with address, square footage, # of employees on site, etc)

Business type (choose one)

- ☐ Office, General
- ☐ Office, Medical
- ☐ School, Private
- ☐ Theater
- ☐ Retail/ Service
- ☐ Manufacturing
- ☐ Wholesale/ Distribution
- ☐ Restaurant
- ☐ Software Development
- ☐ Financial Institution
- ☐ Church
- ☐ Other_____

Does your business have multiple business entities/ names associated with your location?

If yes, list them all*

*The City only requires one Business Registry Certificate for businesses that essentially employ the same people at the same location. Such businesses must list all the associated entities here.

North American Industry Classification System (NAICS) Code (link)

Federal Tax ID #

Sellers Permit #

Total square footage of business location**

**This is the total square footage actively used for business purposes. If you rent space, this number is typically found on your lease.

Number of workers onsite (including part time, full time, and contractors) on a typical business day

Does your company provide on-site employee parking? If so, how many spaces?

Do you lease any off-site parking spaces? If so, how many?

DRAFT

What are your business hours? (Fill out simple chart)

Does your company offer commuter benefits? (check all that apply)

- ☐ Pre-tax payroll deduction for transit passes
- ☐ Subsidize transit
- ☐ Provide shuttle service
- ☐ Offer flexible work hours
- ☐ Provide car-share and/or bike-share for employees
- ☐ Other

Would you like more information about available transportation programs? (check all that apply)

- ☐ Palo Alto Free Shuttle
- ☐ Bike Boulevard program
- ☐ Bay Area bike share
- ☐ Zipcar
- ☐ Caltrain
- ☐ VTA
- ☐ SamTrans

DRAFT

City of Palo Alto
City Council Staff Report

(ID # 5098)

Report Type: Action Items **Meeting Date: 9/22/2014**

Summary Title: Business Registry

Title: Council Review of Draft Ordinance Creating a Business Registry; Policy Direction Regarding Business Registry Questionnaire and Update on Staff's Implementation Plan

From: City Manager

Lead Department: City Manager

Recommendation

Staff recommends that Council:

1. Review and provide comments on the draft Ordinance creating a business registry for the City of Palo Alto;
2. Approve the staff approach to engage our software vendor, Accela, for set-up, licensing and implementation costs related to the creation of a business registry certificate program (BRC) and for the City to engage Truepoint Solutions for pre and post go-live software staffing augmentation needs;
3. Direct staff to return to Council with a Budget Amendment Ordinance (BAO) for Fiscal Year 2015 for the BRC software start-up costs, including program development and outreach for the remainder of the fiscal year.
4. Review and provide policy direction on the BRC Questionnaire.

Background

Essential Data

The need for the City to obtain real data behind employment in Palo Alto business districts is clear. With such data, the City can begin to measure employment trends, business growth and activity throughout the City in a cohesive and coordinated manner. Its availability is vital for developing and measuring the effectiveness of transportation demand management programs, and other transportation planning efforts. There are several other potentially valuable uses for the data including:

- Land use decisions/ planning

- Economic development
- Public safety/ emergency response
- Emergency/ disaster preparedness
- Regional Water Quality Control Plant compliance
- Business outreach
- Integration with other city data
- Coordination of staff processes/ improvements to business experiences

Council Direction

On February 24, 2014, the Council unanimously approved a Council Colleague's Memo (See Attachment D) directing staff to return to Council in short order with a plan for a business registry program that is online, simple to use, and cost recovery in nature (i.e. not meant to generate additional revenue for the City). The Council specifically pointed out the need for the information especially as it relates to "number of employees, types of businesses, and other information that would be valuable for effective planning purpose".

On April 29, 2014, Council directed Staff to move forward with a two phase framework to implement an annual Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery program with a focus on businesses occupying or planning to occupy commercial spaces within Palo Alto. Staff was further directed (in phase one) to create an online-based BRC program through technology incorporated within the City's existing Permit Management System (Accela), to develop an outreach and marketing plan including stakeholders from multiple types of businesses, and to return to Council for approval of the BRC ordinance and program implementation and launch by 12/31/14, including a plan for initial enforcement. Excerpt minutes are available as Attachment C.

Discussion

Business Registry Framework

Staff has prepared a draft Business Registry ordinance for Council's consideration (See Attachment A). The ordinance requires all businesses operating in a fixed place of business in the City to obtain a business registration certificate. To obtain a certificate, businesses must complete a city questionnaire (See Attachment B). Home based businesses and transitory businesses (such as general contractors whose corporate office is located outside of the city) are exempt from the ordinance. The business certificate shall last for one year and must be renewed annually. Businesses must post the certificate in a conspicuous place.

The ordinance authorizes the City to impose penalties for failing to secure a certificate. The ordinance also allows the Director of Administrative Services to adopt rules and regulations to further implement the program.

Web-Based Tool

Based on Council Direction, The Palo Alto BRC will be an internet-based program. The interface needs to be easy to understand and use, and to seamlessly integrate with the City's existing permit management system (Accela). This will ensure that the process is as simple as possible for businesses and should prevent an influx of thousands of business people into the Development Center.

Companies will be able to complete the entire BRC process online. This includes creating a business profile, answering the BRC questionnaire, completing an affidavit stating the facts presented are true, making payment, and generating a BRC certificate. Staff is planning for 2 "virtual kiosks" to be made available at the Development Center to allow businesses the ability to sign up online.

Fee Structure

As a cost-recovery program, the proposed business registry certificate fee structure will be a flat annual fee for each business required to register. The fee amount will depend on the actual number of businesses targeted (subject to refinement of staff's current list and to further Council consideration), and based on preliminary staff estimates. At this time, the fee will most likely be on the lower end of the $35-$75 range previously stated depending on the number of expected businesses to register with the program.

Staffing

Pending Council action outlined in this report, staff will partner with Accela to implement, license, and integrate the BRC tool into our permit management system. Accela is currently used as the City's Permit Management System and will be able to host the data in a form that is able to incorporate with numerous other City processes. This is especially important in Phase One of the BRC as it relates to payments and data reporting and in Phase Two for integration with other City processes (including Planning, Building, and Fire Department).

In order to also meet the City's requirement to have a web-based front end that is simple, user-friendly and integrates with Accela as the back end, Accela partnered with another firm, OpenCounter.

Beyond the software implementation and integration in phase one, staff will also be needed for several key tasks as it relates to the development of the BRC. Although many of these efforts will be conducted with existing staff resources, staff does anticipate the need for one 12-month contract employee at the Management Analyst level to manage the development of the BRC program implementation. These tasks included, but are not limited to:

- Develop a program centered around registering new and existing businesses in the City of Palo Alto
- Develop streamlined processes that enable the ongoing administration of this new program
- Coordinate marketing campaigns to help facilitate registration of new and existing companies.
- Work collaboratively with other staff and external consultants at the Development Center to ensure the process integrates with other processes and management and all personnel are well informed about the program and process.
- Develop reports and run queries that track the program's effectiveness, reach, and efficiency
- Track fees to ensure the program is cost recoverable.
- Prepare for integration with other processes (including Use & Occupancy Permitting)
- Train and deploy staff to run the program once the system has been established.
- Plan and prepare all processes for operational hand-over to Development Center staff

Once implemented, staffing needs will shift to program management, which is anticipated to add one staff member to the Development Center, likely at the Program Assistant III level, to manage such things as:

- New business outreach
- Kiosk Assistance
- Customer Support
- Report generation/ publishing
- Annual Billing
    - Largely automated
- Collections activities

Staff outlines these costs for Fiscal Year 2015 in the resource impacts section below and will return to Council as part of the annual budget process for future years' costs.

<u>Enforcement</u>

Phase one would be focused mainly on developing/ launching the system, outreach, and stakeholder engagement. Initial enforcement will rely mainly on staff visitations and mailed reminders.

Existing staff such as the Fire Department (as they conduct their regular fire-safety system inspections) as well as on the coordination of other city permits (e.g. staff would require a BRC to be completed as part of any application for an encroachment, tenant improvement, or other permit, as appropriate). Businesses would be required to post their BRC in plain sight, so a simple system could be developed to create spot-checks for businesses in Phase 1 without additional resources needed.

Although enforcement would not be the focus for Phase 1, staff recommends that the Council adopt an initial plan including establishing penalties in the form of late fees for non-compliance. Staff recommends that these fees be cumulative and be subject to collection activities. Staff would focus on communicating these penalties to businesses in Phase 1 in hopes that the severity of the penalties would induce more compliance to the BRC.

Additional enforcement tools, techniques, and penalties would be explored during phase two.

Database of Existing Businesses

In collaboration with Muni Services, the City's sales and property tax consultant, over 260,000 available business records were compiled using numerous sources. These sources included internal sources such as Palo Alto Utility, Police and Fire Department records, as well as external sources such as sales tax, property tax, publicly and privately available business listings, and other records. In scrubbing the database to meet the criteria outline by Council, the list currently includes over 11,500 individual business listings, addresses, and (in many cases) phone numbers. Staff will continue to develop this list prior to finalizing estimates. As the list is further refined, and subject to Council policy direction in this report, the number is expected to decrease further. For example, many dentists and MDs are listed individually, but would be considered a "medical group" for purposes of the BRC based on the staff recommendation.

Initial Outreach

Although the focus of staff has primarily been on creation of the software and systems to host a working BRC, staff has been able to interface with several stakeholders regarding the creation of a BRC. The fact that the BRC concept only focuses on businesses operating in commercial spaces, is a nominal (cost recovered) fee, and will be very simple to use has been generally well received.

It was noted on several occasions that the key to success of the BRC will be in informing and educating the business community about the BRC using all available channels of communication. It has also been noted that the questions recorded and the quality of information are integral to the success of the program.

There were some concerns from the business community about what information collected by the City would be public. In general, staff's goal is to collect data that would not only be used by the City, but could also be made publicly available for third party use. However, in recognition that some businesses have raised privacy concerns regarding certain information, staff intends to do more outreach with businesses to better understand their concerns. Staff has committed to having continued conversations with businesses to explore mechanisms for keeping certain data confidential.

Other concerns expressed were that it would be difficult to enforce the BRC because of a rapid rate of change in commercial properties. Also, there is some concern that the BRC would set the stage for a revenue generating Business License Tax.

Additional Outreach

Staff is committed to conducting significantly more outreach to include as part of the development and eventual implementation of the BRC. Tactics will include, but not be limited to:

- Direct Mail
- Online/ advertising and website/ FAQ
- Social Media
- Phone/ email contacts
- Business Organizations
- Sentiment surveys via Survey Monkey
- In person meetings
- Regular email updates

Policy Decisions for Council

Questionnaire
Staff requests that the Council give input regarding the attached questionnaire (Attachment B), which is an attempt to focus the range of possible questions into a core list to derive the key information from companies in Palo Alto. Staff worked across departments to develop the list, and special attention was given to input from the transportation department and the City's Transportation Management Association (TMA) consultant to ensure that the questions provide data necessary for the development of a successful TMA.

Based on council feedback, staff would like to further develop the questionnaire and engage stakeholders through outreach meetings for additional comments.

Exemptions
The types of businesses that are exempt from a business license tax by the US Constitution, or Federal or State statutes (such as banks, insurance companies, and non-profit organizations) are not necessarily exempt from a BRC. Other California cities with a business registry do not exempt any types of businesses: businesses doing business but not based in the City, non-profit organizations, and home based businesses are all subject to the fee.

Per Council direction, in Phase One of the BRC businesses not occupying or planning to occupy commercial space in Palo Alto would not be subject to the BRC. This includes transitory businesses, home-based businesses, virtual offices and other businesses that do not today require a Certificate of Use per the City's Municipal Code. Staff recommends that businesses that employ contract or "1099" employees or agents, such as real estate brokerage firms, as well as dental and physicians groups only be required to complete one BRC per location. Staff recommends that all types of businesses be evaluated for potential inclusion/ expansion into the BRC during Phase 2.

A key policy question is whether or not non-profit corporations should be exempted from the BRC or from payment of the BRC. Previous iterations of a business registry in Palo Alto have proposed that non-profit organizations be required to register but be exempt from the registry fee. It must be noted that to the extent any specific types of businesses or organizations are included in the registry but exempted from the registry fee, the operating cost associated with such a fee exemption must be borne by the General Fund rather than by other businesses in the BRC. Based on current estimates, this exemption is estimated to cost between $7,000-$31,500 per year.

Companies with Multiple Locations
Another policy question is how to deal with companies that have multiple locations within Palo Alto. Since a major intent of the business registry is to derive data regarding how many people are travelling to jobs in Palo Alto, staff sees an argument for having only one BRC form filled out for each company, listing the number and address of each location, answering the questions for the company in a largely amalgamated manner, but breaking down some data points on a site-specific basis. However, the Council could decide that one BRC should be filled out for each location.

Timeline/ Next Steps
Stakeholder outreach/ marketing and development of the tool and program will commence immediately and be ongoing. The ordinance will return for a first/ second reading in October/ November of 2014. The BRC program will launch beginning in January of 2015, with a 90 day grace period for businesses to comply (e.g. business registration due March 31, 2015). The BRC will renew annually beginning on March 31, 2016.

In late 2015, staff anticipates that Phase Two will launch, including exploration of an enhanced enforcement plan, and integration with the Use and Occupancy Certificate and other processes.

Staff has begun the preliminary examination/ clean up work of other related processes and will begin the process of integrating them with the business registry and return to Council with an update/ next steps during Phase Two.

Resource Impact

Staff anticipates a new contract with Accela in an amount not to exceed $42,290 for FY 2015, and a contract with Truepoint Solutions in an amount not to exceed $25,000 in FY 2015. Contract staffing costs for program development are anticipated at $80,000 for FY 2015. Staff would return to Council with ongoing maintenance for Accela and TrPoint as part of the FY 2016 budget process with related adjustment to the annual fee in order to achieve full cost-recovery of the BRC fee. In addition, staff will be seeking either an extension to the contract position or an additional FTE at the Program Assistant III level.

Based on the current estimated range of businesses, the FY 2015 costs for a 6-month period beginning January 1, 2015 is estimated between $170,000 and $190,000 which includes approximately $35,000 in one-time start-up costs. On April 29, 2014, the Palo Alto City Council approved staff's recommendation to transfer $35,000 from the City Council Contingency to the City Manager's budget for initial start-up costs for program and technology development (CMR# 4619). Due to timing between fiscal years, on September 16, 2014, the Finance Committee approved that the FY 2014 start-up funds in the amount of $35,000 be re-appropriated to the City Manager's FY 2015 budget (CMR# 5043). Start-up cost estimates depend on the number of businesses to be targeted. However, because the tool is web-based, most of the variable expenses are related only to printing and mailing expenses. Staff will return with refined costs, including a business registry fee based on the final estimate of businesses, as part of a Budget Amendment Ordinance once the policy issues have been finalized in October. In addition to the re-appropriated start-up funds, staff intends to bring forward a recommendation with this Budget Amendment Ordinance, which would cover the one-time start-up costs from the City Council Contingency and the ongoing costs from the fee revenue. Staff would also return with an update to the Municipal Fee Schedule and Administrative Penalty Schedule at that time.

Further, staff proposes an annual increase in the BRC fee equal to the Consumer Price Index- All Urban Consumers for the San Francisco-Oakland-San Jose, CA Metropolitan Areas.

Policy Implications

This is consistent with Council Direction on 2/24/14 and 4/29/14, and will be developed to be cost recovery. The data made available through this business registry will be helpful in achieving many of the programs outlined in the City's Comprehensive Plan.

Environmental Review

Implementation of a BRC is exempt from the California Environmental Quality Act.

Attachments:

- Attachment A: Draft Ordinance: Business Registry (PDF)
- Attachment B: Draft BRC Questionnaire (PDF)
- Attachment C: BRC Excerpt Minutes 4-29-14(PDF)
- Attachment D: Colleagues Memo - Business Registry (2-24-14) (PDF)

Not Yet Approved

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto Adding Chapter 4.60 to the Palo Alto Municipal Code Regarding Business Registration Program

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

(A) A business registry database will provide data to develop recommendations on land use trends and to better coordinate transportation programs such as activities related to a Transportation Management Association, and transportation demand management.

(B) A business registry database will assist City businesses and residents in locating goods and services closer to home, promoting retail, business-to-business sales, and e-commerce.

(C) A business registry database will help the City to better understand its business community, and help make the City's planning, fire, public safety, and security assistance activities more responsive to business needs.

(D) A business registry database is needed to support economic development planning between businesses and the City.

(E) A business registry database will provide the Regional Water Quality Control Plant with updated information to identify all facilities that must comply with the sewer use ordinance.

(F) A business registry database will allow the City to make available to businesses and residents valuable business profile information through a centralized database on the City's web site thereby increasing e-commerce within the City.

(G) A business registry database will allow the City to integrate sales tax information with other measures of business activity (e.g. transient occupancy tax generators) in Palo Alto.

(H) A business registry database will provide data to help update GIS information thereby improving the information available to the City's emergency response teams and Public Works and Utilities staff for informed, timely, and accurate decision-making.

(I) A business registry database will encourage businesses to obtain appropriate permits and to comply with applicable codes, zoning and safety requirements.

(J) A business registry database will help protect the interests of legitimate Palo Alto businesses in the City from unfair competition from businesses operating in violation of federal, state, and local laws.

(K) On October ___, 2014, the City Council conducted a public hearing on the addition of Chapter 4.60, Business Registration; and

(L) The City Council, after due consideration of the recommendation and a duly noticed public hearing held on _____, 2014, finds that the proposed addition is in the public interest and will promote the public health, safety, and welfare.

SECTION 2. Chapter 4.60 (Business Registration) is hereby added to Title 4 (Business Licenses and Regulations) of the Palo Alto Municipal Code to read as follows:

BUSINESS REGISTRATION PROGRAM

4.60.010 Definitions
4.60.020 Purpose
4.60.030 Business Registration Requirement
4.60.040 Exceptions from Business Registration
4.60.050 Fee Required
4.60.060 Exemption from Fee
4.60.070 Application Procedures
4.60.080 Contents of Business Registration Certificate
4.60.090 Term and Annual Renewal of Business Registration
4.60.100 Refunds
4.60.110 Duplicate Copies, Modification and Transfer of Business License Certificates
4.60.120 Posting and Keeping Business Registration Certificate
4.60.130 Entry to Inspect
4.60.140 Rules and Regulations
4.60.150 Penalties and Remedies
4.60.160 Appeal

4.60.010 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings set forth in this section, except where the context clearly indicates a different meaning:

(a) "Business" means any commercial enterprise, trade, calling, vocation, profession, occupation, or means of livelihood, whether or not carried on for gain or profit.

(b) "Business registration certificate" means a written statement issued by the city to a business owner as evidence of registering a business in the city.

(c) "Charitable nonprofit organization" means an institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes and from which profit or income is not derived, either directly or indirectly, by an employee, officer or director of the organization.

(d) "Fixed place of business" means a place of business located in the city boundaries and occupied for the particular purpose of conducting business.

(e) "Home based business" means a business conducted within a residential dwelling unit, with the business activity being subordinate to the residential use of the property. For the purpose of this chapter home based business includes but is not limited to construction contractors, gardeners, babysitter and tutors.

(f) "Person" means and includes any business owner, individual, firm, co-partnership, joint venture, association, corporation, estate, business trust, or any other group or combination acting as a unit.

(g) "Transitory business" means a business which is carried on for a short duration (such as pumpkin sales, special events, and filming) or a business that does not have a fixed place of business within Palo Alto (such as landscaping or construction contractors based in other cities).

4.60.020 Purpose

The purpose of this chapter is to establish a regulatory mechanism to maintain an accurate record of businesses conducting business in the city for statistical purposes and to assist in zoning compliance.

4.60.030 Business Registration Requirement

(a) No person shall conduct any business in a fixed place of business without first having obtained a business registration certificate, paid the applicable business registration fee and complied with all applicable provisions of this chapter.

(b) A separate business registration certificate shall be obtained for each separate type of business at the same location.

(c) The issuance of a business registration certificate under this chapter shall not excuse the business from complying with other applicable Code requirements.

4.60.040 Exemptions from Business Registration

The following types of businesses shall be exempt from this chapter.

(a) Home Based Business.

(b) Transitory Business.

(c) Any business otherwise exempt from this Chapter's requirements by virtue of the Constitution or applicable federal or state statutes.

4.60.050 Fee Required

(a) Every person engaging in business in the city shall pay a business registration fee as prescribed by resolution adopted by the city council.

(b) The business registration fee is not a revenue raising device, but shall bear a reasonable relationship to the service to be performed by the city and the costs incurred by the city in reviewing, processing and acting upon the application.

(c) The city council shall, from time to time, review the resolution fixing the business registration fee and shall revoke, modify, adjust, add or determine any amount or rate of such business registration fee.

4.60.060 Exemption from Fee

(a) The following businesses shall be exempt from payment of fees pursuant to this chapter:

(1) Charitable nonprofit organizations.

(2) Any business otherwise exempt from payment of fees required by this Chapter by virtue of the Constitution or applicable federal or state statutes.

(b) Any person claiming a fee exemption pursuant to this section shall file a sworn statement, on a form prescribed by the City, stating the facts upon which the exemption is claimed and shall furnish such information and verification as may be required. In absence of such statement substantiating the claim, such person shall be liable for the payment of the registry fee imposed by this chapter.

4.60.070 Application Procedures

Every person operating a business in the city shall apply to obtain a business registration certificate on a form prescribed by the city. Upon receipt of a completed application and any fee required, the city shall process the application and issue a business registration certificate. The application may be reviewed by other city departments or governmental agencies to determine if the business premises to be occupied meet the requirements of federal, state, and local laws.

4.60.080 Contents of Business Registration Certificate

Upon the payment for business registration, the city shall issue to the applicant a business registration certificate which shall contain the following:

(1) Name of business;

(2) Business location;

(3) Expiration date;

(4) Certificate Number; and

(5) Such other information as deemed necessary by the city.

A separate certificate may be obtained for each and every branch establishment or separate place of business in which a business is carried on.

4.60.090. Term and Annual Renewal of Business Registration

(a) Term. A business registration certificate shall be no more than one year. Unless otherwise specified, all certificates shall expire on March 31st. Business registration fees shall be due and payable annually in advance.

(b) Renewal. Business registration certificates shall be renewed annually on a form prescribed by the City. Every application for the renewal of a certificate shall be made at least fifteen days prior to the expiration date of such license. Any person applying to renew a business registration shall submit to the city a completed renewal application and pay the renewal fee.

(c) Alternative Periods. If deemed necessary, the city may establish alternative registration periods for businesses.

4.60.100. Refunds

No business registration fees or penalties collected shall be refundable.

4.60.110. Duplicate Copies, Modification and Transfer of Business License Certificates

(a) Duplicate business registration. Upon filing a statement indicating that a business registration certificate has been lost or destroyed, and after paying a fee, a duplicate business registration certificate shall be issued by the city.

(b) Modification to business registration. A business registration certificate may be amended to reflect a modification after paying the business registration fee.

(c) Transfer of business registration certificate. A business registration certificate shall not be transferable.

4.60.120. Posting and Keeping Business Registration Certificate

Any person engaging in business subject to this Chapter shall keep a business registration certificate posted in a conspicuous place upon the premises where the business is conducted.

4.60.130. Entry to Inspect

The city shall have the power and authority to enter into a business, free of charge and at any reasonable time, and require to inspect the business registration certificate posted in a conspicuous place upon the premises.

4.60.140. Rules and Regulations

The Director of Administrative Services may adopt rules and regulations from time to time to implement this Chapter.

4.60.150. Penalties and Remedies

(a) Penalties for delinquency. Any person engaging in business in the city that fails to secure a business registration certificate before commencing business in the city or fails to timely renew their license shall pay, in addition to the amount of the license fee, a penalty in an amount to be determined by resolution.

(b) Action to collect. If a business fails to comply with the fee requirements of this action, the City may refer the matter to a collection agency and/or the city attorney may file a civil action against any business. Notwithstanding subsection (a) of this section, should court action be required to collect any business registration fee and/or penalties, an additional penalty shall be charged equal to the cost incurred by the city for court action, including but not limited to reasonable attorney fees. All penalties shall be added to the business registration fee and shall become due and payable along with the delinquent business registration fee.

(c) Remedies Cumulative. All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the City shall no bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

4.60.160. Appeal

Any person aggrieved by any decision of the city with respect to the issuance or denial of a business registration certificate shall have the right to appeal to the Director of Administrative Services or his or her designee by filing an appeal with the city clerk within ten days of the date of the action being appealed and paying any appeal fee determined by resolution of the city council. The decision of the Director of Administrative Services or his or her designee shall not be appealable.

SECTION 3. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court

of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline section 15061 because it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment and section 15378(b) (3) in that it involves creation of a governmental funding mechanism or other governmental fiscal activity which do not involve commitment to any specific project which may result in a potentially significant physical impact on the environment.

SECTION 6. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

_____	_____
City Clerk	Mayor
APPROVED AS TO FORM:	APPROVED:
_____	_____
Sr. Assistant City Attorney	City Manager
	_____
	Director of Administrative Services

Business Registry Certificate

Sample Questions

Business Name, Owner, Address, Mailing Address (if different), email, phone

Emergency Contact Info

Type of Ownership

Business type

North American Industry Classification System (NAICS) Code

Federal Tax ID #

Sellers Permit #

Square footage occupied on site

Start date in Palo Alto

Number of workers onsite (including part time, full time, and contractors) on a typical business day

Does your company provide on-site employee parking? If so, how many spaces?

Do you lease any off-site parking spaces? If so, how many?

What are your business hours? (Fill out simple chart)

Does your company offer commuter benefits? (check all that apply)

Pre-tax payroll deduction for transit passes
Subsidize transit
Provide shuttle service
Offer flexible work hours
Provide car-share and/or bike-share for employees
Other

Would you like more information about the City's transportation programs?

Palo Alto Free Shuttle
Bike Boulevard program
Bay Area bike share
Zipcar
Caltrain
VTA
SamTrans

DRAFT

~~Mayor Shepherd understood stakeholder groups disagreed about the use of Measure E property. She inquired whether there was any consensus from stakeholder groups regarding how the land was considered now that the City could utilize it for these facilities.~~

~~Mr. Bobel indicated there were several stakeholder groups, and he met with each individually.~~

~~Mayor Shepherd asked if stakeholder groups had come to terms with use of the 10 acres.~~

~~Mr. Bobel did not see consensus yet. Staff drafted the alternative recommendations when they realized there was no consensus. People opposed to use of Measure E land in any form were vehemently opposed to alternative recommendations. The Staff recommendation was the best chance for a compromise.~~

~~Mayor Shepherd asked if the Council should discuss that and provide direction to Staff.~~

~~Mr. Bobel did not have a suggestion for the Council.~~

~~Mr. Keene advised that the 10 acres was never a certainty. There seemed to be some agreement about not using the slope portion of the 10 acres. The current discussion seemed to focus on limiting the use of the 10 acres to the 3.8-acres portion.~~

~~Mr. Bobel noted the leadership of proponents stated that alternate recommendations were acceptable. He had seen progress on narrowing the use of the 10 acres.~~

~~Mayor Shepherd remarked that accepting proposals would determine the Council's view of the 10 acres.~~

~~Mr. Keene indicated Staff's practice had been to reclaim and return different portions of the 10 acres to the park. Staff would share an interest in defining boundaries as soon as possible in order to complete park components.~~

12. Approval of Staff Recommended Framework for Development of a Business Registry Certificate Ordinance & Fee Program as a Replacement/Enhancement of the City's Current Use Certificate Program to be Implemented by December 31, 2014.

Thomas Fehrenbach, Economic Development Manager, reported the City lacked basic and essential data regarding businesses and employees. Such data could be utilized for transportation and land use planning, economic development planning, and emergency preparedness. The Council directed Staff to create a simple online registry to obtain data and to recover costs. A Use and Occupancy (U&O) Certificate was required for all businesses operating from a commercial space. Enforcement was limited to businesses that needed other permits from the Development Center or that needed random inspections. The objective for the Staff recommendation was to replace or enhance the current U&O Certificate to include the data component. Staff recommended a phased approach. Staff proposed delivering the registry by the end of 2014, enhancing enforcement later, and extending the business registry beyond businesses occupying commercial spaces. Staff would return to the Council in the fall of 2014 with a draft Ordinance and a plan for enforcing the Ordinance. Staff performed initial outreach with the business community and recommended additional outreach in the development and implementation stages.

Martin Bernstein, speaking as an individual, requested the Council clarify and specify that no fee would be required for any home-based business owner with no employees.

Hal Mickelson, Palo Alto Chamber of Commerce, indicated there was no need for a business registry within the business community. If a business registry was deemed necessary for efficient City administration, the Chamber believed it should be revenue neutral, simple, further simplified for small business, and exempt home businesses. He urged the Council and Staff to consider confidentiality, complicatedness, and enforcement.

Council Member Klein commented that virtually every other city in California had a business registry. Businesses in every community had grappled with the problems Mr. Mickelson mentioned.

Mr. Mickelson suggested the Council obtain advice from the City Attorney regarding actions taken by other cities with respect to confidentiality. Some companies might prefer to pay a fine rather than submit sensitive information.

Council Member Klein hoped the Chamber would provide ideas.

Mr. Mickelson would continue to work with the City.

Robert Moss felt a business registry would provide a great deal of important information, including an accurate number of jobs. Businesses should be required to report periodically. Businesses should report the number of sites they occupied and how many employees were located at each site. Eventually home offices should be included.

Dave Lanferman recalled the Colleague's Memorandum directed Staff to provide an exemption for home-based businesses. Yet, Staff recommended the City consider expanding the business registry to include businesses not occupying commercial spaces. Phase 2 would consider enhanced enforcement. It appeared Staff was asking businesses to pay for the red tape that would be used to further regulate and tax businesses. He was unsure whether calling the proposal a business registry circumvented the requirement for a ballot measure.

Lynn Chiapella referenced parking problems resulting from small business expansions. The City would never obtain a valid number of employees without a business registry.

Jon Kiya, Palo Alto Chamber of Commerce Board Chair, reported the Chamber recognized the value of collecting data. Enforcement on large corporations would be critical to obtaining valid data. Chamber members were concerned about the use of information, specifically that information not be used to assess further taxes or fees.

Mr. Fehrenbach advised that the Council's direction to Staff was clear that home-based businesses would be exempt. The language "businesses not occupying commercial space" was intended to explore transitory businesses. Staff would explore actions taken by other cities regarding confidentiality. The questionnaire was meant to provide a sense of the spectrum of interest from City Departments. A U&O Permit was required for each separate building. The business registry would address the number of workers located in each building. A registry with cost recovery only was not considered a tax. This was an opportunity for proactive outreach and to convert a paper process to an electronic process.

Council Member Holman recommended Staff revise the recommendation to reflect information provided in the presentation. Use Certificate and Occupancy Permits were used interchangeably, which could be confusing. She inquired about the SIC Code mentioned in the questionnaire.

Mr. Fehrenbach indicated SIC was an acronym for Standard Industry Code. It was a standard set of numeric codes that segregated types of businesses.

James Keene, City Manager, added that the SIC separated businesses into categories.

Council Member Holman asked if the SIC identified specific types of commercial businesses.

Mr. Fehrenbach responded yes.

Council Member Holman noted the questionnaire asked about the number of workers onsite, but did not address whether employees were part-time or full-time. The Staff presentation addressed mode of transportation to reach work, but that was not in the sample questionnaire. The questionnaire asked about onsite employee parking, but it did not ask specific questions. She inquired whether the $413 Use Fee was applied to businesses regardless of size.

Mr. Fehrenbach answered yes. The fee included components for zoning use compliance and building and fire inspections.

Council Member Holman understood the City could not charge more than the amount to process it, and questioned whether the $413 fee was equitable for small and large businesses. The Staff Report indicated 3,000-5,000 businesses complied with U&O Certificate requirements. She inquired about methods to track businesses that complied with the business registry.

Mr. Fehrenbach reported electronic records extended back to 2004. Records prior to 2004 were paper-based and located in different places. Staff would need to review all current U&O Certificates and identify other databases to compile an initial outreach list of businesses located in commercial spaces. Staff intended to return to the Council in the fall of 2014 with refined data.

MOTION: Council Member Holman moved, seconded by Council Member Klein 1) approve the transfer of $35,000 from the City Council Contingency Fund to the City Manager's budget for initial start-up costs including outreach, training, and program/technology development, and 2) to direct Staff to move forward with a two phase framework to implement a Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery through redesign of the use and occupancy certificate process including:

Phase One

1. A focus on businesses occupying or planning to occupy commercial spaces within Palo Alto.

2. Creating a new online-based BRC program through technology incorporated within the City's existing Permit Management System.

3. Developing/implementing an outreach and marketing plan including stakeholders from multiple types of businesses.

4. Return to Council for approval of BRC ordinance and program implementation and launch by 12/31/14, including plan for initial enforcement.

4a. Incorporate sample questions including: how employees get to work, where do employees not accommodated with onsite parking, park.

Phase Two

5. Options for enhanced enforcement, including fiscal impacts, for Council consideration.

6. An analysis of options to expand the BRC program to include businesses not occupying/planning to operate from commercial spaces within Palo Alto.

Council Member Holman felt it was important to utilize a business registry to the best intentions of the Colleague's Memorandum. The sample questionnaire should include the types of data the Council wanted. The business registry should not replace the U&O Certificate process.

Council Member Klein was surprised to read that as demand for commercial spaces increased, the density of commercial space also increased generally. He seemed to recall a study from the Planning Department indicated that information could not be verified. A business registry was different from a tax. Many business people's concerns were protected under Proposition 218. The $413 fee needed review. It was illogical for a large employer to pay the same fee as a small employer. The number that 3,000-5,000 businesses had paid User Fees was nonsense. He hoped the business community would agree to work with the City to build a business registry. The questions Council Member Holman suggested for Item 4a would be onerous for many employers to answer.

AMENDMENT: Council Member Klein moved, seconded by Mayor Shepherd to eliminate the new 4a, "Incorporate sample questions including: how employees get to work, where do employees not accommodated with onsite parking, park."

Mayor Shepherd shared Council Member Klein's concerns. Those types of questions should be asked after a business registry was developed.

AMENDMENT PASSED: 6-1 Holman no, Kniss, Scharff absent

Council Member Price inquired whether findings from transportation surveys had been useful in providing profiles of parking and commuting options.

Mr. Fehrenbach indicated the surveys provided a glimpse into parking options.

Council Member Price asked if survey results were tracked to a specific location.

Mr. Fehrenbach did not believe so.

Council Member Price recalled that much of the U&O Fee structure was based on cost recovery and fees in other communities. She asked if that remained an operating practice.

Peter Pirnejad, Development Services Director, reported Staff would perform a fee study and would determine if fees were cost neutral.

Council Member Price wondered whether a flat fee was common within the U&O arena.

Mr. Pirnejad indicated a business license tax was based on gross receipts, a sliding scale dependent upon the size and success of a business. A business registry fee should be based on some equivalent non-tax, total receipts based variable.

Council Member Price understood the current structure was a flat fee of $413 regardless of the size of the operation. She asked if Staff believed utilization of a flat fee was common in other communities.

Mr. Pirnejad did not believe a flat fee was common for a business registry. A business license tax was typically a flat fee for most businesses. After a certain size or amount of gross receipts, then the business license tax utilized a sliding scale.

Council Member Schmid felt voluntary compliance was essential to obtaining data. He favored separating the business registry from the U&O Certificate process, having only a few questions, obtaining data annually, and utilizing a flat fee. Comparing City data with an external data source would be beneficial.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to restate the first paragraph in the Motion to: "to direct Staff to move forward with a two phase framework to implement an (annual) Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery."

Mr. Keene reported Staff wanted to have an integrated program linking different requirements in one place. Otherwise, enforcement of a voluntary business license program could be less effective.

Council Member Burt believed it was logical to have the two programs linked. However, the business registry would be constructed on what appeared to be a broken system. The Use Permit program had to be corrected first. He inquired if the Use Permit covered subtenants.

Mr. Fehrenbach advised that the business occupying the space was required to have a Use Permit.

Council Member Burt recalled another area of opposition in the previous business license election concerned sole proprietorships. He asked if Staff knew how many businesses held Use Permits.

Mr. Fehrenbach responded yes.

Council Member Burt asked if there was a method to handle expired Use Permits.

Mr. Pirnejad agreed the Use Permit program needed corrections.

Council Member Burt wanted to know the number of expired Use Permits.

Mr. Pirnejad indicated the number was difficult to determine because the Use Permit program was paper based.

Council Member Burt asked if anyone counted the number of businesses.

Mr. Pirnejad reported Staff had difficulty dealing with the paper-based system. Staff did not have a number.

Council Member Burt inquired whether Staff removed a business from the Use Permit list once it went out of business or left Palo Alto.

Mr. Pirnejad advised there was not a permit retention process to remove businesses. A new U&O process would replace the former process.

Council Member Burt asked if Google and Facebook remained listed as Palo Alto businesses according to Use Permits.

Mr. Pirnejad answered yes.

Mr. Keene understood part of the system was automated.

Mr. Pirnejad explained that Staff's proposal was to completely automate the system.

Council Member Burt recognized that Staff was attempting to fix the process. He wanted to have an objective and realistic baseline for building a business registry.

SUBSTITUTE MOTION: Council Member Burt moved, seconded by Council Member XXX to direct Staff to return with this item with a revised structure to use permit so that the business registry can piggyback on the business registry structure.

SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND

Mayor Shepherd understood a Use Permit was charged only once; yet, fire inspections occurred annually. She asked if the Motion was a different program from Staff's recommendation.

Mr. Fehrenbach believed the Motion created a business registry separate from the U&O Permit program. Businesses would be enticed to update their information for the business registry.

Mayor Shepherd wanted a business registry that was updated yearly. She inquired whether businesses obtained Use Permits only once.

Mr. Fehrenbach indicated businesses were required to obtain a new U&O Certificate when they refurbished a building or had a tenant improvement. A U&O Certificate was obtained only once. Staff proposed to continue the elements of the U&O Certificate and to add a questionnaire which had to be updated regularly.

Mayor Shepherd inquired whether the proposal was for businesses to complete a questionnaire annually and to remit a fee.

Mr. Fehrenbach reported that was the Staff recommendation.

Mayor Shepherd did not find a recommendation for an annual questionnaire and fee. She asked if Staff would propose those items in phase two.

Mr. Fehrenbach understood Staff's recommendation combined the one-time U&O Certificate with the annual business registry. Staff would automate the U&O component as well as the questionnaire component.

Mayor Shepherd asked if there was an annual fee.

Mr. Fehrenbach answered yes. It would be an annual, nominal fee in the range of $35 to $75.

Mayor Shepherd inquired whether the problem was sorting through paper files to determine which businesses should receive notice of an annual registry.

Mr. Fehrenbach indicated Staff needed to focus on adding businesses with and without existing U&O Permits and new businesses to the new online system. Staff would need to build outreach systems and a backend to support each of those different types of businesses. Once businesses were in the system, then the process would be simpler with automatic renewal notices.

Mayor Shepherd did not see an annual fee or an annual update of business information in the Motion.

Mr. Fehrenbach stated Staff's intent was to receive Council direction and build that into the Ordinance.

Mayor Shepherd reiterated that that was not contained in the Motion. She asked how Staff would handle the Motion.

Mr. Fehrenbach would take direction from the Council to explore a separate system and attempt to create tools to entice/enforce businesses to update information annually.

Council Member Klein noted the Staff Report referred to the Business Registry Certificate (BRC) as being updated annually. It was clear Staff intended an annual update of information. Perhaps the interaction between the U&O Certificate and the BRC should be reversed from Staff's proposal. Staff should build backward from the business registry to the U&O Certificate. There would be no benefit to building a business registry from the U&O Certificate process. Somehow Staff needed to notify landlords and others that a new business had to apply for a Certificate of Occupancy. If compliance with a business registry was easy, then the City would receive needed data. The City could waive the fee for the first year to entice businesses to provide information.

Council Member Price thought the Staff recommendation of associating the two systems was logical. She inquired whether improving U&O data was part of the work plan.

Mr. Pirnejad reported the work plan was to clean up the U&O process as part of the business registry effort. This was an opportunity to combine all efforts, streamline the U&O process, and create an automated system.

Council Member Price felt setting a new baseline would be valuable. She asked if costs reported in the Staff Report remained applicable given the elements of the Motion.

Mr. Fehrenbach preferred to perform some calculations before answering.

Council Member Holman did not understand the actions Staff proposed with respect to notifying the business community about the business registry. She asked if notification could occur by address.

Mr. Fehrenbach would need to look at a number of sources including address and suite number, tax records, and Santa Clara County records to determine the number of businesses and their locations. Staff needed to build a solid outreach plan to drive businesses to the web site tool.

Council Member Holman suggested any new U&O Permit require completion of a business registry form. The Council was not discouraging work on the U&O process; rather, the Council was decoupling the two efforts.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to restate the first paragraph in the Motion to: "to direct Staff to move forward with a two phase framework to implement an annual Business Registry Certificate (BRC) Ordinance & Fee Program as a full cost-recovery."

Mayor Shepherd wanted Staff to launch the business registry while revising U&O Permits.

Mr. Keene noted the Motion did not define phase one and phase two with respect to time. The Council wanted to implement the business registry component with the understanding that work on the U&O component would continue. Ultimately the two processes could be merged.

Mayor Shepherd felt incorporating that into a recommendation after Staff worked on the U&O system would be useful. She inquired whether the Council needed to provide specific direction to Staff.

Mr. Keene indicated the Council could give Staff general direction without a particular timeframe. Staff would have to work on the outreach process. At a later time, Staff could provide specific recommendations.

MOTION AS AMENDED PASSED: 7-0 Kniss, Scharff absent

~~13. Public Hearing – Council Adoption of an Ordinance Modifying: (1) Chapter 18.16 of the Palo Alto Municipal Code (PAMC) to: (a) Address Sidewalk Width and Building Setbacks (Setback and "Build-to" Line Standards, and Context Based Design Criteria) Along El Camino Real, and (b) Reduce the Allowable Floor Area Ratio on CN Zoned Sites Where Dwelling Units are Permitted at 20 Units Per Acre; and (2) PAMC Chapter 18.04 to Adjust the Definition of Lot Area and Add a Definition for "Effective Sidewalk". Environmental Assessment: Exempt from the provisions of CEQA per Section 15305 (Minor Alterations in Land Use Limitations) (THIS ITEM WAS CONTINUED BY COUNCIL MOTION ON APRIL 21, 2014 TO JUNE 2, 2014)~~

~~INTER-GOVERNMENTAL LEGISLATIVE AFFAIRS~~

~~14. Discussion and Direction to City Manager Regarding City of Palo Alto Response to the FAA Draft Environmental Assessment (EA) Regarding the Northern California Optimization of Airspace and Procedures in the Metroplex (NorCal OAPM).~~

~~James Keene, City Manager, reported Staff wanted to share the issue with the Council in case the Council wished to submit a letter to the Federal Aviation Administration (FAA).~~

~~Andrew Swanson, Airport Manager, indicated comments were limited to the Metroplex Environmental Assessment (EA). Staff questioned the lack of altitudes in the EA. The FAA felt extra information was not necessary and the document met requirements. The impacts of the report were difficult to understand because altitudes were missing and noise contours resembled flight paths. The FAA modeled noise impacts under conditions of tower staff handling aircraft.~~

~~Mr. Keene advised the EA was unrelated to the Surf Air issue. Apparently airports around the country were attempting to move more airplanes in and out of airports more efficiently. Flight paths did not appear to be changing in ways that would be problematic for Palo Alto.~~

City of Palo Alto

COLLEAGUES MEMO

DATE: **February 24, 2014**

TO: City Council Members

SUBJECT: COLLEAGUES MEMO FROM COUNCIL MEMBERS BERMAN, BURT, HOLMAN, AND KLEIN REGARDING CREATION OF A PALO ALTO BUSINESS REGISTRY

Goal:
Palo Alto needs a Business Registry as soon as possible to answer such basic questions as how many people work in Palo Alto and for what types of businesses. We should implement a Registry in 2014.

Background and Discussion:
Impacts of commercial development and activity, such as traffic and parking impacts, are at the forefront of community concerns. The City Council made addressing these issues a council priority in 2013 and again in 2014. However, the City lacks adequate, reliable, and updated data to analyze the issues, structure best policies or programs and to measure their effects.

Palo Alto is one of the few cities in the region without a business registry or a business license. Most cities rely on these tools for obtaining and analyzing critical information about the characteristics of businesses in their communities for purposes such as informing zoning decisions and public safety planning and service response.

In addition, the Council has committed to developing a strong Transportation Demand Management (TDM) program in 2014 to reduce the traffic and parking impacts in our community. Good data is essential to design a sound program, establish baselines and monitor progress.

Recommendation:
We recommend that Council direct Staff to return to Council not later than the end of March with a proposal for a business registry which would include:

- An online registry to reduce costs, accelerate implementation and provide for efficient data analysis.
- Fees limited to cost recovery.

- A simplified, low cost questionnaire for very small businesses and exemption from registration for home based businesses.
- Questions designed to obtain information on the number of employees, types of businesses and other information that would be valuable for effective planning purposes.

Staff Impact:
The City Manager and the City Attorney have reviewed this Memorandum and have the following comments:

Effective implementation and enforcement methods for collecting and updating data will be important. Staff will evaluate using existing software programs first as means to keep implementation costs down.

MOTIONS

7. ~~Finance Committee Recommends Adoption of Municipal Code Changes Eliminating Palo Alto Municipal Code Section 2.08.145, titled "Consultation with City Auditor" and Amending Palo Alto Municipal Code Section 2.08.150 Titled "Department of Administrative Services" and Section 2.28.090, titled "Lapse of Appropriations" to Clarify Roles for Reviewing Fiscal Procedures and Roles of City Auditor and Administrative Services Department and Lapse of Appropriations.~~

~~**MOTION PASSED**: 9-0~~

Action Items

8. Council Review of Draft Ordinance Creating a Business Registry; Policy Direction Regarding Business Registry Questionnaire and Update on Staff's Implementation Plan.

MOTION: Mayor Shepherd moved, seconded by Council Member Scharff to: 1) approve the Staff approach to engage our software vendor, Accela, for set-up, licensing and implementation costs related to the creation of a Business Registry Certificate Program (BRC) and for the City to engage Truepoint Solutions for pre and post go-live software staffing augmentation needs; 2) direct Staff to return to Council with a Budget Amendment Ordinance (BAO) for Fiscal Year 2015 for the BRC software start-up costs, including program development and outreach for the remainder of the fiscal year; and 3) direct Staff to return to Council in October with the ordinance creating a business registry for Palo Alto.

MOTION PASSED: 9-0

9. ~~Rejection of Construction Bids for the Palo Alto Municipal Golf Course Reconfiguration Project and Adoption of a Budget Amendment Ordinance 5271 entitled "Budget Amendment Ordinance of the Council of the City of Palo Alto in the Amount of $708,495 in Revenues and $168,036 in Expenses to Operate the Golf Course From September 1, 2014 to February 28, 2015, and Establish an FY 2016 Golf Course Operating Loss Reserve from the Net Revenue of Golf Course Operations in the Amount of $540,459 (Continued from September 8, 2014)."~~

~~**MOTION:** Vice Mayor Kniss moved, seconded by Council Member Scharff to:~~

~~1. Reject all construction bids received on April 15, 2014 for construction of the Palo Alto Municipal Golf Course Reconfiguration Project (Project), Capital Improvement Program Project PG-13003; and~~