The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:02 P.M.

Present: DuBois, Filseth, Fine; Holman arrived at 5:06 P.M., Kniss; Kou arrived at 6:44 P.M.; Scharff arrived at 5:04 P.M., Tanaka, Wolbach

Participating remotely: Kou participating from Bay Area Council-Shanghai Office Suite 905-907, 9F, 333 Songhu Rd., KIC, Shanghai 上海市淞沪路333号9楼905室-907室

Absent:

Closed Session

1. CONFERENCE WITH LABOR NEGOTIATORS
City Designated Representatives: City Manager and his Designees Pursuant to Merit System Rules and Regulations (James Keene, Ed Shikada, Michelle Flaherty, Rumi Portillo, Sandra Blanch, Nicholas Raisch, Molly Stump, Terence Howzell, Charles Sakai, Lalo Perez, Kiely Nose, Robert Jonsen, Eric Nickel)
Employee Organizations: Palo Alto Peace Officers’ Association (PAPOA); Palo Alto Fire Chiefs’ Association (FCA); International Association of Fire Fighters (IAFF), Local 1319; and Palo Alto Police Managers’ Association (PAPMA)
Authority: Government Code Section 54957.6(a).

MOTION: Vice Mayor Filseth moved, seconded by Council Member Fine to go into Closed Session.

MOTION PASSED: 6-0 Holman, Kou, Scharff absent

Council went into Closed Session at 5:03 P.M.

Council returned from Closed Session at 6:44 P.M.

Mayor Kniss announced no reportable action.
Study Session

2. Initial Presentation of the Proposed Fiscal Year (FY) 2018/19 Budget.

James Keene, City Manager reported the Finance Committee (Committee) had the primary responsibility for reviewing the Proposed Budget and had scheduled two budget hearings for May 15 and 16, beginning at 9:00 A.M., and a wrap-up session for May 23, beginning at 9:00 A.M. On June 11, the City Council decided to hold public hearings on rate changes, regarding the Committee's recommendations. On June 18, the Council planned on adopting the Operating Budget. Council Members were able to submit questions regarding the Proposed Budget to Staff during the budget process. In accordance with the City Charter, he presented the Fiscal Year (FY) 2019 Proposed Budget in a total amount of $704.5 million, a $32.3 million increase over the FY 2018 Adopted Budget or 4.8 percent growth. The primary driver for the increase was the Capital Improvement Fund where significant investments in the 2014 Infrastructure Plan were programmed for FY 2019. The General Fund totaled $214 million for FY 2019, a modest 1.7 percent increase over FY 2018. The budget included a net reduction of 6.6 full-time positions. With the previously approved reduction of 11 positions in the Fire Department, Citywide staffing had decreased 17.6 positions or 1.7 percent over FY 2018. No full-time Staff were going to lose their positions under the proposal. The full-time staffing level were 10 percent below the level of FY 2008 and FY 2009. Moderate utility rate adjustments of 4.7 percent were included in the budget. The Utility Advisory Commission (UAC) and Committee were reviewing the rate adjustments and could recommend decreases in rate adjustments for both water and electric utilities. Over the past few years, Staff had identified anticipated funding gaps. Over the past year, the City absorbed several increased costs driven by extenuating circumstances. The Committee and Council approved closing the funding gap by drawing on the Budget Stabilization Reserve (BSR) so that Staff could focus strategically on adjustments to ensure the FY 2019 Budget was structurally balanced. The Long Range Financial Forecast (LRFF) anticipated a gap of $2.6 million in the City's General Fund in addition to the carryover from the current Fiscal Year. The Proposed Budget recommended reducing $2.3 million in structural expenses and a minimal $276,000 draw on the BSR to balance the budget. After draws, the BSR totaled 19 percent of General Fund expenditures, which was above the approved target level of 18.5 percent. At the current time, the FY 2019 Proposed Budget and the anticipated FY 2020 Proposed Budget were structurally balanced. Staff proposed funding for grade separation initiatives and the Transportation Management Association (TMA) and focused resources on procurement of a comprehensive parking permit system in the Capital Budget. The Other Post-Employment Benefits (OPEB) Trust Fund had grown to more than $100
million in assets. The City received a favorable review of OPEB liabilities, which reduced the City's required medical contributions in the General Fund by $1.3 million for FY 2019. The City had contributed $5.6 million to the Pension Trust Fund, and the Proposed Budget contained additional contributions of $2 million. The City faced critical challenges in the near term of funding infrastructure projects, bike and pedestrian improvements in the Charleston-Arastradero Corridor, the TMA and parking systems. Labor negotiations with the City's five bargaining units were to unfold through FY 2019; therefore, unknown costs remained. The quality of services provided to the community was most directly the result of having an adequate and high-quality workforce. The expected range of increases in annual pension costs in the near term would place continuing annual strain on budgets and the unfunded liability of pension costs. Providing adequate housing and meeting housing production goals required action within the realm of policy and zoning rather than in funding. Affordable housing funding was available, but it could be depleted in the near term with assertive action by the Council. Long-term challenges included grade separations, sustainable pension and healthcare, and a competitive and quality workforce.

Kiely Nose, Office of Management and Budget Director advised that all budget documents would be posted on the City's website following the Council meeting. Also, financial numbers were available in Open Data. The Operating Budget book contained: the City Manager's transmittal letter; summaries of the critical components of the budget; summaries of activities by fund type; budgets by department; and supplemental information. The department charts for salaries and benefits demonstrated a great deal of variability because positions were budgeted based on actual employees in the department and the benefits elections and salaries of those employees. The Capital Budget book was divided by fund. Although the five-year Capital Improvement Program (CIP) Plan was provided, the Council would adopt funding for FY 2019 projects only.

Vice Mayor Filseth noted the actual pension costs were $8 million more than the budget indicated. Therefore, the General Fund expenses were not $214 million but $222 million. While the $8 million was not paid in the year it was incurred, it would have to be paid with interest in the future. The retiree medical impact was in addition to the Unfunded Pension Liability.

Council Member Tanaka requested the status of transaction data. Given the upcoming discussion of tax increases, transparency was incredibly important.
Mr. Keene related that Staff had been working with the City of Los Angeles staff to obtain information so that transaction data could be provided to the community.

Council Member Tanaka did not believe Staff needed to meet with Los Angeles staff to provide the City's data.

Mr. Keene understood the recommendation was for Staff to look at Los Angeles' data and a method for providing data.

Council Member Tanaka suggested Staff follow the current standard for open data.

Mr. Keene needed to hold an in-depth discussion with Council about that.

Council Member Tanaka noted the Council had voted to release transaction-level data.

Mr. Keene did not recall such a vote. The discussion continued with the Committee.

Council Member Tanaka inquired about the rationale for holding budget hearings during the workday.

Mr. Keene indicated Staff worked with Council Members to set the time of hearings.

Council Member Tanaka requested the reasons for having to withdraw funds from the BSR in a booming economy.

Mr. Keene clarified that BSR Funds were not intended to be set aside and not utilized. The Council set parameters for the level of the BSR. The budget proposed a de minimis draw of $276,000 because of one-time expenses. The Committee was welcome to find another means of funding the $276,000 withdrawal. After the draw, the balance of the BSR remained above the target level set by the Council.

Council Member Tanaka anticipated a surplus in a booming economy.

Mr. Keene stated use of the BSR was appropriate. The booming economy did not translate directly into revenue streams for the local government.

Council Member Tanaka wanted the budget to enumerate goods, services, or funds that the City gave to other cities and countries. For instance, the following week's agenda contained an item for approval of the City giving
0.5 million gallons of water to East Palo Alto. Voting to approve tax increases would be difficult unless the City's finances were in order.

Mr. Keene reiterated that the Committee would review the budget in-depth. The City Council directed Staff to transfer 0.5 million gallons of water to East Palo Alto. The City did not use that amount of water and did not pay for the water. There was no correlation between the funding source and the use of the water or taxes.

Special Orders of the Day

3. Selection of Applicants to Interview on May 9, 2018 for the Historic Resources Board and the Human Relations Commission.

MOTION: Council Member Scharff moved, seconded by Council Member Holman to interview all applicants for the Historic Resources Board and Human Relations Commission.

MOTION PASSED: 9-0

4. North Ventura Coordinated Area Plan: City Council Appointment of Working Group Members.

Council Member Holman inquired about the mechanics of counting votes or scoring votes as some applicants qualified for more than one category of working group member.

Mayor Kniss noted one category had only one applicant and suggested adding another applicant who lived in the greater Ventura neighborhood to the category.

David Carnahan, Deputy City Clerk offered two methods for voting and said the Council could vote for all categories with one ballot or vote for each category with separate ballots.

Mayor Kniss requested clarification of the second method.

Mr. Carnahan related that the Council would vote for the first category on the ballot. Then the Clerk tallied those votes and returned ballots to Council Members for a vote on the next category.

MOTION: Mayor Kniss moved, seconded by Council Member DuBois to vote for all positions in one round:

A. Allowing voting for “residents within Mayfield” positions from the “residents within NVCAP or greater N. Ventura neighborhood (north of
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Ventura Ave” or “residents within the greater Ventura neighborhood” categories; and

B. Voting for one member from the “business owners or work in NVCAP or surrounding area” category and one member from the “property owners (not single family home)” category, and one additional member from either category.

Council Member DuBois advised that an applicant would need five votes to join the working group. As long as the City Clerk tracked Council Members' votes, there was no issue. He asked if the Mayfield category could include the North Ventura neighborhood.

Mayor Kniss noted only one applicant for the Mayfield category.

Council Member Scharff sought clarification of the Motion.

Mayor Kniss explained that the one applicant for Mayfield would be selected for the working group. Council Members were able to vote for an applicant in the greater North Ventura category or the greater Ventura category for the second Mayfield member because the Council directed that two working group members be from Mayfield.

Council Member Scharff understood Sobrato would be a member of the working group, as it was the largest nonresidential property owner. The business owner category needed to be combined with the property owner category, and the Council needed to agree to appoint Sobrato to the working group.

Council Member DuBois indicated that could result in no business owners on the working group. He suggested adding one more to the property owner category.

Council Member Scharff concurred.

Council Member Wolbach inquired about the method for the Council to mark ballots for the second Mayfield appointee.

Mr. Carnahan reported the working group would exceed the limit of 14 members, as set by the Municipal Code, with Sobrato and members from the Architectural Review Board (ARB), Parks and Recreation Commission (PARC), and Planning and Transportation Commission (PTC).

Council Member Scharff suggested the Council vote for one business owner and one property owner.
Council Member Holman recommended the Council vote on one category at a time.

Mayor Kniss reiterated the Motion.

Council Member Holman expressed concern that one applicant could receive four votes in one category and four votes in another category and still not be appointed to the working group.

Council Member DuBois advised that votes by the same four Council Members for an applicant in two categories would not be unique votes and would not successfully elect the applicant.

Council Member Holman noted the Council could appoint two alternates.

Mr. Carnahan suggested the Council vote for two alternates from the pool of applicants remaining after all other working members had been selected.

Vice Mayor Filseth asked if the Council would vote for two property owners.

Mayor Kniss answered one.

Council Member Holman recalled that the South of Forest Area (SOFA) working group included Palo Alto Medical Foundation (PAMF) as the major property owner.

Mayor Kniss clarified the Council's vote for three applicants from greater North Ventura, two from greater Ventura, one from either greater North Ventura or greater Ventura, none from Mayfield as there was only one applicant, one from Barron Park, one from business owners and one from property owners.

Council Member Scharff stated the Council could vote for one business owner, one property owner and one from either business owner or property owner.

Council Member DuBois did not feel there was support for the proposal and suggested the Council vote for two in one.

Mayor Kniss believed the major landowner could be included.

Council Member Holman clarified that the SOFA working group did not include property owners other than PAMF.

Council Member Scharff sought the City Attorney's advice.
Molly Stump, City Attorney reported the Council could appoint Sobrato as a nonvoting member or could amend the Municipal Code.

Mayor Kniss suggested Sobrato would feel included in the working group if it gave information and voted.

Council Member Holman recalled that PAMF was appointed to the SOFA working group.

Ms. Stump reiterated the limit of 14 voting members for the working group as stated in the Municipal Code.

Council Member Scharff asked if amending the Municipal Code would be worthwhile.

Mayor Kniss responded no.

Hillary Gitelman, Director of Planning and Community Environment suggested the Council vote for three applicants from both business owners and property owners.

Council Member Wolbach recommended the Council vote for one applicant from business owners, one from property owners, and one from either category.

Council Member DuBois seemed to recall that some Council Members wanted two business owners on the working group.

**MOTION PASSED:** 9-0

David Adams requested the Council ensure the rezoning of Olive Avenue was not included in the scope of the working group.

Lakiba Pittman concurred with Mr. Adams' comments.

Stephanie Muñoz believed all redevelopment should contain housing for seniors.

[The Council proceeded with Agenda Items and returned to this item following completion of Agenda Item Number 12.]

First Round of voting for three positions on the North Ventura Neighborhood Coordinated Area Plan (NVCAP) Advisory Committee, residents within NVCAP or greater North Ventura neighborhood (north of Ventura Ave).

Voting For: David Adams  DuBois, Filseth, Holman
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Voting For: Marian Cobb  Scharff
Voting For: Angela Dellaporta  DuBois, Filseth, Holman, Kou, Tanaka
Voting For: Chris Donlay  DuBois, Filseth, Holman, Kou
Voting For: Kirsten Flynn  Fine, Holman, Kniss, Scharff, Wolbach
Voting For: Waldemar Kaczmarski  Fine, Kniss, Kou
Voting For: Peter Lockhart  Scharff, Tanaka
Voting For: Lakiba Pittman  DuBois, Filseth, Wolbach
Voting For: Yunan Song  Fine, Kniss, Kou, Scharff, Tanaka, Wolbach

Mr. Carnahan announced that Angela Dellaporta with five votes, Kirsten Flynn with five votes, and Yunan Song with six votes were appointed to the NVCAP Advisory Committee.

First Round of voting for two positions on the NVCAP Advisory Committee, residents within greater Ventura neighborhood.

Voting For: Christine Gabali  Filseth
Voting For: Rebecca Parker Mankey  DuBois, Fine, Holman, Kniss, Kou, Scharff, Tanaka, Wolbach
Voting For: Heather Rosen  Fine, Kniss
Voting For: Siyi Zhang  DuBois, Filseth, Fine, Holman, Kniss, Kou, Scharff, Tanaka, Wolbach

Mr. Carnahan announced that Rebecca Parker Mankey with eight votes and Siyi Zhang with nine votes were appointed to the NVCAP Advisory Committee.

First Round of voting for two positions on the NVCAP Advisory Committee, residents within Mayfield.

Voting For: Terry Holzemer  DuBois, Filseth, Fine, Holman, Kniss, Kou, Scharff, Wolbach

Mr. Carnahan announced that Terry Holzemer with eight votes was appointed to the NVCAP Advisory Committee.
First Round of voting for one position on the NVCAP Advisory Committee, residents within Barron Park.

Voting For: Gail Price DuBois, Fine, Holman, Kniss, Scharff, Tanaka, Wolbach

Voting For: Carolyn Templeton Kou

Voting For: Maryanne Welton Filseth

Mr. Carnahan announced that Gail Price with seven votes was appointed to the Neighborhood Coordinated Area Plan (NVCAP) Advisory Committee.

First Round of voting for two positions on the NVCAP Advisory Committee, business owners or work in NVCAP or surrounding area.

Voting For: David Adams Holman, Kou

Voting For: Stephanie Baltzer

Voting For: Kirsten Flynn Tanaka

Voting For: Christine Gabali Wolbach

Voting For: Rebecca Parker Mankey Filseth

Voting For: Yatin Patel Scharff

Voting For: Lakiba Pittman DuBois, Holman, Kou

Voting For: Carolyn Templeton DuBois, Fine, Kniss, Tanaka, Wolbach

Mr. Carnahan announced that Carolyn Templeton with five votes was appointed to the NVCAP Advisory Committee.

First Round of voting for one position on the NVCAP Advisory Committee, property owners (not single family home).

Voting For: Peter Lockhart Filseth

Voting For: Yatin Patel

Voting For: Lund Smith Fine, Kniss, Scharff, Tanaka

Voting For: Tim Steele DuBois, Filseth, Fine, Holman, Kniss, Kou, Scharff, Tanaka, Wolbach
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Voting For: Marcus Wood

Mr. Carnahan announced that Tim Steele with nine votes was appointed to the NVCAP Advisory Committee.

First Round of voting for one position on the NVCAP Advisory Committee, does not fit in any category.

Voting For: David Hirsch
Voting For: Arthur Keller

Mr. Carnahan clarified selections for the second round of voting.

Council took a break from 10:31 P.M. to 10:42 P.M. [and then took up Agenda Item Number 13 prior to completing this item].

Mayor Kniss reported the City Attorney indicated the Council could continue its vote on alternates due to the late hour.

Second Round of voting for one position on the NVCAP Advisory Committee, residents within NVCAP or greater North Ventura neighborhood (north of Ventura Ave) or residents within greater Ventura neighborhood.

Voting For: David Adams DuBois, Filseth, Holman, Kou
Voting For: Waldemar Kaczmarski Kniss
Voting For: Peter Lockhart Tanaka
Voting For: Heather Rosen Fine, Scharff, Wolbach

Second Round of voting for one position on the NVCAP Advisory Committee, business owners or work in NVCAP or surrounding area or property owners (not single family home).

Voting For: Lakiba Pittman DuBois, Filseth, Holman, Kou
Voting For: Lund Smith Fine, Kniss, Scharff, Tanaka, Wolbach

Mr. Carnahan announced that Lund Smith with five votes was appointed to the Neighborhood Coordinated Area Plan (NVCAP) Advisory Committee.

**MOTION:** Mayor Kniss moved, seconded by Council Member Scharff to appoint Heather Rosen to the NVCAP Advisory Committee.

**MOTION PASSED:** 5-3 DuBois, Filseth, Holman no, Kou absent
MOTION: Council Member DuBois moved, seconded by Council Member Scharff to appoint Lakiba Pittman as an Alternate to the NVCAP Advisory Committee.

MOTION PASSED: 8-0 Kou absent

MOTION: Council Member Holman moved, seconded by Vice Mayor Filseth to appoint David Adams as an Alternate to the NVCAP Advisory Committee.

MOTION FAILED: 4-4 Fine, Scharff, Tanaka, Wolbach no, Kou absent

MOTION: Council Member Scharff moved, seconded by Mayor Kniss to appoint Waldemar Kaczmarski as an Alternate to the NVCAP Advisory Committee.

MOTION PASSED: 6-2 DuBois, Holman no, Kou absent

Appointed to the NVCAP Working Group:

1. Angela Dellaporta
2. Kirsten Flynn
3. Terry Holzemer
4. Rebecca Parker Mankey
5. Gail Price
6. Heather Rosen
7. Lund Smith
8. Yunan Song
9. Tim Steele
10. Carolyn Templeton
11. Siyi Zhang

Appointed as Alternates to the NVCAP Working Group:

1. Waldemar Kaczmarski
2. Lakiba Pittman

The NVCAP Working Group includes one representative from the ARB, one from the PARC, and one from PTC.

[The Council proceeded to Council Member Questions, Comments, and Announcements.]

Agenda Changes, Additions and Deletions

None.
City Manager Comments

James Keene, City Manager reported a traffic signal had been installed and activated at the intersection of Embarcadero Road and Middlefield Road. A second crossing guard would be added at the location, and Staff would continue to monitor operations over the next two weeks. Palo Alto residents were given the first opportunity to purchase approximately $9 million of taxable Certificates of Participation (COP) scheduled to go on sale on May 3. Residents needed to contact Raymond James for more information. The Fire Department was hosting a peer assessment team as part of becoming an internationally accredited fire agency. The 96th Annual May Fete Parade was scheduled for May 5, beginning at the intersection of University Avenue and Emerson Street at 10:00 A.M. The Junior Museum and Zoo was closed on May 4, 2018 and moved to a temporary home due to construction of a new facility. Addison Elementary School students sang the National Anthem at the Giants baseball game earlier in the evening.

Mayor Kniss asked if the Junior Museum and Zoo would reopen to the public in July and if there would be an entry fee.

Mr. Keene indicated it would reopen in June. He did not expect free admission to change.

Oral Communications

Kerry Yarkin was disappointed the City Council chose not to pursue litigation against the Federal Aviation Administration (FAA). The City was able to file a petition for review or request an extension for each of the ten procedures enacted a month ago.

David Shen reported that recent changes at the intersection of Embarcadero and Middlefield Roads added physical features and removed the diagonal crossing light sequence, which decreased the safety of cyclists and pedestrians. He requested the diagonal crossing be reinstated as soon as possible.

Tim Roper inquired whether the City Manager stated the diagonal crossing was going to be reinstalled at the intersection of Middlefield and Embarcadero Roads.

James Keene, City Manager understood it would be reinstalled.

Mr. Roper expressed concern regarding the impact of changes to the intersection of Embarcadero and Middlefield on the safety of elementary-age
pedestrians. The corners were too small for the number of children waiting at the corners.

Amy Darling started a petition regarding the intersection of Embarcadero Road and Middlefield Road. In less than 24 hours, one hundred people had signed the petition. She shared comments gathered through the petition.

Jill Johnson objected to the new light configuration at Middlefield Road and Embarcadero Road. The small space at the northwest and southeast corners caused children to spill into the roadway.

Christopher Custer was not able to affix an employee parking permit to his leased vehicle, and Staff had not provided a solution. The Code did not establish any criteria for validity of a permit.

Joseph Stafford was not allowed to affix his employee parking permit to his leased vehicle. Staff's response to his email was personally offensive.

Stephanie Wansek had obtained low-income employee parking permits for her employees. The terms of vehicle leases prohibited employees from affixing the permits to the vehicles. Employees were receiving citations. Staff had not resolved the dilemma.

Stephanie Muñoz remarked that State legislation seemed to eliminate Palo Alto’s control over building height and Floor Area Ratio (FAR) in areas near public transportation. She suggested the Council think about clustering housing around transportation. Housing for seniors was not expected to have parking problems as seniors most often used public transportation.

Faith Brigel related that the new construction on Webster overshadowed her building on Byron and had removed trees with no indication of whether they would be replaced.

Keith Bennett advised that undergrounding or trenching Caltrain tracks would block groundwater flows. Engineering was able to solve the problem, but it was not an insignificant problem.

Rita Vrhel supported an increase in the Transient Occupancy Tax (TOT) to a level comparable to that charged in other cities. She thought revenue from an increased TOT should be used to reduce the Unfunded Pension Liability and she questioned whether anyone was supervising contractors constructing the bicycle improvements.
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Terry Holzemer encouraged the Council to view the intersection of Middlefield and Embarcadero during school commute times and observe the issues with crossing the intersection.

Minutes Approval

5. Approval of Action Minutes for the April 9 and 16, 2018 Council Meetings.

**MOTION:** Council Member Scharff moved, seconded by Council Member DuBois to approve the Action Minutes for the April 9 and 16, 2018 Council Meetings.

**MOTION PASSED:** 9-0

Consent Calendar

**MOTION:** Council Member Scharff moved, seconded by Vice Mayor Filseth to approve Agenda Item Numbers 6-10.


8. Policy and Services Committee Recommendation to Accept the Triennial External Quality Control Review of the Office of the City Auditor.

9. **Ordinance 5435** Entitled, “Ordinance of the Council of the City of Palo Alto Amending Chapter 4.6 (Permits for Retailers of Tobacco Products) of the Municipal Code to Allow Fees to be set by Ordinance (FIRST READING: April 16, 2018 PASSED: 8-0 Filseth Absent).”

10. **Ordinance 5436** Entitled, “Ordinance of the Council of the City of Palo Alto Amending the FY18 Municipal Fee Schedule to Amend the Golf Fees (FIRST READING: April 16, 2018 PASSED: 8-0 Filseth Absent).”

**MOTION PASSED:** 9-0

Action Items

11. **Ordinance 5437** Entitled, “Ordinance of the Council of the City of Palo Alto Authorizing an Amendment to the Contract Between the City of Palo Alto and the Board of Administration of the California Public
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Employees’ Retirement System (PERS) to add Cost-sharing Pursuant to Government Code Section 20516 (FIRST READING: April 2, 2018 PASSED: 8-0 DuBois absent).”

Molly Stump, City Attorney reported that the second reading of the Ordinance was an Action Item only because State law required it.

**MOTION:** Vice Mayor Filseth moved, seconded by Council Member Wolbach to adopt an Ordinance amending the City’s contract with the California Public Employees’ Retirement System (CalPERS).

**MOTION PASSED:** 9-0

12. **PUBLIC HEARING:** Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Chapter 18.40 (General Standards and Exceptions) of Title 18 (Zoning) to add a new Section Imposing an Annual Office Limit and Setting Forth Related Regulations, and to Repeal the Respective Regulations From Chapter 18.85 (Interim Zoning Ordinances). The Proposed Ordinance Will Perpetuate the Existing Annual Limit of 50,000 Square Feet of new Office/R&D Development per Year With Modifications Regarding the Review Process, Unallocated Area Rollover Provisions, and Exemptions. The Planning and Transportation Commission Recommended Approval of the Ordinance on February 14, 2018. This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution Number 9720 (Continued from April 16, 2018).

Hillary Gitelman, Director of Planning and Community Environment reported the proposed Ordinance was based entirely on direction from the Council. The Council adopted an Interim Ordinance in 2015 to establish a 50,000 square-foot limit on new office development in Downtown, California Avenue, and the El Camino Corridor. The Interim Ordinance was scheduled to expire at the end of the Fiscal Year (FY).

Clare Campbell, Senior Planner advised that Staff conducted Study Sessions with the Planning and Transportation Commission (PTC) and City Council to receive feedback and direction. During its Study Session, the Council discussed the boundary of the affected area, square footage threshold, rollover of unused area allocations, project exemptions, and the review process. The Council supported rollover of unused area allocations for one year but not to exceed 100,000 square feet, added provisions to exempt deed-restricted nonprofit office use of 5,000 square feet or less and substituted a first-come-first-serve approach for the competitive review process. The PTC recommended approval of the proposed Ordinance.
first-come-first-serve process was based on the FY. Staff would maintain an ongoing list of planning applications, building permits, and use and occupancy certificates. Projects followed the standard review process and would be approved as the review was completed. The review process continued until the office limit was reached for the FY. Priority was given in the order of the earliest application submittal date if multiple projects were ready for approval at the same time and if there was not sufficient area allocation for all projects.

Public Hearing opened at 9:01 P.M.

Bob Moss commented that the Council should have applied the office limit to the entire City. Office uses did not generate much tax revenue, worsened the jobs/housing imbalance, and significantly increased traffic and parking congestion. Office use was more intense than was assumed. He urged the Council to apply the office limit Citywide and limit rollover to no more than 10,000 square feet per year. Staff needed to review the amount and location of office development and recommend tighter restrictions if necessary.

Keith Bennett concurred with Mr. Moss’ comments. Downstream tax revenue from offices was lower than that generated by residential properties. Offices required significant infrastructure investments. He did not think rollover of square footage should not be allowed.

Hamilton Hitchings implored the Council to continue the office cap because it worked. Building office space reduced the potential new supply of housing and increased the cost of housing. Expanding the office cap to all of Palo Alto and reducing the rollover amount further addressed the housing and traffic challenges.

Greg Schmid read a recent Palo Alto Weekly editorial. He encouraged the Council to apply the cap Citywide to ensure office growth did not exceed its historical limit.

Bill Ross suggested the Council include a provision requiring 25 percent of housing be inclusionary.

Terry Holzemer supported an office and Research and Development (R&D) cap for the entire City.

Elaine Meyer remarked that an effective office cap would apply to the entire City. The rollover provision needed to be removed.
Stephanie Muñoz shared Roberta Ahlquist's wish for a moratorium on office construction until low-income housing was replaced and on demolition of rental housing.

Rita Vrhel supported an office cap and requested a full Council discussion prior to any Motion being made.

Annette Ross was disturbed by Council Members leaving the dais during public comment. She concurred with calls for a Citywide cap and no rollover square footage.

Public Hearing closed at 9:18 P.M.

Council Member Scharff requested clarification of Number 2 on Page 3 of the proposed Ordinance regarding existing building area previously used by non-office uses. He assumed the language should be "by non-office annual limit land uses."

Ms. Gitelman concurred with use of Council Member Scharff's proposed language.

MOTION: Council Member Scharff moved, seconded by Council Member Wolbach to:

A. Adopt an Ordinance amending the Palo Alto Municipal Code to establish Annual Office Limit (AOL) regulations to replace the interim regulations, replacing in Section 18.40.190 (c)(2), “non-office” with “non-office annual limit land”; and

B. Find the action within the scope of the Comprehensive Plan EIR certified on November 13, 2017.

Council Member Scharff noted the Council had debated the office cap more than once. The proposed Ordinance accurately captured the Council's directions. The notion that Stanford Research Park did not create wealth for the City was wrong as Stanford Research Park generated as much Sales Tax revenue as all of Downtown. The suggestion to include Stanford Research Park in the office cap area was misguided.

Council Member Wolbach opined that a Motion did not impede Council discussion. Over the past year, the Council had taken steps to address housing. The Comprehensive Plan limited office development substantially. The office cap was not perfect, but it was effective. He disagreed with the suggestion for a sunset provision.
Council Member Kou inquired whether a developer could obtain an exemption for a second project of 2,000 square feet or less or for a second medical office project at the same location.

Ms. Gitelman advised that that scenario was unusual. If a developer proposed a second project in a subsequent year, presumably he would be eligible for an exemption.

Council Member Kou felt that loophole should be addressed in the proposed Ordinance. She inquired about differentiation of nonprofits and the meaning of deed restriction.

Ms. Gitelman reported the provision was drafted in response to Council direction to add an exemption for nonprofit office use. The purpose of the deed restriction was to notify a property owner and subsequent property owners of the requirement for the space to be used by a nonprofit organization. The type of nonprofit was not specified. A developer was able to obtain only one exemption for each project at a location.

Council Member Kou noted the Ordinance contained a price per square foot to market rate prior to 2015 and asked why the amount had not been updated in the proposed Ordinance.

Ms. Gitelman advised that Staff could update the amount, but it wasn't necessary because the recitals were not a substantive portion of the proposed Ordinance.

Council Member Kou believed the language about ample public parks and community centers was untrue. "Ample" should be deleted.

Ms. Gitelman offered to change the language, but said it was not a substantive concept in the proposed Ordinance.

Council Member Holman inquired about the location of the language about nonprofit uses.

Ms. Gitelman advised it was located in Paragraph (d)(1) of the proposed Ordinance.

Council Member Holman asked about the meaning of deed-restricted nonprofit organizations.

Ms. Gitelman clarified that the deed restriction pertained to use of the space by a nonprofit organization only.
Council Member Holman requested a summary of the PTC’s discussion of restoring the annual cap without a rollover provision.

Susan Monk, Planning and Transportation Commission, Vice Chair reported the PTC unanimously supported elimination of the competition. In the final PTC hearing on the proposed Ordinance, there was little discussion of the rollover provision. The 4-3 vote resulted from the belief that the proposed Ordinance was not the appropriate tool to address parking and traffic issues and to curtail office growth.

Council Member Holman believed the purpose of an office cap of 50,000 square feet a year without a rollover provision was to prevent wild swings in office development. There were specific ways to measure and score projects in a competitive process.

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

A. Adopt an Ordinance amending the Palo Alto Municipal Code to establish Annual Office Limit (AOL) regulations to replace the interim regulations, replacing in Section 18.40.190 (c)(2), “non-office” with “non-office annual limit land”, eliminating the rollover provision and adding a competitive approval process; and

B. Find the action within the scope of the Comprehensive Plan EIR certified on November 13, 2017.

Council Member Holman felt the pace of development made a difference. Housing construction was not keeping pace with office construction even with the cap. The Council needed to address the pace of housing construction. She thought the community would be entirely different if the housing deficit was eliminated. A competitive process helped ameliorate many community concerns.

Council Member DuBois requested additional details of the first-come-first-serve process.

Ms. Campbell advised that the date a project was ready for approval would be the date when Staff would allocate square footage to the project, no matter the number of hearings it went through. If more than one project was approved and the square footage of all projects exceeded the cap, then the priority of approval needed to be based on the date of project submittal.

Council Member DuBois inquired about ways to avoid spurious applications when the cap was close to being met.
Ms. Gitelman clarified that the relevant date was the date entitlements were ready for issuance. If two projects were approved on the same date and were competing for the same square footage, then the date the application was filed needed to be relevant. The approval date was the date the allocation was granted. She said the filing date would be relevant only if two projects were ready for approval on the same date.

Council Member DuBois believed the City could not ignore the large amount of office space being constructed in surrounding cities. He thought the Council might need to reconsider impact fees for housing because they were not based on 120 percent of average median income (AMI). The office cap was critical to creating space for housing. Changes to the Ordinance were not well conceived. Adding the rollover to the 50,000-square-foot cap effectively removed the cap except in the most extreme years. Many cities had quantitative scoring metrics to score projects. A first-come-first-serve process did not result in quality projects. Every square foot of office development worsened the housing shortage.

Council Member Fine did not support the Substitute Motion. The majority of the PTC recommended approval of the cap, the rollover provisions and removal of the competitive process. Focusing on an office cap did not address housing. A first-come-first-serve process was preferable in terms of overhead for Staff and the Council and review by the Architectural Review Board (ARB), Historic Resources Board (HRB), and PTC.

Council Member Scharff indicated 50,000 square feet of office space was miniscule compared to the office space proposed in surrounding cities. Not allowing any new building in a Downtown area resulted in a community that looked bad. He wanted buildings to be upgraded and the community to have new buildings. The notion that every square foot of office space was evil was ludicrous. He doubted any city in America with significant commercial enterprise had the same low cap.

Mayor Kniss noted the annual development between 2001 and 2017 was 39,000 square feet in the affected area and 29,000 square feet Citywide. During three years in that time period, development was negative. In 2017, one small building in Stanford Research Park was the only project. She inquired about projects of significance submitted in 2018.

Ms. Gitelman reported several small projects were submitted.

Mayor Kniss found it difficult to believe the City was overdeveloping office space. At some point, a city died if there was no construction. The three-to-one housing imbalance had existed for as long as she could remember.
The Council could do far more in housing. The Motion reflected the thinking of the majority of the Council and the community.

Vice Mayor Filseth supported the Substitute Motion. Unless there was a great deal of new information or a change in Council Members' opinions, the Council needed to vote and move on.

Council Member Wolbach emphasized the PTC's recommendation to remove the competitive process and the rollover provision. The balance of the Council reflected the community's opinions. A process involving the community was better than a competitive process.

Council Member Kou felt the original Ordinance worked well and provided stability. The Council needed to ensure that sustainable and convenient transportation was available before building.

**SUBSTITUTE MOTION FAILED:** 4-5 DuBois, Filseth, Holman, Kou yes

**AMENDMENT:** Vice Mayor Filseth moved, seconded by Council Member Holman to only eliminate the rollover provision.

Council Member Holman believed eliminating the rollover provision would moderate office growth. Office growth impacted housing.

Council Member DuBois advised that a cap of 100,000 square feet in two years was not a cap. The cap rarely, if ever, came into effect. He supported a cap of 50,000 square feet per year rather than 100,000 square feet per year.

Council Member Fine thought a rollover provision was normal and intelligent. Development did not occur in chunks of 10,000 square feet. A rollover provision provided flexibility in terms of proposed development and benefits extracted from developments.

Council Member Wolbach reiterated that the Motion represented a compromise.

**SUBSTITUTE AMENDMENT:** Council Member Wolbach moved, seconded by Council Member XX to limit the rollover provision to 25,000 square feet per year.

**SUBSTITUTE AMENDMENT FAILED DUE TO A LACK OF A SECOND**

**AMENDMENT FAILED:** 4-5 DuBois, Filseth, Holman, Kou yes
Council Member Tanaka requested Commissioner Monk share reasons for including a sunset provision in the Ordinance.

Ms. Monk reported she proposed a sunset provision, but Commissioners did not support it. She felt the cap met its objective because only a few, small projects were submitted. She had proposed retaining the Ordinance and reevaluating it in two years. The PTC unanimously supported including a rollover provision and eliminating the competitive process.

Council Member Fine inquired whether the proposed Ordinance would supersede any existing Ordinance.

Ms. Stump responded yes.

Council Member Fine asked if the language was standard.

Ms. Stump related that the language was often used because the Code was complex. The language was intended to avoid ambiguity.

Council Member Fine inquired about the outcome of another Code provision in tension with the proposed Ordinance and both contained a superseding provision.

Ms. Stump explained that rules of statutory interpretation would be applied. Generally, the later adopted Ordinance prevailed over the earlier adopted Ordinance.

Council Member Fine asked if coordinated area plans, development agreements or Planned Community zones were included in the cap.

Ms. Gitelman indicated they would all be subject to the cap if they were located in the affected area. The Council could take a separate action when adopting a coordinated area plan to supersede the cap.

Council Member Fine related that the narrative behind the cap was office growth in Palo Alto was it had been unrestrained and resulted in enormous parking and traffic congestion and housing impact. He inquired whether the proposed Ordinance would reduce or resolve traffic and parking congestion.

Ms. Gitelman recalled Staff talking about the pace of change rather than the impacts of office development when they brought the original Interim Ordinance to the Council. Staff did not directly relate office development to specific impacts.
Council Member Fine emphasized that the office cap did not address the issues of parking and traffic. He requested an estimate of the existing office square footage located in the affected areas.

Ms. Gitelman advised that the City as a whole contained an estimated amount of 12 million square feet of Office Research and Development (R&D) space.

Council Member Fine stated 50,000 square feet per year was marginal in comparison to 12 million square feet. He inquired about a method to estimate the potential missed revenue opportunities caused by implementing the cap.

James Keene, City Manager wanted time to think about that because of the need to make assumptions. It was possible for Staff to develop an approximation of ranges.

Council Member Fine suggested the Council be cognizant of and measure downsides in terms of potential losses resulting from the cap. Fundamentally, a permanent office cap did not address traffic, housing, and parking problems. It added to the morass of Palo Alto regulations. The concept that adopting an office cap allowed the Council to focus on housing was not accurate. The Council focused on housing in its own right.

Mayor Kniss requested the difference between reviewing the Ordinance in two to four years and including a sunset clause.

Ms. Gitelman explained that one would set a time limit, and the other would require the Council to place it on the agenda at a future date.

**AMENDMENT:** Mayor Kniss moved, seconded by Council Member Fine to add to the Motion, “return the Ordinance to Council within two to four years.”

Mayor Kniss remarked that reviewing the Ordinance would provide data regarding business development in the affected areas.

Council Member Fine noted the PTC discussed a sunset provision. Reevaluating the Ordinance was an opportunity to improve or change the Ordinance.

**AMENDMENT PASSED:** 5-4 DuBois, Filseth, Holman, Wolbach no

**MOTION AS AMENDED RESTATES:** Council Member Scharff moved, seconded by Council Member Wolbach to:
A. Adopt an Ordinance amending the Palo Alto Municipal Code to establish Annual Office Limit (AOL) regulations to replace the interim regulations, replacing in Section 18.40.190 (c)(2), “non-office” with “non-office annual limit land”;  

B. Find the action within the scope of the Comprehensive Plan EIR certified on November 13, 2017; and  

C. Return the Ordinance to Council within two to four years.”

**MOTION AS AMENDED PASSED:** 5-4 DuBois, Fine, Holman, Kou no

[The Council returned to Agenda Item Number 4.]


Brad Eggleston, Assistant Director Public Works recalled the Council's review of the status of the Infrastructure Plan and funding gap from January 22, 2018, as well as the Council’s referral to the Finance Committee (Committee). The funding gap, based on current estimates, was approximately $56 million. Staff and the Committee discussed the need for a Contingency Fund to cover future cost increases, which resulted in an estimated funding gap of $76 million. Staff identified potential funding of $6 million and $25-$30 million, but use of those funds for Infrastructure Plan projects would reduce funding for new projects and reduce Staff's ability to respond to unforeseen and possibly urgent needs. Transient Occupancy Tax revenues could be used to issue COP to support projects. Two Marriott hotels on San Antonio were expected to open in early 2020, and two hotels on El Camino Real were in the planning and entitlement process. The City expected revenues from Senate Bill (SB) 1 and Measure B, but there were challenges to those funds. Decisions about the City’s Middlefield lots had not been made. The Committee decided to study the potential of generating new revenue through a tax measure on the November 2018 ballot. If the Council chose to proceed with a tax measure, next steps could include: a second survey, Committee review of a second survey and a Council decision in June. With a 3-1 vote, the Committee recommended the Council proceed with a 2 percent TOT increase, explore a RETT increase, and conduct stakeholder outreach.
Miranda Everitt, Fairbank, Maslin, Maullin, Metz and Associates (FM3) reported FM3 conducted 1,191 interviews via telephone and online between March 23 and April 2, 2018. The margin of error was +/-4 percent, and comparisons to prior community surveys were provided. Voters were more divided on the City's direction than they were two years ago, which was a trend observed throughout the Bay Area. The majority of voters approved of the City's management of infrastructure, overall, and more approved than disapproved of the City's handling of the budget and tax dollars. In principle, voters supported a measure to fund improvements to City infrastructure; household willingness to pay amounts reached as high as $100 a year. At the top of a list of potential priorities were: modern emergency response systems and repairing streets and roads. Favoring funding mechanisms in concept were TOT and RETT. The poll was not designed to assess the feasibility of a fully formed ballot measure. The next round of polling included a test of actual ballot language and to subject each to pros and cons. A plurality of voters felt things were headed in the right direction. Three in five voters said the City did an excellent or good job of providing services. Only 37 percent said either fair or poor, and only 10 percent landed on the poor side of the spectrum. Compared to many other cities, this was a positive figure. Approval ratings for maintaining the City's infrastructure, managing City Budget and finances and effectively using local tax dollars were 64 percent. Compared to prior years, those figures had declined but remained net positive. With respect to a sense of need for funding in the community and characterizing the type of need as a great need, some need, or no real need, slightly less than half saw at least some need for funding. This question included the language "to maintain and improve infrastructure in the City." That compared closely to the 2013 survey. More specifically about maintaining and improving public parks, streets, sidewalks and vital facilities, 40 percent of voters saw at least some need for infrastructure improvements. The survey provided voters with a list of potential ways to spend infrastructure funding and provided a rating scale of: extremely important, very important, somewhat important, and not too important. Three-quarters of voters noted ensuring a modern and stable 911 emergency communications network as extremely or very important, and 35 percent called it an extremely important priority for the City. Maintaining streets and roads, fixing potholes, providing safe routes for bicyclists and pedestrians, and ensuring vital City facilities were all earthquake safe were important to 60 percent or more of voters. A majority of voters called parks and recreation facilities, safety at Caltrain crossings, intersection safety, and adequate parking very important priorities. While maintaining and improving parks was quite a high priority, Byxbee Park specifically was a much less urgent priority. Making City sidewalks, buildings, and parks accessible for people with disabilities was one of the top priorities on the second tier. When asked if voters supported or opposed a
bond or tax measure to fund some group of the projects based on what they had heard, 59 percent said they supported a bond or tax measure in principle, 19 percent strongly supported it, 35 percent opposed it, and 6 percent did not know. This aligned with the general sense of need for funding. Younger voters were slightly more supportive than voters over age 50. Nearly 70 percent of Democrats supported the idea; independents were more split; and the majority of Republicans opposed the idea. Voters of color were less enthusiastic. The response of Asian and Pacific Islander voters was similar to that of White voters. Renters were stronger supporters than owners, which was common. Voters at the higher and lower ends of the income scale were more supportive than those in the middle of the scale. In response to a question of the amount voters willing to pay additional taxes if they were dedicated to the types of projects mentioned, regardless of how it was structured, 60 percent were willing to pay up to $100 per year, 51 percent were very willing to pay $50 per year, and 71 percent were somewhat willing to pay $50 per year. Support dropped at $250 per year. The TOT received the highest level of support at 61 percent with 34 percent opposed. More than a quarter of voters were strongly supportive of a TOT mechanism. The RETT was supported by a slim majority. A majority of voters opposed an additional flat Parcel Tax, and 70 percent opposed an increase in Sales Tax with 47 percent strongly opposed. When testing ideas in isolation, support was lower than that obtained on the day of the election; therefore, the figures were considered the conservative viewpoint. A pro and con exchange for a potential Sales Tax increase did not shift opinions. A solid majority, 58 percent, continued to support a TOT increase after hearing the messaging with 38 percent opposed. With respect to a RETT, voters were evenly divided. After an exchange for a flat Parcel Tax, opposition increased to 62 percent. The limited test of mechanisms only supported a TOT or a RETT increase. Both mechanisms began with majority support and retained it after a brief exchange of messaging. Voters in general supported up to $100 a year per household in new taxes for infrastructure improvements and repairs. The emergency communication network and streets and roads were top priorities as well as things like pedestrian and cyclist safety. Voters generally held positive views of the City’s management of infrastructure; fewer than a majority saw a need for new funding for the City generally or infrastructure specifically, which was an avenue of communication with voters. Further research needed to focus on the ballot language to provide a truer test of the choices presented to voters.

Mayor Kniss inquired whether interviewers were more likely to reach voters through home phones, cell phones or email.
Ms. Everitt explained that a lack of voter response to an email resulted in a phone call. Of the phone calls made, 65 percent of voters were reached by cell phone, which was consistent with State and National trends.

Mayor Kniss asked if FM3 was confident in the accuracy of the data.

Ms. Everitt responded yes. FM3 utilized many methods to match respondents with predictions for voters.

Mayor Kniss noted many of the responses were close to the edge.

James Keene, City Manager stated the Council’s main decision was whether to conduct additional polling before deciding to place a measure on the 2018 ballot.

Council Member DuBois requested an explanation of the statement that a majority of voters supported a RETT increase after messaging, when the chart appeared to show 49 percent negative and 47 percent positive.

Ms. Everitt clarified that the result was within the margin of error but less than a majority.

Mr. Keene asked if that was a generally good indication of the trend one might see from a more elaborate campaign.

Ms. Everitt answered yes. Focusing on the mechanism and whether it was fair or unfair was not the truest test of a campaign, but this focus was the best way to test the four mechanisms in isolation.

Mr. Keene suggested the Council consider the constituencies that would be actively involved either for or against a mechanism when deciding whether to place a measure on the ballot.

Amy Sung, speaking for Julie Lau, Nancy Goldchamp, Kelly Griggs and Michelle Chang opposed increasing the RETT. This was a tax on the buyer and seller in every real estate transaction. A 1 percent increase in the RETT resulted in an additional cost of $4,500 to the buyer and seller.

Julie Handley, Dinah’s Garden Hotel reported the hotel collected approximately $100,000 monthly in TOT. If the TOT increased to 16 percent, hotels had to lower their average daily rates. The 10 percent TOT charged in Mountain View offered a substantial savings over Palo Alto’s rate.

John Hutar, Dinah’s Garden Hotel remarked that individuals paying the TOT did not receive any benefit from it. The Council needed explore other revenue streams. He urged the Council to study collection of the TOT from
Airbnb and such entities because collecting from those entities mitigated some of the revenue shortfall.

Stephanie Wansek, remarked, as a hotelier, that Staff should work with the hotel industry to gather accurate information. The hotel market was probably not as strong as everyone thought. If the TOT increased, hotels might have to reduce their rates.

Ryan Carrigan, Silicon Valley Association of Realtors emphasized that an increase in the RETT was a direct increase in the cost of housing in Palo Alto. The value of home ownership needed to be preserved.

Carol Li opposed an increase in the RETT and shared RETT charged by other cities in California.

David Coale questioned the need for some of the infrastructure projects, particularly the Downtown and the California Avenue garage areas. The Council needed to explore all alternatives before imposing another tax.

Harry Chang opposed the grossly unfair RETT.

Penny Ellson reiterated the request for the Council to consider the full array of taxes and encouraged the Council to fully fund all bike and pedestrian projects without delay. The Charleston-Arastradero project needed to be completed prior to the beginning of grade separation projects.

Ricardo Berrospi, The Zen Hotel commented that viewing the survey results as validation for an increase in the TOT was disingenuous. Corporate travel managers evaluated the overall cost before booking hotel rooms. The Zen Hotel's first quarter revenues were down year-over-year and costs were up. He requested the Council evaluate the long-term consequences of a TOT increase.

Christopher Custer referred to information Ms. Wansek provided to the Council. He did not believe Airbnb was collecting TOT. He requested the Council obtain more information regarding the effect of a TOT increase on hotels.

Council Member Holman requested the meaning of Average Daily Rate (ADR).

Mr. Custer replied Average Daily Rate.

Penelope Huang stated that an increase in the RETT would affect approximately 500 households of the 26,000 households in Palo Alto. A flat Parcel Tax of $100 appeared to be more reasonable.
Yatin Patel reported anecdotally that people stayed in Mountain View when they attended events or had business with Stanford University. The last increase in TOT had little effect on hotel business because it coincided with a significant increase in occupancy.

Rini Sengupta opposed an increase in the RETT. An increase in the RETT exploited those who had to sell their homes due to death, illness, divorce or job loss. Perhaps the Council was able to consider less punitive options.

Clara Lee was surprised by the 47 percent support and 49 percent opposition to an increase in the RETT. The respondents likely did not appreciate the cost of increasing the tax. An increase in the RETT was quite punitive. Many seniors were affected by such an increase.

Council Member Scharff reiterated the Council’s decision was to proceed with another round of polling on two possible ballot measures. Deciding not to proceed with a Parcel Tax or a Sales Tax increase was simple, based on polling results. The Committee discussed increasing the RETT by $1.10. The notion that an increase of $1,500 for the buyer and $1,500 for the seller impacted a $3 million sale and that was ludicrous. The last increase in the TOT did not affect hotel business, and there was no indication another increase would affect hotel business.

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

A. Explore a two percent Transient Occupancy Tax increase and a $1.10 per $1,000 increase in the Real Estate Transfer Tax, including moving forward with the necessary creation of a ballot statement, polling, testing, and authorizing Fairbank, Maslin, Maullin, Metz and Associates to perform associated tasks; and

B. To discontinue consideration of a Sales Tax or a Parcel Tax.

Mr. Keene indicated consultants had stated more detailed polling would be necessary as a prelude to the Council making a final decision on either tax increase.

Council Member Scharff felt polling was necessary to obtain good information. All the projects in the poll received strong support. Adding the percentages for somewhat important, very important and extremely important revealed the intensity of voters’ support. Low support for Byxbee Park and the Roth Building resulted from the lack of knowledge about those facilities. An increase in the TOT and RETT were realistic approaches to
funding the Infrastructure Plan. He requested the monthly cost of delaying the Public Safety Building project.

Mr. Eggleston replied $350,000.

Council Member Scharff emphasized the need for haste in realizing the infrastructure projects.

Vice Mayor Filseth remarked that it was time for the City to invest in community amenities beyond the Infrastructure Plan. Construction costs were rising faster than inflation. Capital investments and the Operating Budget were somewhat separate issues and needed to be dealt with somewhat separately.

Council Member Tanaka was not going to support increasing taxes because the Council had not prioritized projects, did not value engineered projects, and gave away money, property and equipment. A tax increase was totally inappropriate. The lack of transparency was another concern. The Council had to institute a study committee with local hotels to understand supply and demand. The RETT was an incredibly unfair tax. Increasing local taxes when Federal Taxes had increased was not logical.

Council Member Kou agreed that the Council had not considered all options and that there had not been transparency.

**SUBSTITUTE MOTION:** Council Member Kou moved, seconded by Council Member XX:

A. To discontinue consideration of a Sales Tax or a Parcel Tax; and to discontinue consideration to explore a Real Estate Transfer, continue to explore a two percent Transient Occupancy Tax increase;

B. To direct Finance Committee to consider and explore the following:

   i. a Business License Tax, Employee Transportation Tax, Business Payroll Tax and Business Gross Receipts Tax, Commercial Users Tax, Commercial/Residential Rental Income Tax, Tax on all commercial transactions;

   ii. Regulating and creating a tax or fee structure for Uber, Lyft and like kind app based taxi and shuttle services;

   iii. Creating a fee and/or tax for all transportation and personal services using AI service pilot programs;
C. To Direct Staff to report back to Council by end of Council summer break, the following:

   i. Update on the Business Registry, including the regulations and implementation, its successes and failures and recommendations to improve;

   ii. Provide accountability of the parking spaces in the Parking Assessment Districts. Provide number of spaces and its allotments to all developers/property owners who have paid into the assessment districts;

D. For Council to appoint a task force specifically to consider revenue generating sources for the infrastructure projects, community assets and grade separation and reports to the Finance Committee; and

E. For Council to review and discuss alternative scenarios of the 2014 Infrastructure projects, include grade separation and community assets and possible/potential deferment of certain projects.

Council Member Scharff suggested the Council and Staff could not accomplish the items in the Substitute Motion in time to place a measure on the November ballot.

Mayor Kniss inquired whether the Committee discussed any of the topics in the Substitute Motion.

Council Member Scharff responded no.

Mayor Kniss remarked that the Committee should have vetted the Substitute Motion.

Mr. Keene articulated the Council's direction to the Committee. The Committee considered some other community amenities beyond the Infrastructure Plan. There had been talk of a gross receipts tax or a tax on businesses that could yield hundreds of millions of dollars. Decisions on transportation-related issues and grade separations continued to face the Council. There had been a triaged effort to focus consideration on a ballot measure. These issues were worthy of Council and Committee exploration and could be considered in a parallel discussion, but the Council needed to stick to the direction they had.

Council Member Kou stated everyone was looking at things in isolation, which did not serve the community well. Outreach to hotels and real estate companies were not conducted.
Mr. Keene noted the Committee recommendation included outreach to stakeholders, but Staff had not done that because they needed to know whether the Council supported a ballot measure. Outreach occurred in parallel with polling. Staff was able to utilize work performed by other jurisdictions with a Sugar-Sweetened Beverage Tax.

Ms. Everitt advised that FM3 had experience with Sugar-Sweetened Beverage Taxes. Adding this tax increased the number of questions, and people’s attention was limited.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion Part A, “Sugar-Sweetened Beverage Tax of 1 to 2 cent per ounce” after “Transfer Tax.”

Council Member Fine expressed concern that the Council had not been totally responsible with the implementation and funding of the Infrastructure Plan. The Council chose not to reduce the cost of parking garages. The taxes under consideration had the least nexus for Palo Alto residents. He questioned whether this was the type of fundraising that the Council should support. The Sugar-Sweetened Beverage Tax was regressive in general. The decision was whether to conduct additional polling. He was not surprised if he learned that the community did not support any of the taxes.

Council Member Holman stated that other cities taxed things, such as ghost houses, Uber, Lyft, employee head count, and employee transportation that the City of Palo Alto could but did not tax. Projects for traffic safety improvements and transit measures were underfunded, unfunded, or funded largely by residents even though the 3:1 employment ratio was the driver of the need for those improvements. She was frustrated by the delay in the Council review of topics. The Committee gave direction to Staff even though it had no authority to direct Staff. She asked if there was sufficient time to conduct polling for a Head-Count Tax.

Mr. Keene advised that the Council could direct Staff to include simplistic questions in a poll. Council Member Holman’s and Council Member Kou’s points were legitimate in the scheme of big initiatives and funding and revenue needs of the City. If the Council wanted to place other topics on the ballot, then it should have directed Staff in January, 2018 to do so. Staff had not held in-depth policy discussions with the Council regarding all the business approaches. There was not sufficient time to conduct polling on a Head-Count Tax unless it involved general questions about businesses.
Council Member Holman stated some of the things mentioned during the discussion did not seem to be counter to closing the infrastructure gap and funding some projects. She did not understand why some of those things had not been studied and brought forward when they could address infrastructure funding. A siren alert system should be on the list, and selling the two parcels on Middlefield should be removed from the list.

Council Member Kou left the meeting at 12:28 A.M.

Council Member DuBois noted the polling included the Junior Museum and Zoo, Caltrain crossings, and parks and recreation, which were not infrastructure projects. When the Council referred it to the Committee, he expected the Committee to address expenses, priority of projects, timing, and possibly options. He was unsure whether Palo Alto's TOT should be the highest in the State. He inquired whether the City was enforcing the TOT with Airbnb.

Lalo Perez, Chief Financial Officer and Director of Administrative Services was not able to share specific details because of confidentiality issues. The amount collected from Airbnb ranged from $600,000 to $1.2 million a year.

Council Member DuBois related that Mountain View collected $9 million from Airbnb.

Mr. Perez was not able to ask Mountain View staff for a number because of confidentiality clauses in contracts with Airbnb. He asked if Airbnb published the $9 million amount.

Council Member DuBois did not know if the amount was public information. He asked if Airbnb was supposed to be collecting TOT for all rentals in Palo Alto.

Mr. Perez responded yes, but Staff did not have a means to validate data from Airbnb. Revenues were trending up.

Council Member DuBois suggested the number of Airbnb listings in Palo Alto could warrant a third-party audit. He thought the amount of TOT revenue from Airbnb could be greater than the amount of revenue generated by a tax increase. Another issue was whether the City's measure would compete with Palo Alto Unified School District's (PAUSD) Bond Measure. The polling needed to mention PAUSD's Bond so the Council could understand the impact of having both measures on a ballot. He was unsure whether the RETT should be considered further as it did not poll well. He was struck by the absence of polling for measures tied to jobs in Palo Alto. Taxes on commercial rent or payroll were potential ballot measures. He supported a
Soda Tax. The polling should include a general question to obtain information for communicating a future tax. Staff needed to agendize a discussion of prioritizing projects in the Infrastructure Plan and options to decrease costs.

**AMENDMENT:** Council Member DuBois moved, seconded by Council Member Tanaka to remove from the Motion Part A, “a $1.10 per $1,000 increase in the Real Estate Transfer Tax.”

Council Member Tanaka felt more discussion was needed before further polling was conducted. Rushing to construct projects at the peak of the market was not financially prudent.

Vice Mayor Filseth explained that the RETT would be a 0.1 percent increase on a sale that already paid 3-5 percent in commissions. The incremental cost of a 0.1 percent change on a real estate sale was close to negligible in comparison to the transaction amount. He wanted to fund the Parks and Recreation Master Plan, the Animal Shelter, purchase of the AT&T parcel and the Junior Museum and Zoo project.

**AMENDMENT FAILED:** 2-6 DuBois, Tanaka yes, Kou absent

Council Member DuBois inquired whether FM3 could include a Business Tax in the next round of polling.

Mayor Kniss understood the Council agreed not to include a Business Tax in the next round of polling.

Ms. Everitt advised that additional questions could complicate polling and hurt the results. She remarked that in addition, polling now could be indicative for a ballot measure in 2020, but FM3 would want to look at it closely because the electorates would be different.

**AMENDMENT:** Council Member DuBois moved, seconded by Council Member Holman to add to the Motion, “poll for a Business Tax.”

Council Member Scharff stated now was the wrong time for a poll on a Business Tax because the polling results would be inaccurate and out of date.

Council Member Wolbach added that a Business Tax would probably poll well, but the type of Business Tax needed discussion.

Mayor Kniss recalled that prior discussions of a Business Tax did not include polling. The Council was able to implement a Business Tax on its own at almost any time.
Mr. Keene reported that the Council never provided Staff with focused direction for a Business Tax. Staff needed to have those conversations with the Council. Many transportation issues had to be funded, and there was a clear nexus between business and transportation.

Mayor Kniss believed the public would support a Business Tax.

Mr. Keene remarked that a Parcel Tax of $100 a year would not fund any of the big issues. Residents did not want to pay additional taxes until businesses paid more Taxes; therefore, polling on businesses needed to occur.

Council Member Fine encouraged Mayor Kniss to call the question immediately following a vote on the proposed Amendment.

Council Member Holman asked if 2020 would be a better year to propose a Business Tax and, if so, why.

Ms. Everitt explained that conducting a poll in 2018 for a 2020 ballot measure was not logical as the electorates for the two elections were not the same.

Mr. Keene disclosed that the Rail Committee had discussed conducting a survey regarding different revenue sources over the summer.

**AMENDMENT FAILED:** 2-6 DuBois, Holman yes, Kou absent

Council Member DuBois wanted to propose an Amendment to include PAUSD's Bond measure in polling.

Mayor Kniss recommended Council Member DuBois hold the Amendment.

Mr. Keene stated polling could easily include a comment regarding PAUSD's Bond measure. Competition between simultaneous bond measures was legitimate.

Vice Mayor Filseth inquired whether Council Member DuBois was satisfied with the City Manager's response.

Council Member DuBois replied yes.

Mr. Keene clarified that the next round of polling would go much deeper on the effectiveness of a ballot measure, and competition with other measures would be tested.
MOTION AS AMENDED RESTATED: Council Member Scharff moved, seconded by Vice Mayor Filseth to:

A. Explore a two percent Transient Occupancy Tax increase and a $1.10 per $1,000 increase in the Real Estate Transfer Tax, sugar sweetened beverage tax of 1 to 2 cent per ounce, including moving forward with the necessary creation of a ballot statement, polling, testing, and authorizing Fairbank, Maslin, Maullin, Metz and, Associates to perform associated tasks; and

B. To discontinue consideration of a Sales Tax or a Parcel Tax.

MOTION AS AMENDED PASSED: 7-1 Tanaka no, Kou absent

[The Council returned to Item Number 4.]

State/Federal Legislation Update/Action

None.

Council Member Questions, Comments and Announcements

Council Member Holman would see everyone at the May Fete Parade.

Adjournment: The meeting was adjourned at 1:00 A.M.