



CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting
March 4, 2019

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:05 P.M.

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

Absent: Tanaka

Special Orders of the Day

1. Recognition of the Palo Alto Student Winners From the 2018 Synopsis Science Fair.

Mayor Filseth presented certificates of recognition to the winners of the 2018 Science Fair.

2. Recognition of the Winners of the 2019 Palo Alto City Library Kids and Teens Writing Contest.

Liz Stewart, Senior Librarian, reported Staff received 113 submissions. First, second, and third place and Librarian's Choice were awarded to each age group. She presented awards to the winners.

Council Member Cormack requested future Agendas with items for student awards contain a link to the winning submissions.

Closed Session

3. CONFERENCE WITH CITY ATTORNEY
Subject: Written Liability Claim Against the City of Palo Alto by Komuna Capital, LLC; Komuna Palo Alto, LLC; and Komuna Energy, LLC (Claim No. C18-0043)
Authority: Government Code Section 54956.9 (e)(3).
4. CONFERENCE WITH CITY ATTORNEY-EXISTING LITIGATION
Santa Clara County Superior Court, Case No. 16CV300760 (One Case, as Defendant) – Miriam Green v. City of Palo Alto
Authority: Government Code Section 54956.9(d)(1).

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

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MOTION PASSED: 6-0 Tanaka absent

Council went into Closed Session at 5:20 P.M.

Council returned from Closed Session at 7:00 P.M.

Mayor Filseth announced no reportable action.

Agenda Changes, Additions and Deletions

Mayor Filseth announced the Council will hear Oral Communications after Agenda Item Number 12 - Acceptance of the Fiscal Year 2020-2029... because the Council is ahead of the tentative time listed on the Agenda for Oral Communications.

City Manager Comments

Ed Shikada, City Manager, reported the California Parks and Recreation Society had selected the Baylands Golf Links as winner of an Award of Excellence for facility design. Summer camp registrations were due March 8 at 5:30 p.m. for the lottery. Residents would have another opportunity to register beginning March 21. Five visiting artists would present various Chinese methods for creating ceramics during the International Cultural Exchange Week at the Art Center. A kickoff reception was scheduled for March 15, and a one-day exhibition would conclude the week on March 24. Transportation Staff conducted an observation of bike traffic at the California Avenue tunnel and found 93 percent of student bicyclists and 17 percent of adults were wearing helmets. The Safe Routes to School program was working with Frank S. Greene Jr. Middle School students to create a Walk and Roll Map for students of the East Palo Alto Voluntary Transfer program. The map would be available in May. The Mayor's State of the City Address was scheduled for March 5.

Oral Communications

None.

Consent Calendar

MOTION: Council Member Kniss moved, seconded by Council Member DuBois to approve Agenda Item Numbers 5-11, including updated attachments for Agenda Item Number 6- Authorize Transmittal of the 2018 Annual Comprehensive Plan and Housing Element Progress Report... as outlined in the at place Staff Memorandum.

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Council Member Kou registered no votes on Agenda Item Numbers 6- Authorize Transmittal of the 2018 Annual Comprehensive Plan and Housing Element Progress Report... and 8- Approval of a License Agreement With Crown Castle Towers 06-2, LLC....

5. Approval of Construction Contract Number C19173793 With Waterproofing Associates, Inc. in an Amount Not-to-Exceed \$282,840 and Authorization of Contract Contingency in an Amount Not-to-Exceed \$28,284 to Replace the Existing K Wing Roof at Cubberley Community Center.
6. Authorize Transmittal of the 2018 Annual Comprehensive Plan and Housing Element Progress Report for the Period of January 1, 2018 to December 31, 2018 to the State of California's Office of Planning and Research and the Department of Housing and Community Development (HCD).
7. Resolution 9821 Entitled, "Resolution of the City of Palo Alto Approving the November 2018 Amended and Restated Water Supply Agreement Between the City and County of San Francisco Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County; and Authorize the City Manager to Execute the Amended and Restated Water Supply Agreement."
8. Approval of a License Agreement With Crown Castle Towers 06-2, LLC for Placement of Telecommunications Facilities on City-Owned Property Located at 799 Embarcadero Road.
9. Approval of Addendum Number 9 to the Basic Agreement With the Cities of Mountain View and Los Altos; and Amendment Number 6 to Contract Number C869 With the Board of Trustees of the Leland Stanford Junior University Related to the Regional Water Quality Control Plant's Near-term Capital Improvement Program Funding.
10. Approval of Amendment Number 2 to Contract Number S16164688 to add \$100,000 for a Total Not-to Exceed Amount of \$400,000 With Municipal Resources Group for Professional Human Resources Consulting Services.
11. Approval of Four Professional Services Agreements With: (1) BluePoint Planning; (2) Bovo Tighe; (3) Management Partners; and (4) Municipal Resource Group for Organizational Development Over a Three-year Term, all Subject to an Aggregate Not-to-Exceed Amount of \$450,000.

MOTION FOR AGENDA ITEM NUMBERS 5, 7, 9-11: 6-0 Tanaka absent

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MOTION FOR AGENDA ITEM NUMBERS 6 AND 8: 5-1 Kou no, Tanaka absent

Council Member Kou stated the California Environmental Quality Act (CEQA) prohibited the segmentation of projects to avoid full and accurate assessment of environmental impacts. The City's failure to require consistency when taking discretionary actions should be contained in the report. She asked how the elimination of the Downtown Office Cap and its link to the Hotel President could be found to be consistent with Housing Element Goals and Policies for preserving existing housing and future housing opportunities. She would not support a report that ignored the segregated method of its adoption or the failure to implement its provisions. A License Agreement with Crown Castle Towers should wait until the Council updated the small cell antenna Ordinance.

Action Items

12. Acceptance of the Fiscal Year 2020-2029 Long Range Financial Forecast.

Kiely Nose, Administrative Services Department Interim Director, reported the Long Range Financial Forecast (LRFF) pertained to the General Fund only and provided a high-level overview of the General Fund to inform policy decisions. Based on Council direction, Staff changed the California Public Employees' Retirement System (CalPERS) discount rate, which increased the City's annual contribution to retirement costs by almost \$4 million. The Finance Committee reviewed and accepted the LRFF in November 2018 and recommended the Council approve the LRFF. If the Council chose to take no action, expenses and revenues could not be equal until Fiscal Year (FY) 2024. If the Council chose to reduce expenses or increase revenues, expenses and revenues could be equal in FY 2022. General Fund expenses were forecast to increase approximately 9.1 percent from the FY 2019 Adopted Budget to the FY 2020 forecast. This increase was caused by the one-time \$4 million reduction in expenses, one-time balancing solutions, implementing the 6.2-percent discount rate, FY 2020 labor agreements, and annual contract increases. Revenue assumptions for the LRFF included a 5.9-percent increase in FY 2019 and 2020. In preparing the LRFF, Staff utilized a general 2-percent wage increase for years without an adopted Memorandum of Understanding (MOU) and a 2-3 percent Consumer Price Index (CPI) increase. The LRFF included the base case and three alternative scenarios. Scenario 1, which omitted the change to the CalPERS discount rate, showed a \$1 million surplus. Scenario 2 modeled a recession in FY 2022. Scenario 3 modeled a 3-percent wage increase in years without an adopted MOU. The LRFF was intended to inform decisions around competing

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priorities. The Proposed FY 2020 Budget would be released at the end of April with Finance Committee deliberations scheduled for May. The Council would review and adopt the Budget in June.

Council Member DuBois requested the rationale for not preparing a LRFF for Enterprise Funds.

Ms. Nose advised that forecasts for Enterprise Funds were prepared through rate setting processes and would be presented to the Finance Committee in March and April.

Council Member DuBois asked about the assumptions for salaries and benefits for Enterprise Funds.

Ms. Nose indicated the assumptions were based on the assumptions used in the LRFF and the year-over-year growth in General Fund salaries and benefits.

Council Member DuBois inquired regarding the FY 2027 anomaly of expenses increasing by only 1 percent.

Steve Guagliardo, Principal Management Analyst, explained that pension costs began to normalize in the out years, especially with more aggressive payment of pension costs. An increase of only 1 percent was rare; however, a number of factors contributed to it.

Ms. Nose added that retirement costs would decrease in the out years because some of the retirement losses would reach their terms.

Council Member DuBois inquired regarding the FY 2022 decrease in rental income.

Mr. Guagliardo advised that rental payments the City received for the landfill would cease in FY 2022.

Council Member DuBois asked if the LRFF included the current Transient Occupancy Tax (TOT) rate.

Ms. Nose replied no. A revised LRFF would be prepared as part of the Proposed Budget.

Council Member DuBois requested additional information regarding the California Employers' Retiree Benefit Trust (CERBT).

Ms. Nose clarified that funds in the CERBT were designated for Other Post-Employment Benefit (OPEB) liabilities. The City made principal pledges to

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CERBT, and those pledges plus interest and investment earnings totaled approximately \$100 million. CERBT monies could be utilized for the City's annual OPEB payment so that monies in the General Fund were available for other uses. However, the OPEB actuarial report indicated the City was not at a point to utilize CERBT monies for the OPEB expense.

Council Member DuBois asked whether the LRFF included use of CERBT funds.

Ms. Nose responded no. That could happen at the appropriate time.

Council Member DuBois requested the balance of the Cubberley Infrastructure Fund.

Ms. Nose would provide the balance at a later time.

Council Member DuBois asked if the City could take action to avoid the Cadillac tax independent of CalPERS.

Ms. Nose would have to investigate the possibilities.

Council Member DuBois inquired whether the City was dependent on CalPERS to avoid the Cadillac tax for its health plans.

Ms. Nose did not know whether the City was required to use CalPERS as its healthcare provider.

Council Member DuBois noted Scenario 3 forecast a decrease in revenue but not a decrease in expenses. He inquired whether the City would reduce expenses if revenues decreased.

Ms. Nose stated Staff would attempt to balance a reduction in revenues with a reduction in expenses. Scenario 3 provided a potential amount of the reduction.

Council Member DuBois requested clarification of the restoration of the \$4 million reduction.

Ms. Nose recalled in the fall of 2018 the Council directed Staff to find \$4 million in short-term and long-term reductions. Staff identified approximately \$600,000 in one-time reductions for FY 2019, and the remaining \$3.4 million was restored to the Budget. Because Staff had not identified long-term reductions, the full \$4 million would be restored to the FY 2020 Budget.

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Council Member DuBois remarked that the increase in expenses, given the City's actions to reduce expenses, was counterintuitive. Several Cubberley infrastructure projects, such as constructing field restrooms and resurfacing the track, should be placed on hold until the Cubberley Master Plan was adopted.

Ed Shikada, City Manager, reported projects were designed to maintain function and operations rather than upgrade infrastructure.

Council Member DuBois appreciated the use of the scenarios with reasonable assumptions for wages in out years. Utilizing a blend of the last three years of wages under MOUs in the forecast could be more useful than a 2-percent increase. It would show the sustainability of salary increases. The same blend should be utilized for Enterprise Fund forecasts. He questioned whether the Council needed to direct Staff to use a blend rather than the 2-percent for wage increases.

Mayor Filseth suggested it could be part of a Motion.

Council Member DuBois noted pension contributions for Safety personnel would peak at 74 percent of employee compensation using CalPERS' discount rate.

Mr. Guagliardo clarified that 74 percent was the ceiling over the term of the forecast.

Council Member DuBois asked if use of the assumption of 6.2 percent would isolate the City from the increase.

Mr. Guagliardo stated the City was moving ahead of CalPERS with respect to the anticipated discount rate.

Council Member DuBois inquired whether CalPERS adjusting its discount rate higher than 6.2 percent would result in a peak higher than 74 percent or whether the City's change to the discount rate had shielded the City from a higher peak.

Mr. Guagliardo indicated the City's use of 6.2 percent provided a buffer. If CalPERS lowered its discount rate, CalPERS' projections should more closely match the City's projections.

Council Member DuBois wanted the Council to review the assumptions used for salaries and benefits and to understand the timing and the amount of the City's use of the CERBT.

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Mayor Filseth announced the Council would hear Oral Communications at the completion of this Agenda Item as the Council was ahead of the published schedule.

Mr. Guagliardo reported the balance in the Cubberley Infrastructure Fund was \$5 million at the end of FY 2018.

Council Member Cormack requested clarification of the net operating margin calculation.

Mr. Guagliardo explained that in FY 2020 of the base case, the net one-time gap was \$2.8 million. In FY 2021, the net one-time gap increased to \$4.5 million. The net operating margin presumed the City resolved any gap on an ongoing basis. If the City structurally resolved the \$2.8 million gap in FY 2020, then a \$2.8 million credit could be applied to the FY 2021 one-time gap of \$4.5 million, which would result in a new ongoing gap of \$1.7 million. If the City structurally balanced its Budget each year, the Budget would move to a positive balance much earlier.

Council Member Cormack remarked that the base case did not assume negative economic growth but assumed a reduction in the rate of growth. She inquired about the Home Owner Property Tax Relief (HOPTR) tax.

Tarun Narayan, Treasury and Debt Manager, reported HOPTR was a homeowner's property tax exemption in the amount of \$7,000.

Council Member Cormack asked if the amount would vary depending on the number of people occupying their homes or renting them.

Mr. Narayan replied yes, but the amount was typically stable.

Council Member Cormack inquired whether the estimated \$2.6 million TOT annual increase would cover the one-time gap of \$2.8 million in the base case.

Ms. Nose clarified that revenues from the previous TOT increase were deposited into the General Fund and immediately transferred to the Capital Fund for infrastructure projects. The Council could determine whether TOT revenues remained in the General Fund. The \$2.6 million represented the increased TOT revenue associated with Measure E.

Council Member Cormack asked if the anticipated sales tax revenue was positive news.

Ms. Nose remarked that it could be good news. Revenues had increased and decreased across the organization since release of the LRFF. Overall,

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revenues were trending in a positive direction. Some business changes could impact the City's revenue streams.

Council Member Cormack noted the lease income from the Cubberley Community Center could need to be adjusted when Cubberley was redeveloped. She inquired whether vacancy savings were part of the \$4 million reduction.

Ms. Nose advised that almost all of the one-time reduction in FY 2019 resulted from vacancy savings.

Council Member Cormack asked if the City had implemented other one-time savings.

Ms. Nose responded yes. In any given year, a number of one-time activities occurred. Some of those one-time activities were removed from the Budget, and some were returned to the Budget.

Mr. Guagliardo added that in reviewing Internal Service Funds for the FY 2019 Budget, Staff found some balances had accumulated over the past few years. Therefore, Staff gave small one-time rate passes to the funds that paid into the Internal Service Funds. The rate passes were one-time savings in FY 2019 that could not continue.

MOTION: Mayor Filseth moved, seconded by Council Member Cormack to accept the Fiscal Year 2020 – Fiscal Year 2029 Long Range Financial Forecast (LRFF) and include deltas in the assumptions from the Long Range Financial Forecast when the budget is presented.

Council Member Kniss inquired about the accuracy of revenue forecasts ten years earlier.

Mr. Guagliardo reported the presentation of the FY 2020 Proposed Operating Budget would include information regarding the accuracy of forecasts. The presentation of the LRFF in 2020 would include changes.

Council Member Kniss asked if the accuracy of the LRFF provided value.

Ms. Nose believed the LRFF was valuable for near-term planning purposes. The LRFF contained estimates based on a point in time and assumed only growth.

Council Member Kniss noted the difficulty of predicting the future.

Mayor Filseth remarked that the point of the change in discount rate was to place additional funds in the Section 115 Trust and requested the amount of

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funds that would be deposited into the Trust in FY 2020 as a result of the change.

Mr. Guagliardo answered Staff anticipated transferring \$3.9 million to the Section 115 Trust.

Mayor Filseth stated changes would allow the City to fully fund future employee pensions. City employees' pensions would be secure.

Council Member DuBois felt the LRFF was beneficial to understanding the impact of multiyear commitments.

AMENDMENT: Council Member DuBois moved, seconded by Council Member XX to add to the Motion, "that the LRFF include a scenario for the General Fund and Enterprise Funds using a rolling average of recent increases with an explanation of assumptions included."

Mayor Filseth understood Council Member DuBois was requesting a scenario based on more realistic assumptions.

Mr. Shikada felt changing the assumptions for salary and benefits would lead to a presumption that the forecasted percentages would be given to employees. That presumption would be difficult to overcome. Staff was discussing incorporating the operating costs associated with capital projects into the LRFF.

Council Member DuBois suggested the use of more realistic assumptions would show the unsustainability of wages and the need to change staffing levels or change assumptions.

Mayor Filseth commented that the 2-percent assumption gave a false sense of the City's ability to fund wage increases.

Mr. Shikada reported using an average of recent salary increases, when recent increases had been based on a relatively robust economy, could create an expectation that those salary increases would continue into the future. Decisions to reduce staffing levels were very difficult. While Council Member DuBois' proposed change in assumptions could provide a more realistic outlook, grappling with the outlook when negotiating contracts and considering service reductions would be difficult.

Council Member DuBois indicated the charts would not depict a conclusion but a huge gap. Having large unfunded expenses forecast for a number of years would prevent unrealistically low assumptions for salaries and the appearance of excess funding in the future. He was unsure whether the

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current 2-percent assumption assisted the City in negotiating labor contracts.

Mr. Shikada related that the swing in salary amounts relative to revenues and expenses could be dwarfed.

Council Member DuBois suggested Staff could utilize the proposed assumption in the base case or in an alternative scenario.

Mayor Filseth understood the Council's wish was for the out years of the LRFF to more accurately reflect the best information about likely revenues and expenses. The out years of the LRFF may not be as accurate as possible. Perhaps Staff could return to the Council with a method for the out years of the LRFF to be more accurate.

Mr. Shikada agreed that an alternative scenario could be a method to provide the information.

Ms. Nose advised that Staff smoothed a recession over the ten-year period of the LRFF. The actual amount of salaries was affected by many variables. For example, vacancies masked the actual contract-negotiated percentages. If the Council's intent was to obtain more realistic figures, then the Council could direct Staff to use a rolling average of recent experience in contractual increases.

AMENDMENT AS AMENDED RESTATED: Council Member DuBois moved, seconded by Council Member XX to add to the Motion, "that the LRFF include an alternative scenario for the General Fund and Enterprise Funds using consideration of recent salary and benefit changes with an explanation of assumptions included."

Council Member Kniss asked if the Amendment directed Staff to present an entirely different interpretation.

Council Member DuBois wanted a scenario for the out years that utilized more realistic salary and benefits amounts.

Council Member Kniss requested Council Member DuBois' definition of out years.

Council Member DuBois responded Years 5, 6, 7, 8.

Council Member Kniss believed Staff would have difficulty predicting at that level of specificity.

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Council Member DuBois clarified that Staff would not prepare a prediction but utilize a more realistic percentage.

Ms. Nose indicated the Council could extrapolate the 1-percent margin in the alternative scenario to other percentages. A rolling average would complicate the formula, and marginal changes would not be easy to extrapolate.

Council Member DuBois clarified that Staff would apply a percentage statically rather than an ongoing average for each year.

Council Member Cormack believed Scenario 3 provided the accuracy sought in the Amendment. Accuracy in Years 9 and 10 would not be of vast use to the Council. The information sought in the Amendment was unnecessary.

Mayor Filseth commented that increasing the percentage should begin at Year 5 rather than Year 1 because the first four years of the LRFF were reasonably accurate. Staff did not utilize this approach, but it could be the correct approach.

Ms. Nose reported the 1 percent was added whenever the City was out of contract with a bargaining unit. In some instances, a labor contract was valid through 2021, and the 1 percent was added to FY 2022.

Council Member DuBois related that 3 percent was more typical than 2 percent.

AMENDMENT WITHDRAWN BY THE MAKER

Vice Mayor Fine stated the LRFF contained some new assumptions, which increased costs going forward.

MOTION PASSED: 6-0 Tanaka absent

State/Federal Legislation Update/Action

None.

Council Member Questions, Comments and Announcements

Vice Mayor Fine reported on Thursday the Valley Transportation Authority (VTA) Board would vote on changes to bus service. He encouraged the community to address comments and questions about changes to the VTA Board.

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Council Member Kniss advised that the City received \$303,672 in Measure B funding.

Council Member Kou announced meetings of the Cities Association's Santa Clara/Santa Cruz Roundtable addressing airplane noise had begun meeting. The next meeting was scheduled for March 27.

Mayor Filseth announced the State of the City address was planned for the following night.

Adjournment: The meeting was adjourned at 8:24 P.M.