



CITY COUNCIL DRAFT SUMMARY MINUTES

Special Meeting
June 13, 2022

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:00 P.M.

Present in person: Burt, Cormack, DuBois, Filseth, Kou, Tanaka

Present virtually: None

Absent: Stone

Special Order of the Day

1. Proclamation Recognizing Juneteenth Holiday

Council Member DuBois read the proclamation into the record on behalf of the Council.

Closed Session

2. CONFERENCE WITH CITY ATTORNEY- EXISTING LITIGATION
Subject: Miriam Green v. City of Palo Alto Santa Clara County Superior Court Case No. 16CV300760 (One Case, as Defendant) Authority: Government Code Section 54956.9(d)(1)

PUBLIC COMMENT:

Rebecca Eisenberg reminded the Council that the City of Palo Alto lost the previous case and was mandated to pay \$12 million to the ratepayers. The Court found that the City of Palo Alto acted illegally when it transferred ratepayer funds from utilities over to the General Fund. She concluded that the City needed to stop using ratepayer's money to fight against ratepayers.

MOTION: Council Member Cormack moved, seconded by Council Member Burt to go into Closed Session.

MOTION PASSED: 6-0-1, Stone absent

Council went into Closed Session at 5:05 P.M.

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Council returned from Closed Session at 6:12 P.M.

There were no announcements from Closed Session

Agenda Changes, Additions and Deletions

None

PUBLIC COMMENT:

Rebecca Eisenberg indicated that Palo Alto's government was suffering from a deficit in public relations. The Human Resource Director continued to silence a member of the public and his requests to know the process for the hiring of the new Chief of Police.

Aram James encouraged the Council to read Ms. Eisenberg's remarks in the Daily Post regarding Council's action on the Castilleja School Expansion Project. He strongly urged the City Council to require that the three candidates for the position of Chief of Police be brought forward and vetted by the public.

Linda Jolley (In person) found the idea of secrecy in government repulsive and that the secrecy must stop. She made a Public Records Request for all information on the City's activities as well as the Human Relations Commission (HRC) regarding homelessness. Many homeless people were being persecuted and she shared she was denied her right to vote because of her address.

Matt Schlegel thanked Mayor Burt and Council Members Cormack and Stone for highlighting the importance of keeping climate change at top of mind at a recent HRC meeting. At the next Sustainability and Climate Action Plan (S/CAP) meeting he requested a restatement of the commitment to the City's goal to reduce greenhouse gas emissions to 80 percent below the 1990 level by 2030 (80 by 30). At the last S/CAP Ad Hoc Committee, he was disappointed by the lack of focus on immediate efforts and home electrification. He recommended the S/CAP Ad Hoc Committee focus on easy and quick actions like encouraging folks to install electric water heaters.

Manaal Shafi with Bloom Energy reported the company raised over \$250,000 to benefit the Valley Medical Foundation. On July 2, 2022 the second annual Stars and Stripes Community Run will be held to support and celebrate the City's frontline hospital workers and the patients they serve. She encouraged the Council to participate in the run as well as professional Staff to participate in community communications.

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Jonathan Erman (in person) felt the use of the auditorium at the Art Center was being constrained due to the off-stage space being converted to offices.

Consent Calendar

Council Members Cormack, Tanaka registered a no vote on Agenda Item Number 5.

Council Member Tanaka registered a no vote on Agenda Item Number 4.

PUBLIC COMMENT – CONSENT AGENDA

Jeremy Erman was pleased to see on the Consent Calendar the extension of the contracts for the three groups that used the Lucie Stern Community Center. He was disappointed the extension was only for 1-year and encouraged the City to sign a multi-year contract.

Jonathan Erman echoed and agreed with the previous speaker's comments. All three companies brought extraordinary artists and art to Palo Alto and their value was immeasurable.

Rebecca Eisenberg addressed Item Five and stated it was inaccurate to calculate Impact Fees based on 200-square feet per employee. When the City underestimates the number of employees that work in an office. That underestimates the negative impacts the employers has on the City.

Council Member Cormack registered a no vote on Item Five.

Council Member Tanaka registered a no vote on Item Four and Item Five.

3. Approve Minutes from the June 1, 2022 City Council Meeting
4. Approval of Contract No. C22182951 with Innovative Interfaces Incorporated for use of its Online-Hosted Integrated Library System (ILS) Software, Innovative Mobile App, and Implementation Services, for a Five-Year Term and a Total Contract Not-To-Exceed Amount of \$983,388 including a Ten-Percent Contingency/Additional Services Amount
5. Finance Committee Recommends the City Council Direct Staff to Update the Park, Library, and Community Center Development Impact Fee Nexus Study to Create New Fee Categories, Update the Park Land Valuation to \$17.6m, Move to a Square-foot basis for Fees Imposed on Housing, and Conduct an Economic Feasibility Study (Including on the Parkland Dedication Fee)

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6. Utilities Advisory Commission Recommend the City Council Adopt the 2022 Annual Water Shortage Assessment Report
7. Approval of Amendment No. 2 to Contract S20176879 with Johnson Controls Fire Protection LP, to Add to the Scope of Services and Increase the Contract Amount by \$113,466 for a New Three-year Contract Total Amount Not-to-Exceed of \$379,050 for the Provision of Fire Sprinkler System Inspections and Repair Services
8. Approval of Contract Amendments to Extend Three Public-Private Partnership Agreements Between the City of Palo Alto and TheatreWorks, Palo Alto Players, and West Bay Opera for the use of the Lucie Stern Community Theatre for an Additional Year

MOTION: Council Member DuBois moved, seconded by Vice Mayor Kou to approve Agenda Item Numbers 3-8.

MOTION PASSED Items 3, 6-8: 6-0-1, Stone absent

MOTION PASSED Items 4: 5-1-1 Tanaka no, Stone absent

MOTION PASSED Items 5: 4-2-1 Cormack, Tanaka no, Stone absent

Council Member Cormack could not imagine a fee of over \$100,000 for an apartment being feasible. It was the City's responsibility to identify parkland locations and create a plan before imposing large amounts of money on residents. She requested to see more details regarding open space when the item returns.

Council Member Tanaka agreed with Council Member Cormack's comments regarding Item Five. With regards to Item Four, the last feedback session was done 4-years ago. Also, the proposed increase went from \$126,000 per year to \$197,000 per year and he wanted to understand what new features were being implemented that justified the increase.

City Manager Comments

Ed Shikada, City Manager announced that Santa Clara County instructed parents to contact their children's doctors to determine the availability of the COVID-19 vaccine, timing and applicability. The City continued to offer COVID-19 testing at various locations. With respect to drought restrictions, folks were prohibited from using a hose without a nozzle, water outdoor irrigation for ornamental landscapes and washing hard surfaces. The State of California issued new emergency regulations

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prohibiting irrigating with drinking water in certain circumstances. At the June 20, 2022 City Council meeting, the Council will be considering actions for the next phase of the City's pre-set drought condition of limiting landscaping and lawn irrigation to two days a week. The City was seeking applicants for the vacant position on the Human Relations Commission (HRC) and applications were due July 27, 2022. The City of Palo Alto invited the community to attend the open house at the Municipal Services Center on June 18, 2022. On June 25, 2022 the City will host the World Music Day Concert at noon at Rinconada Park and then the Twilight Concert Series beginning at 6:30 p.m. In recognition of Pet Care Assistance Month, Pets In Need would host pet care-focused assistance day on June 29, 2022. Upcoming for the June 20, 2022 and June 21, 2022 Council meetings was the City budget adoption, adoption of the Community Development Block Grant (CDBG), 2850 West Bayshore Residential Project review, potential gun sales regulations, reproductive rights resolution and consideration of 1237 San Antonio Road. City Council's summer break was scheduled from June 22, 2022 and would end on August 1, 2022.

Action Items

9. Finance Committee Recommends Adoption of six Resolutions:

- 1) Approving the Fiscal Year 2023 Wastewater Collection Utility Financial Plan, Including Proposed Transfer, and Adopting a Wastewater Collection Utility Rate Increase by Amending Wastewater Collection Rate Schedules S-1, S-2, S-6 and S-7;
- 2) Approving the FY 2023 Water Utility Financial Plan, Including Proposed Transfer, and Adopting a Water Utility Rate Increase by Amending Water Rate Schedules W-1, W-2, W-3, W-4, and W-7;
- 3) Approving FY 2023 Gas Utility Financial Plan, Including Proposed Transfers, and Adopting a Gas Utility Rate Increase by Amending Gas Rate Schedules G-1, G-2, G-3 and G-10;
- 4) Approving the FY 2023 Electric Utility Financial Plan, Including Proposed Transfers and Amendments to the Electric Utility Reserve Management Practices, Amending Utility Rate Schedules E-EEC-1, E-NSE-1, E-2-G, E-4-G and E-7-G, and Adopting an Electric Utility Rate Increase by Amending Utility Rate Schedules E-1, E-2, E-4, E-4 TOU, E-7, E-7 TOU and E-14;
- 5) Amending Utility Rate Schedules EDF-1 and EDF-2 to Increase Dark Fiber Rates 4.2 Percent; and

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6) Amending Utility Rate Schedule D-1 Increasing the Storm Water Management Fee by 4.20 Percent per Month per Equivalent Residential Unit for FY 2023

Mayor Burt remarked the Council will hear about the Water Utility and the Wastewater Collection rates first. Following those was the other utility rates and their respective financial plans.

Utilities Director Dean Batchelor introduced Lisa Bilir and Erik Kensington who presented the item to the Council.

Senior Resource Planner Lisa Bilir articulated that Staff proposed an 8.9 percent overall rate increase for the Water Utility which was 4 percent in the distribution rate and a 15.9 percent increase on the commodity rate from San Francisco Public Utilities Commission (SFPUC). The Operation Reserve at the end of Fiscal Year (FY) 2021 was at the maximum guideline level. The forecast assumed water conservation of 10 percent during FY 2022 and a recovery year in FY 2023. For subsequent year Staff projected a 4 percent increase annually for FY 2024 through FY 2026. The rate increase was to pay for seismic upgrades to reservoirs as well as costs for emergencies. The plan used funds from the Capital Improvement Project (CIP) Reserve and Rate Stabilization Reserve throughout the forecast period to mitigate the rate increase. The Utilities Advisory Commission (UAC) and the Finance Committee recommended that the City Council adopt the Staff recommendation.

City Attorney Molly Stump confirmed for the Water and Wastewater Utility that the procedures were being conducted under procedures outlined in the California Constitution under Proposition 218. Notice of the hearing was mailed to all affected water and wastewater collection customers on April 20, 2022. The City Clerk had accepted written protest for the proposed rate and continued to collect them until the close of the public hearing. After the close of the public hearing, the City Clerk would tabulate the results. If a majority of affected customers objected to the rate increase then the Council could not adopt the rate increase.

PUBLIC COMMENT:

Winter Dellenbach disclosed she did not understand the presentation. She was concerned about the Bay Area Water Supply and Conservation Agency (BAWSCA) lawsuit and how it synced up with the proposed increase. She wanted to know if the proposed 25 percent rate increase being discussed by BAWSCA was part of Staff's proposal. She expressed concern about watering her mature trees and the amount of stress she was having due to not knowing what will happen.

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Rebecca Eisenberg echoed Ms. Dellenbach's concerns regarding the BAWSCA lawsuit and watering trees. She recommended the Council agendaize a discussion regarding the City's Water Policy.

Peter Drekmeier, Policy Director for the Tuolumne River Trust, referenced his letter that focused on BAWSCA's proposal to raise the assessments on the member agencies by 25 percent. Many residents voiced objections to BAWSCA about using ratepayer dollars to sue the State Water Board over the Bay Delta Water Quality Control Plant. Palo Alto should stand up and demand that ratepayer dollars not be used for the lawsuit.

Council Member Filseth read that Palo Alto's share of the lawsuit was \$25,000 and he asked if that was accurate.

Ms. Bilir answered yes.

Council Member Filseth wanted to know if the City was required to pay it.

Ms. Bilir explained the funds were built into the City's membership assessment.

Council Member Filseth pressed what would happen if the City paid \$25,000 less than the City's membership assessment.

Ms. Bilir remarked the City cannot choose which part of the bill is paid.

Ms. Stump requested the Mayor allow the City Clerk to count the written protests and determine if the count is half.

City Clerk Lesley Milton announced the City received three written protests reposing the water rate increase.

Mayor Burt understood the commodity rate increase was the pass-along cost from SFPUC for the City's water supply. That was not the City's internal cost increase.

Ms. Bilir confirmed that is correct.

Mayor Burt wanted to understand what drove the commodity increase.

Ms. Bilir explained due to the drought, SFPUC was experiencing a low number of units of water being sold and the fixed costs had to be spread over fewer gallons of water. Another driver was the increased cost including the debt service cost.

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Mayor Burt acknowledged it was unfortunate that while residents are conserving water, their bills have to go up due to the drought. He understood the \$25,000 for the BAWSCA lawsuit was spread over 3 years.

Ms. Bilir concurred.

Mayor Burt inquired how many agencies were in BAWSCA.

Ms. Bilir answered 26.

Mayor Burt asked if Palo Alto was the only city that supported the Bay Delta Plan and opposed the alternative.

Ms. Bilir responded yes.

MOTION: Council Member Cormack moved, seconded by Mayor Burt to adopt **Resolution 10048** for the Water Utility:

- a. Approving the FY 2023 Water Utility Financial Plan; and
- b. Approving a transfer of up to \$13.964 million from the Capital Improvement Program (CIP) Reserve to the Operations Reserve in FY 2022; and
- c. Increasing Water Utility Rates via the Amendment of Rate Schedules W-1 (General Residential Water service), W-2 (Water Service from Fire Hydrants), W3 (Fire Service Connections), W-4 (Residential Master-Metered and General NonResidential Water Service), and W-7 (Non-Residential Irrigation Water Service) (Attachment B2);

Council Member Tanaka appreciated the bill comparison in the Staff report but noticed that many of the cities in the chart did not own their own utilities.

City Manager Ed Shikada mentioned that all the agencies in the chart had a municipal water system.

Ms. Bilir noted the chart included the City of Los Altos and the larger portion of the City of Menlo Park which used California Water Service District.

Council Member Tanaka commented that Palo Alto had the highest monthly water bill for residents compared to neighboring agencies.

Ms. Bilir clarified Redwood City was higher than Palo Alto.

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Council Member Tanaka understood the motion was to increase the rates for both residential and commercial.

Ms. Bilir confirmed that is correct.

Council Member Tanaka asked if residential and commercial rates could be voted on separately.

Ms. Stump assumed that the allocation between the rate classes should not be customized by Council and would have to be agendaized for a future meeting. One rate class should not subsidize the other.

Council Member Tanaka could not support the motion due to the residential rates being the highest when compared to neighboring cities.

Council Member DuBois noticed that the City of Santa Clara had lower water and electricity rates than Palo Alto.

Ms. Bilir explained that the City of Santa Clara does not purchase all of its water from SFPUC.

Senior Resource Planner Erik Kensington added that the City of Santa Clara had its own generation of electricity and they had a different customer mix.

Mayor Burt remarked the cost of receiving water from the Hetch Hetchy system was better quality.

MOTION PASSED: 5-1-1, Tanaka No, Stone absent

Ms. Bilir indicated that Staff proposed a 3 percent increase for the Wastewater Collection System for FY 2023 with a 5 percent increase in the subsequent years. The increase was to facilitate a more sustainable level of main replacement and to pay for the treatment cost increases to rebuild the infrastructure at the Regional Water Quality Control Plant (RWQCP). The UAC and the Finance Committee recommended Council adopt the Staff recommendation.

PUBLIC COMMENT:

Bob Moss recommended increases in water and water process rates be at the lower end of the proposal. Both the availability and usage of water had changed significantly and it was usual for the State to be in a long-term drought.

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Rebecca Eisenberg asked if rate increases are the only tool the City could use to reduce water usage and what data did the City have that indicated that raising rates was an effective means of reducing water usage.

Ms. Stump requested the clerk report on how many objections were received regarding the wastewater rate.

Ms. Milton announced two protests were received for the wastewater rates.

MOTION: Council Member DuBois moved, seconded by Council Member Cormack to adopt **Resolution 10049** For the Wastewater Collection Utility,

- a. Approving the Fiscal Year 2023 Wastewater Collection Financial Plan; and
- b. Approving a transfer of up to \$5.33 million from the Capital Improvement Projects Reserve to the Operations Reserve in FY 2022; and
- c. Increasing the Wastewater Collection Utility Rates via the amendment of Rate Schedules S-1 (Residential Wastewater Collection and Disposal), S-2 (Commercial Wastewater Collection and Disposal), S-6 (Restaurant Wastewater Collection and Disposal) and S-7 (Commercial Wastewater Collection and Disposal – Industrial Discharger) (Attachment A2);

Council Member DuBois acknowledged that the City was funding many CIP projects and he found the proposal necessary.

Council Member Cormack agreed with the necessity and understood the rates were composed of the collection portion and treatment of wastewater.

Ms. Bilir answered yes.

Council Member Cormack inquired if the wastewater charges were based on the volume of discharge from home or a flat rate.

Ms. Bilir concurred for residential customers it was a flat monthly rate, for commercial it was based upon the usage from the prior winter months and for restaurant customers it was based on the prior month's usage.

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Council Member Tanaka inquired which cities in the comparison for monthly residential bills owned their wastewater system.

Mayor Burt noted the City of Los Alto and the City of Mountain View were part of Palo Alto's system.

Ms. Bilir responded all the cities own their system.

Council Member Tanaka asked why monthly wastewater bills for restaurants was higher when compared to other agencies.

Ms. Bilir proclaimed Staff did review the difference but could not determine a reason why restaurants in Palo Alto were paying higher bills than other cities. Palo Alto contained a unique mixture of restaurants that did not match the restaurant classes in other cities.

Mayor Burt pointed out that the City has held significantly lower residential wastewater rates compared to San Mateo County for years. He appreciated the City making more investments in the long-term Capital Plan.

MOTION PASSED: 6-0-1, Stone absent

Ms. Stump announced City Council would now discuss the rates that no longer required a formal hearing.

Mr. Kensington reported Staff's proposal was a 4 percent overall increase for the Gas Utility for FY 2023 and a 4 percent increase for subsequent years. The increase was due to increases in operations, maintenance, CIP costs and sales decreases due to the COVID-19 Pandemic. Gas supply continued to increase and was at its highest levels compared to the past 15 years. The UAC and the Finance Committee recommended the City Council adopt Staff's recommendation.

PUBLIC COMMENT:

None

MOTION: Mayor Burt moved, seconded by Council Member DuBois to adopt **Resolution 10050** For the Gas Utility,

- a. Approving the FY 2023 Gas Utility Financial Plan (Linked Document); and
- b. Approving a transfer of up to \$3 million from the Operations Reserve to the CIP Reserve in FY 2022; and

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- c. Approving a transfer of up to \$2.766 million from the Rate Stabilization Reserve to the Operations Reserve in FY 2022; and
- d. Increasing gas rates by amending Rate Schedules G-1 (Residential Gas Service), G-2 (Residential Master-Metered and Commercial Gas Service), G-3 (Large Commercial Gas Service), and G-10 (Compressed Natural Gas Service) (Attachment C2);

Mayor Burt believed the City was moving in a cautiously prudent direction.

Council Member Tanaka understood the cities listed on the bill comparison chart were cities that did not own their Gas Utility.

Mr. Kensington confirmed that is correct.

Council Member Tanaka expected Pacific Gas and Electric (PG&E) to be higher because cities were renting the utility versus owning it. He noticed PG&E was lower than the City in the summer months.

Mr. Kensington explained that PG&E did not have a fixed monthly charge like Palo Alto.

Council Member Tanaka asked what percentage of the total cost was for the commodity cost.

Mr. Kensington answered that historically supply costs are one-third of the overall rate but recently supply costs had increased significantly.

Council Member Tanaka inquired why commercial customers in the 50,000 therms per month were higher than PG&E.

Mr. Kensington remarked that PG&E had a declining block structure for their gas rates.

Council Member Tanaka assumed PG&E paid no transfers to their investors.

Assistant Director for Utilities Resource Management Jonathan Abendschein stated there was a range of different taxes and transfers that PG&E pays for.

Council Member Tanaka expected the City's rates to be lower than PG&E's across the board.

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Mayor Burt could not follow Council Member Tanaka's analogy.

Council Member Tanaka explained that Palo Alto owned its Gas Utility and other cities do not own their Gas Utility. The other cities were leasing the service from PG&E. The City should have lower rates compared to cities that lease the service.

MOTION PASSED: 5-1, Tanaka no, Stone absent

Mr. Kensington reported Staff's recommendation was a 5 percent rate increase. The City saw decreased sales during the COVID-19 Pandemic but sales were improving slowly. With the drought, there had been very low hydroelectric output. Staff proposed to exhaust the Hydro Stabilization Reserve as well as pull \$5 million from the Electric Stabilization Reserve to keep the Operations Reserve within guideline levels. The Hydro Rate Adjuster was activated on April 1st, 2022 and due to the projected lack of revenue coming in. The Hydro Stabilization Reserve would continue at the 1.3 cents per kilowatt level. For subsequent years, Staff proposed a 5 to 7 percent increase and this included electrification measures. The loan payments to the Electric Special Project Reserve were rescheduled to FY 2025/2026. Operation costs had increased due to the City having to hire contract help for operations and maintenance work. The UAC and Finance Committee recommended the Council adopts the Staff recommendation.

PUBLIC COMMENT

None

Council Member Cormack appreciated Staff's work over the years to prepare the City for unknown circumstances. The proposal assumed that the City will have to have a bond to finance the City's ability to modernize the grid to support folks moving from gas to electricity. She inquired if Item Nine of the recommendation was the solar rate.

Mr. Kensington confirmed it corresponded with SFPUC's Net Energy Metering (NEM) 3 Program but the City was no longer impacted by the program. The City no longer netted from NEM 2 customers.

MOTION: Council Member Cormack moved, seconded by Council Member DuBois to adopt **Resolution 10051** For the Electric Utility:

1. Approving the Fiscal Year (FY) 2023 Electric Financial Plan
2. Approve a transfer of up to \$15 million from the Hydro Stabilization Reserve to the Supply Operations Reserve;

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3. Approve a transfer of up to \$5 million from the Electric Special Projects (ESP) reserve to the Supply Operations Reserve;
4. Approve an allocation of Cap and Trade funds up to 1/3 of REC revenue to the Cap and Trade Program Reserve to be spent on local decarbonization programs;
5. Approve amendments to the Electric Utility Reserves Management Practices, Section 6: Electric Special Projects (ESP) Reserve:
 - a. Change the date by which the funds for the ESP Reserve must be committed to the end of FY 2025, instead of by the end of FY 2017; and
 - b. Change the date by which any uncommitted ESP Reserve funds will be transferred to the Electric Supply Operation Reserve and the ESP Reserve closed to the end of FY 2030, instead of FY 2022.
6. Approve an increase to retail electric rates E-1 (Residential Electric Service), E-2 (Small Non-Residential Electric Service), E-4 (Medium Non-Residential Electric Service), E-4 TOU (Medium Non-Residential Time of Use Electric Service), E-7 (Large Non-Residential Electric Service), E-7 TOU (Large Non-Residential Time of Use Electric Service) and E-14 (Street Lights) of 5% effective July 1, 2022;
7. Update the Export Electricity Compensation (EEC-1) rate to reflect current projections of avoided cost, effective July 1, 2022;
8. Update the Net Surplus Electricity Compensation Rate (E-NSE) rate to reflect current projections of avoided cost, effective July 1, 2022;
9. Update the Palo Alto Green program pass-through premium charge on the Residential Master-Metered and Small Non-Residential Green Power Electric Service (E-2-G), the Medium Non-Residential Green Power Electric Service (E-4-G), and the Large Non-Residential Green Power Electric Service (E-7-G) rate schedules to reflect current costs, effective July 1, 2022

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Council Member Cormack acknowledged that the Electric Utility will change over the next several years and folks should be prepared for the City to invest more.

Council Member DuBois echoed Council Member Cormack's comments. He asked how the City remained competitive with its Electric Utility.

Mr. Kensington answered Staff constantly evaluated the current contracts and that Staff will be evaluating what the City's electric mix will be going forward.

Mr. Abendschein added one advantage was that public utilities are smaller and able to be more agile. Another was that there are no transfers to investors and debt could be issued with tax advantages. Historically Palo Alto has committed to public power partnerships and that was a source of advantages.

Council Member Tanaka asked if contracted land crew costs were the main driver for increased operating costs for FY 2022 and 2023.

Mr. Kensington answered yes.

Council Member Tanaka inquired if other cities were seeing the same increase for contracted land crews.

Mr. Batchelor responded yes.

Council Member Tanaka wanted to know how much of the Staffing budget the contracted land crew made up.

Mr. Batchelor predicted \$750,000 annually.

Council Member Tanaka inquired if the City of Santa Clara had its own electric utility.

Mr. Kensington stated yes but they had a different generation mix than Palo Alto.

Council Member Tanaka asked why their electric bills were substantially lower than Palo Altos.

Council Member Filseth remarked they use more natural gas.

Mr. Abendschein mentioned Palo Alto had a large concentration of large commercial customers and that helped with rates while the City of Santa Clara had more industrial uses.

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Council Member Tanaka asked how the rates scaled in terms of usage.

Mr. Kensington noted the more folks used the utility the higher the price.

Council Member Tanaka asked what percentage of the City of Santa Clara used natural gas.

Mr. Kensington commented he did not know.

Council Member Tanaka wanted to know how the City of Santa Clara compared to Palo Alto in size.

Mr. Kensington did not know.

Mayor Burt highlighted that the City was 50 percent below what PG&E charged for their electric utility. He recalled that PG&E proposed a rate increase of 20 percent.

Mr. Kensington confirmed PG&E was proposing an increase.

Mayor Burt inquired if the transmission cost was embedded into the commodity cost.

Mr. Kensington answered yes.

Mayor Burt predicted transmission costs will continue to increase. He wanted to know what nomenclature was used to describe the City's raw commodity cost.

Mr. Kensington answered it was called power purchase.

Mayor Burt mentioned as the City explores electrification, the cost through the power purchase agreements may decline significantly but transmission costs will increase. He noticed there was no commodity cost increase from FY 2022 to FY 2023.

Mr. Kensington confirmed there was a slight increase but there was also a decrease in sales.

Mayor Burt stated the City used 100 percent carbon neutral electricity and as the City continued to move towards electrification. The costs compared to PG&E would become more favorable for Palo Alto customers.

Strategic Business Manager Dave Yuan responded to Council Member Tanaka's question that the Hotline Contract for FY 2023 was \$4.7 million out of a budget of \$5.9 million.

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Council Member Tanaka wanted to know how much the contract line work was for the total budget.

Mr. Yuan answered roughly 11 percent of the total Distribution Budget.

Council Member Tanaka asked how many of PG&E's metros cities were carbon-free.

Mr. Kensington requested to provide the answer at a later time.

Mayor Burt noted PG&E in 2019 was 34 percent natural gas and PG&E used 9 percent of nuclear power.

MOTION PASSED: 6-0-1, Stone absent

Mr. Kensington mentioned the EDF-1 and EDF-2 rates increased annually based on the change in CPI for the San Francisco region. For FY 2023, the proposal was a 4.2 percent increase.

PUBLIC COMMENT:

None

MOTION: Mayor Burt moved, seconded by Council Member Cormack to adopt **Resolution 10052** Amending Utility Rate Schedules EDF-1 and EDF-2 (Attachment E1) to increase Dark Fiber Rates 4.2 percent;

Council Member Tanaka appreciated that Staff provided the City's revenue compared to the City's cost for the other utilities. He asked if there was a slide for those breakdowns for Dark Fiber.

Mr. Kensington answered no.

Council Member Tanaka wanted to know how the commodity cost had changed.

Council Member DuBois reminded the Council that the Dark Fiber rate was not a rate the City wanted folks to use and that the main rate stayed flat.

Mr. Kensington confirmed that is correct. Staff continued to move customers to the EDF-3 rate which had not changed since 2006.

Mr. Yuan stated there was no commodity cost for Dark Fiber and expenses for the Dark Fiber Fund were \$2 million to \$3 million and revenue was \$4 million annually. CIP costs had increased because the system had to be rebuilt but there was no increase in the operation costs.

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MOTION PASSED: 6-0-1, Stone absent

Mr. Kensington announced there was no presentation for the Storm Water Management Fee.

PUBLIC COMMENT:

None

MOTION: Mayor Burt moved, seconded by Council Member Cormack to adopt **Resolution 10053** Amending Utility Rate Schedule D-1 increasing the Storm Water Management Fee by 4.2 percent consistent with the applicable Consumer Price Index.

Council Member Tanaka remarked there was little detail on how much the cost had changed for the Storm Water Management Fee. He predicted that due to the drought there was less stormwater than normal.

Mr. Abendschein recalled the proposal was a series of planned increases that were approved by voters to rebuild the stormwater system.

Council Member Tanaka encouraged the City not to increase rates if it was not needed. He wanted to know the current state of the stormwater system.

Mr. Shikada reminded that the Council receives an annual report and had it recently discussed the topic with the Stormwater Management Oversight Committee.

Council Member Cormack recalled there were 14 projects in the stormwater plan that the Stormwater Oversight Committee was working on.

MOTION PASSED: 6-0-1, Stone absent

[The Council took a short break]

10. Policy and Services Committee Recommendations on Pending State Assembly Bills 2181 (VTA) and 1944, 2449, and 2647 (Local Meeting Procedures)

Deputy City Manager Chantal Cotton Gaines announced Staff recommended support for Assembly Bill (AB) 1944, AB 2449 and AB 2647. With respect to AB 2181, the Policy and Services Committee (P&S) recommended that the Council discuss the bill. Many cities had opposed AB 2181 or opposed it unless it was amended.

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Townsend Public Affairs Legislative Consultant Niccolo De Luca added AB 1944 was to be heard in the Senate Governance and Finance Committee soon. AB 2449 proposed a similar process as AB 1944 which allowed members of a legislative body of a local agency to do teleconferencing without identifying each teleconference location. AB 2647 was also to be reviewed by Senate Governance and Finance Committee very soon. The bill allowed writings that had been distributed to members of a legislative body of a local agency less than 72 hours before an open meeting to be posted to satisfy the Brown Act requirements. With respect to AB 2181, the bill was set to be heard on June 28, 2022, by the Senate Transportation Committee.

PUBLIC COMMENT:

Rebecca Eisenberg stated that Staff's presentations are usually very helpful and was frustrated by the lack of Staff presentation for the item. She mentioned that some decisions made by the Council did not reflect the community's decisions. She asked which of the proposed measures increased the community's ability to participate and which minimized it.

Council Member DuBois asked why there were no housing bills, police bills and other infrastructure bills being presented.

Ms. Cotton Gaines indicated that P&S had reviewed many bills and some will be coming forward on the Consent Calendar.

Council Member DuBois noticed that P&S had unanimously voted on some bills but not on others. He suggested bringing all the bills to Council so that Council did not have to pull items from the Consent Calendar. He did not support AB 1944 and believed requiring a quorum of Council Members to be within the jurisdiction was a good requirement. Locally, the City had a limit on how many Council Members could attend a meeting remotely. He asked if that would still be allowed if one of the laws passed.

Ms. Cotton Gaines answered yes.

Council Member DuBois commented the City could make similar points regarding AB 2181 that the City of Mountain View made. Palo Alto had the busiest Caltrain station and many folks in Palo Alto commuted by rail. He wanted to see advocacy for representation in the north county and he recommended the City oppose AB 2181 unless it was amended.

Council Member Cormack aligned her comments with Council Member DuBois regarding AB 1944 and AB 2449. She voted against the bills at the P&S meeting because there had been prior disagreements amongst

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the Council on the matter. She supported having a set maximum of how many times a Council Member could attend meetings remotely. She preferred AB 2449 over AB 1944. She was surprised to see there may not be unanimous support for AB 2181. She encouraged the Council to support AB 2181 in concept or support with amendments because there were a lot of improvements in terms of rebalancing the power.

Council Member Filseth believed there were good reasons to have a quorum physically present in the legislative chamber but that was not a function of the Brown Act. The purpose of the Brown Act was to prevent secret meetings and due to technology, there was no reason for the public to be present at each remote location. He supported AB 1944 and AB 2449. With respect to AB 2181, he agreed the geographical representation was balanced incorrectly and limiting the pool of Directors to Electives would constrain the recruitment of experts. As written, AB 2181 was too prescriptive on the process.

Council Member Tanaka agreed with Council Member Filseth that technology had made participation and access easier for everyone. He supported what AB 1944 was trying to do. With regards to AB 2181, he remarked Valley Transit Authority (VTA) was not user-friendly. He agreed the north county's voice was limited with VTA. He supported AB 2181 because it was an attempt to solve the problem.

Vice Mayor Kou commented that the use of technology and teleconferencing could be misused and overused. There was an obligation to the general public that Council Members be in Chambers to deliberate and discuss topics. She supported AB 2647 and believed placing all documents in one place for the public to access was a good idea. With respect to AB 2181, many members of the VTA Policy Advocacy Group were concerned about the bill. The City was already underrepresented and AB 2181 exacerbated the problem more. She wanted to see more deliberation on the bill and more dialog with other cities to determine what the best way to move forward was. She supported writing a letter opposing AB 2181.

Mayor Burt supported AB 2647 and he echoed Council Member Filseth's points about AB 1944 and AB 2449 regarding the Brown Act. He supported the concept that a majority of the legislative body should be present in the jurisdiction. Remote participation had allowed easier transitions between meetings and that was a valuable improvement for official participation. The bill did not address the public being able to participate remotely if officials participated remotely and that should be highlighted in a letter of support with amendments. With respect to AB

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2181, he acknowledged there was a strong lack of support from agencies that counted on VTA. He found the City of Mountain View's perspective on AB 2181 very thoughtfully. He recommended striking the language about alternate members being required to attend all Board meetings, to reference the north county guidelines regarding other agencies or background checks, to clarify the two VTA Staff members will serve the group of VTA Board Members and to retain the language about the majority approval.

MOTION: Mayor Burt moved, seconded by Council Member Filseth to:

1. Support AB 2647
2. Support AB 2449/AB 1944 provided:
 - a. There are requirements for participation of a quorum within jurisdiction
 - b. Members are allowed to participate remotely as long as members of the public are allowed to participate remotely

Council Member Cormack understood members of the public were covered under AB 1944 and AB 2449.

Mr. De Luca confirmed that is correct.

Council Member Cormack supported the motion with AB 1944 removed. AB 2449 required a quorum and AB 1944 did not.

Council Member Filseth found it essential that the public be allowed to participate in meetings remotely.

Council Member Tanaka did not support the requirement that a quorum be present within a jurisdiction.

Council Member Cormack remarked the item could not be separated.

MOTION PASSED: 6-0-1, Stone absent

MOTION: Mayor Burt, seconded by Council Member Filseth to:

3. Oppose AB 2181 (VTA) unless amended, to propose modifications listed within the City of Mountain View letter with the changes regarding background qualifications; deleting requirements mandating alternates to attend all board

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meetings; deletion of a unanimous requirement for selection of alternates.

Council Member DuBois summarized that the City of Mountain View's proposal was to continue the use of the current groups. He asked how many Board Members that accounted for.

Mayor Burt answered 12.

Transportation Director Phillip Kami concurred the two ex-officio members were not included in the 12 members.

Council Member DuBois inquired if they were excluded from closed sessions.

Mayor Burt commented they could participate in discussion but they do not vote and could not participate in closed sessions.

Council Member DuBois asked if the 12 member Board appointed the two ex-officio members.

Mayor Burt answered yes.

Council Member Filseth stated the letter from the City of Mountain View cleaned up the convolution and complexity of the text of AB 2181. He understood the Directors are supposed to be elected officials and it did not address the geographic distribution problem.

Mayor Burt believed it was better to leave it as is with elected officials.

Council Member Filseth remarked the main difference between AB 2181 and the City of Mountain View's letter was the ex-officio members.

Mr. Kamhi noted there were suggestions from the City of Mountain View to provide training, the commitment to the position and other modest changes.

Council Member Filseth agreed AB 2181 was better than current regulations.

MOTION PASSED: 5-1-1, Cormack no, Stone absent

11. Revenue-Generating Ballot Measures (Affirmation of the Natural Gas Utility Transfer and New Business Tax): Direction to Staff on Key Policy Questions and Measure Characteristics, and Direction to Return with Final Documents for Placement of Ballot Measure(s) on

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the November 2022 Election and a Non-Binding Resolution for Intended Use of Business Tax Proceeds

City Manager Ed Shikada announced that Staff would be returning on June 20, 2022 with completed documents for placement of a Business Tax on the November 2022 ballot, affirm the draft resolution of intent regarding the use of the Business Tax proceeds and bring forward completed documents for placement of measures to affirm the Gas Utility Transfer on the November 2022 ballot.

Assistant Finance Director Christine Paras remarked that Staff had conducted substantial and extensive direct stakeholder outreach which formed the community's highest priorities. The community survey received 433 respondents, Staff conducted over six focus group sessions and one listening session.

FM 3 Consulting Dave Metz reported the third survey tested specific ballot measures concepts, tested model ballot language and arguments for and against to see how voters reacted to them. The survey was conducted via phone and online interviews with 463 voters in Palo Alto. For the first time in recent years, residents believed that the City was moving in the wrong direction. A hypothetical ballot measure language was tested with half of the sample tested with a tax rate of \$0.10 per square foot for commercial properties and the other half was tested at \$0.12 per square foot. The language was developed with the help of the City Attorney's Office. The survey indicated that three out of five voters would vote yes for the Business Tax. Three-quarters of Democrats supported the Business Tax, seven out of ten women supported the Business Tax and four in five voters under the age of 50 supported the Business Tax. The Gas Utility Transfer also had support from nearly three out of five voters but support was tentative. Nearly two-thirds of Democrats backed the Gas Utility Transfer and two-thirds of Business Tax supporters also backed the Gas Utility Transfer. Roughly half of the surveyors backed each measure when asked to consider both measures together. A series of questions asked about the financial structure of a Business Tax, potential exemptions, phasing of the measure and other items. Many surveyors supported exempting seasonal businesses, grocery stores and the first 5,000 square feet of each business from the tax. Three in five supported a cap on inflation increases. For potential uses of the revenue, voters prioritized improving response to crime. Pro and con arguments were shared with surveyors and that resulted in 56 percent in support of the Business Tax and 38 percent opposing the Business Tax. Many voters indicated they supported the Gas Utility Transfer but were not fully committed to voting for it. In conclusion, there was broad conceptual

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support for establishing a Business Tax and Gas Utility Transfer but the support was soft for both measures.

Ms. Paras highlighted the Gas Utility Transfer affirmed the City's historical practice of annually transferring funds to the General Fund (GF) from the Gas Fund. Services funded by the Gas Utility Transfer included police units, 911 dispatch staffing, library, fire/emergency medical response staff and many community services. Those services would have to be cut if the voters did not affirm the Gas Utility Transfer. The purpose of the Business Tax was to fund general government services and programs. The Resolution of Intent for spending the revenue included new/enhanced services, train crossing safety, affordable housing/unhoused services and investments in the downtown core streetscapes/pedestrian plazas. Based on Council's direction on April 25, 2022, Staff prepared two elements of additional research and analysis. The first was the Sales and Use Tax Offset and the impact was approximately \$1.3 million to \$3 million across all businesses in the City. The second analysis was the Transient Occupancy Tax (TOT) Remittal Offset Impact which resulted in additional tax revenue to the City of \$200,000 to \$300,000 annually. With respect to square footage by sector, roughly 1/3 of businesses in Palo Alto would not be assessed by the Business Tax under the 5,000-square foot exemption. For office, flex and industrial, the majority of the taxpayers fell within the 20,000 to 100,000-square foot range with two businesses in the City falling in the 500,000-square feet or higher category. For retail and restaurants, the majority were exempt. Staff was seeking direction from the Council on the effective date of tax assessment, treatment of vacant property, calculation of square footage for multiple locations/facilities, residential property, properties that were management businesses and offset/credit allocations. By August 12, 2022, the City must submit to the County Registrar of Voters either one or both measures to be placed on the ballot. Once Council voted to place the measures on the ballot, Staff transitioned to a fact-based informational-only status to align with election laws. If the measures were passed in November 2022, the Gas Utility Transfer Measure would be effective immediately and the first collection for the Business Tax was to be no earlier than January 2024.

Council Member DuBois inquired if the survey tested pro and con messages for the Gas Utility Transfer.

Mr. Metz answered no, it only tested them for the Business Tax.

Council Member DuBois wanted to know how many businesses there were for each square footage category.

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Finance Director Kiley Nose remarked Staff did not have the data aggregated like that.

Council Member DuBois understood the Council wanted to phase in the Business Tax over 2 years but the ordinance indicated it would be phased in over 3-years.

Ms. Nose stated that was not the intent.

Council Member Tanaka recalled the proposal was to tax \$0.10 to \$0.12 per square foot per month instead of annually as suggested in the ballot language tested.

Mr. Metz answered the survey asked the same question in a variety of different ways in the previous surveys and the results were very consistent. He predicted that voters did not have a lot of context for what businesses were paying.

Council Member Tanaka believed the impact would be drastically different if businesses were paying a specific amount monthly rather than annually.

Ms. Nose noted Council Member DuBois was right and there was a typo in the rate section on Packet Page 304, Section 4 (b). The year in Section 4 (b) should be 2024 instead of 2025.

Council Member Cormack did not understand the difference between the questions limiting the annual increase for inflation of 5 percent and automatically adjusting the tax by up to 5 percent each year to adjust for inflation.

Mr. Metz explained the questions expressed the same thing but where described differently.

Council Member Cormack asked if there was another category that was not office or retail.

Ms. Paras noted the category not included in the square footage by sector slide was hospitality.

Council Member Cormack asked if the City will prorate the fee for vacant spaces.

Mr. Shikada explained the concept for the quarterly calculation was to avoid proration.

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Council Member Cormack wanted to know if the City would be supplying business categories for folks to choose from.

Ms. Paras specified the City would use the North American Industry Classification System (NAICS) Code.

PUBLIC COMMENT:

Bob Moss mentioned that Palo Alto was the only city in the State of California that did not have a Business License Tax. The impact that the businesses had on the requirement for City services and the jobs-housing imbalance was significant. He supported \$0.12 per square foot but inquired how the City determined the exemption of 5,000 square feet. He recommended there be no exemption and that businesses below 5,000 square feet be charged a lower rate. He wanted to see language that reflected that the City was allowed to raise taxes instead of the City having the option to raise taxes.

Hamilton Hitchings supported the Gas Utility Transfer Tax because it directly funded community services. He also supported the Business Tax because the revenue enhanced programs in the City, funded affordable housing, helped with homelessness and funded safer rail crossings. He cautioned about discouraging retail and suggested any Sales Tax paid should be deducted from the Business Tax.

Rebecca Eisenberg stated the proposed Business Tax was bad because it was a regressive tax. The City was wasting resources on conducting surveys and the City should have explored what neighboring cities were doing. The proposed Business Tax was unconstitutional because it lacked a reason to tax a business on the size of its office.

Dan Kostenbauder, Vice President for Tax Policy at the Silicon Valley Leadership Group, spoke on behalf of the Palo Alto Community Business Alliance. The concern was that the City was exploring a General Tax that directed all new revenue to the General Fund. A Special Tax with defined objectives would have gained more support from the community. The Alliance provided an alternative Business Tax that was more in alignment with neighboring city's Business Tax and it would provide more protection for small businesses.

Charlie Weidanz spoke on behalf of the Palo Alto Chamber of Commerce and requested the Business License Tax not be implemented until business owners had recovered from the COVID-19 Pandemic. The Chamber echoed the concern that the tax was a General Tax and not a Special Tax.

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John Shenk highlighted that the polls showed that residents believed the City was heading in the wrong direction. New taxes were not what the community wanted, nor did the community want a General Tax. He encouraged the City to work with the business community and not against it.

Council Member Cormack appreciated that the ordinance included provisions about having audits. She asked what the net total revenue would be if the City implemented a \$0.10 per square foot tax with administration costs, offsets and credits subtracted.

Ms. Paras estimated \$18 million to \$19 million.

Council Member Cormack assumed there would be potential cuts to services if voters did not reaffirm the Gas Utility Transfer.

Ms. Nose explained the FY 2023 Proposed Budget included the restoration of the services with limited-term funding. If ongoing funding was not identified for those services then they would sunset in 2-years.

Council Member Cormack inquired if Staff had received additional feedback on modifications to the Business Tax from the business community.

Mr. Shikada stated the primary concern was the tax rate, the square footage exemption and the Consumer Price Index (CPI) escalation.

Council Member Cormack believed the language was straight forward given the complexity. She supported completely exempting senior housing and the proposal before the Council indicated that the City had a complex economic ecosystem.

Mayor Burt agreed the City was an extreme outlier without having a Business Tax. He stated it was incorrect that the City of East Palo Alto and the City of San Francisco's Business Tax was in alignment with Palo Alto's tax system. The City of East Palo Alto's Business Tax was twice what Palo Alto was considering and the City of San Francisco had five different overlapping taxes. Even if Palo Alto approved its highest proposed rate, that was drastically lower than the City of San Francisco. The scale of the Business Tax as proposed was ½ percent of the average office rate. He encouraged the Council to consider the current context, the current political situation, the state of the economy and inflation. All those components made it not a favorable time to implement a Business Tax. He was open to adjusting the terms of the Business Tax to arrive at consensus with the business community on form, scale and a set of

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exemptions. He struggled with the square footage exemption threshold and recommended raising it to 7,000 square feet. He supported having the Business Tax sunset but did not support the 5 percent cap for CPI rollover. The three focused areas for the revenue should be grade separations, affordable housing and public safety.

Council Member DuBois found the ordinance well written and very detailed. The proposal had been analyzed, debated, reviewed and refined over many years. Many neighboring cities had very old ordinances and were seeking to modernize their tax. He predicted it would not be a fast process to return to the voter in the future if the City adopted a small tax. The last round of polling was conducted in an active negative campaign and there was no corresponding positive campaign. This was reflected if the March 2022 survey was compared with the May 2022 survey. He wanted the support resolution to be very specific and he supported using the revenue for public safety, affordable housing/homelessness and transportation. He supported the aggregation for particular business owners. He asked why residential common areas and rental offices were included in the Business Tax.

Ms. Paras believed Staff was trying to exclude residential dwellings.

Council Member DuBois supported Council Member Cormack's comment to understand the net revenue with the exclusion of residential buildings.

Ms. Nose explained Staff did not know the floor plans for those facilities and would have to reach out to each business.

Council Member DuBois inquired if Staff had a high-level assumption.

Ms. Nose answered no.

Council Member DuBois wanted to know how Staff proposed to handle folks who stay at a hotel for more than 30-days.

Ms. Nose informed that if an individual established a contractual arrangement to stay longer than 30-days. Then that was not considered short term and the Transient Occupancy Tax (TOT) receipts would no longer be paid.

Council Member DuBois wondered if the proposed definition of square footage was sufficient in terms of how it was measured. He remarked it made sense not to tax vacant property but was concerned about folks leaving properties vacant. He questioned the definition of vacant property and believed there were a lot of gray areas.

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Ms. Nose remarked the generalized definition of vacancy identified that the space was free from furniture, fixtures and equipment.

Council Member DuBois clarified that the definition was good but there was a time element that was missing.

Ms. Nose answered that was why Staff included language about an active proration through a quarterly remittance. Any grey areas would go through an administrative procedure.

Council Member Tanaka shared that the country was facing high inflation rates, a bear market and many large corporations were laying off employees. Many folks had not returned to Palo Alto to work and that had greatly affected TOT. He believed now was not the time to implement a Business Tax. The City should be doing an economic analysis to determine what the impacts would be if a Business Tax was implemented.

Council Member Filseth found the proposal to be the right balance. The City needed affordable housing and the only way to build it was through sustainable funding such as a tax. Without a Business Tax, the City would never be able to build more affordable housing. He echoed Mayor Burt's comment that a tax of \$0.10 per square foot per month was not much more than 1 percent of what most large businesses paid in rent. He did not believe businesses would move out of the City because of such a small percentage. He commented that large affordable housing foundations wanted to build affordable housing but never provided funding for it. They paid to campaign against the City implementing a Business Tax when they should be using those funds to build more affordable housing.

Council Member DuBois agreed the Business Tax required a small percentage of funds from businesses. He found Staff's proposal for the offset ratio interesting and supported the 75 percent Discretionary Tax. He agreed the current status of the economy was transitory but stated the tax would be a long-term tax. He asked the Council to consider putting off the Gas Utility Transfer. He suggested deleting transportation from the revenue list and replacing it with parks and roads. He urged Staff to evaluate the City of Pasadena's language from their polling for their Business Tax.

MOTION: Council Member DuBois moved, seconded by Mayor Burt to direct staff to:

- A. Return to the City Council on June 20 with completed documents for placement of a ballot measure on the November 2022 election

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for affirmation of the natural gas utility transfer as outlined in Attachment D and summarized in Table 2.

- i. Consider adding parks and roads and deleting transportation from the gas tax language
- B. Return to the City Council with completed documents for placement of a ballot measure on the November 2022 election for a new business tax with the following refinements:
 - i. Effective date and timing of tax assessment of \$.10 per square foot per month: retrospective basis beginning January 1, 2023, lump sum due early 2024; quarterly beginning January 1, 2025, delinquent within 30 days
 - ii. Vacant property not be assessed as part of tax; business to report vacant square footage and apply for an offset
 - iii. Businesses with multiple locations and/or facilities: square footage and offsets/credits to be assessed in the aggregate
 - iv. Residential property/use: exclude all residential property
 - v. Property management businesses: areas occupied by property management functions
 - vi. Offset for sales and use tax using a 2:1 ratio up to 75% of business tax liability
 - vii. Offset for transient occupancy tax remittance using a 1:1 ratio for business tax liability
- C. Return to City Council with a final Resolution to inform the public of Council's intentions regarding use of Business Tax proceeds if passed by voters with the following refinements:
 - i. Delete economic development services from the ballot measure language on the business tax
 - ii. Inform the public of the city uses; propose 33% for public safety, 33% for housing and homeless programs and 33% for transportation.

City Attorney Molly Stump remarked general services must be retained to maintain the measure as a General Tax. She inquired if Item B (4) did not intend to include hotels that operate as extended stay locations.

Council Member DuBois answered no.

Mayor Burt stated the revenue uses are in the interest of the business community. The argument that this was the wrong time to implement a tax was made many times in prior years when there was a strong economy. He suggested Council consider a sunset provision for the Business Tax as well as consider eliminating the rollover for CPI.

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Council Member DuBois was not supportive of including those in the motion.

Mayor Burt wanted to explore having a compromise that satisfied opposition campaigns. He suggested an Ad Hoc Committee be formed to meet with groups in opposition within the next week and try to reach a consensus.

Ms. Nose proposed clean-up language to the motion.

Council Member DuBois clarified he was referring to grade separations when the word transportation is used in the motion.

Mayor Burt preferred to see the revenue be split evenly among public safety, affordable housing and transportation.

Council Member DuBois agreed.

Council Member Cormack asked what work would the Ad Hoc Committee be doing if the motion passed.

Mayor Burt explained the motion directed Staff to prepare a measure and the Ad Hoc Committee would explore with the business community a variation of the proposal that facilitated consensus.

Council Member Cormack asked how Staff felt about the language changes for the ballot question.

Ms. Stump articulated Staff would interpret A (i) as a direction. Any substitutive changes would require a 24-hours review from Staff. The Council also had the first two meetings in August to discuss the ballot measures.

Council Member Cormack echoed the City Manager's comment that the business community was concerned about the tax rate. She believed the proposed \$0.10 per square foot per month may be the largest area where change is required to satisfy oppositional parties. She asked why the maker moved to delete economic development services.

Council Member DuBois noted the tax was decreased and the City was exploring offsets and exemptions.

Council Member Cormack understood Item C (ii) was advisory.

Ms. Stump remarked Staff will provide language that provided more flexibility as opposed to an exact number per year.

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Mayor Burt interjected the language was not intended to be in any given year.

Ms. Stump supported it being in the aggregate.

Council Member Cormack supported the ratio be considered overtime and not on an annual basis. She agreed this was a challenging time for the United States of America and there was a risk of placing a Business Tax on the ballot given the softness of support that was identified in the polls.

Council Member Tanaka proposed for Item C (ii) that the Business Tax be a Special Tax for affordable housing.

Council Member DuBois answered no.

Mayor Burt mentioned the polls indicated there was general support for a General Tax.

Council Member Tanaka expressed disappointment and believed having a Special Tax would bridge the gap. He suggested placing a cap on how much an individual business will pay.

Council Member DuBois did not support establishing a cap.

Mayor Burt stated a cap by nature was regressive.

Council Member Tanaka suggested capping the increase for CPI.

Council Member DuBois wanted to see more discussion about CPI and the rollover.

Council Member Tanaka wanted to see a 20,000 square foot exemption.

Council Member DuBois found 20,000 square feet to be too much.

Vice Mayor Kou asked if the maker was open to having a \$0.12 per square foot tax rate.

Council Member DuBois felt the tax rate could be changed at the next hearing and he was open to either rate.

Vice Mayor Kou acknowledged the letter from the public commenting that the City is required to build more housing in the near term. The funds should be raised to build more affordable housing in the City.

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Council Member DuBois commented if the City and the business community could not reach a consensus. He supported increasing the tax rate to \$0.12 per square foot.

Mayor Burt agreed with Council Member DuBois.

MOTION PASSED: 5-1-1, Tanaka no, Stone absent

Council Member Questions, Comments and Announcements

None

Adjournment: The meeting was adjourned at 11:54 P.M.