



CITY COUNCIL DRAFT SUMMARY MINUTES

Special Meeting
June 20, 2022

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 3:00 P.M.

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

Present virtually: None

Absent: None

Closed Session

1. CONFERENCE WITH CITY ATTORNEY-POTENTIAL LITIGATION Subject: Threatened litigation regarding interpretation and application of non-conforming use provisions for 340 Portage and associated addresses, as set forth in September 10, 2021 letter from Sobrato Organization Authority: Potential Exposure to Litigation Under Government Code Section 54956.9(d)(2) One Case, as Defendant

PUBLIC COMMENT CLOSED SESSION:

Mark Weiss shared he grew up in Palo Alto and found it ironic the Council was holding a closed session about a property that was owned by Caucasian males, located in a primarily African American and Hispanic neighborhood on a national holiday. He strongly did not support the City giving more land to the Sobrato organization.

Aram James supported Mr. Weiss's comments. There was no reason for the City to hold a closed session with a developer who was interested in land in an underrepresented neighborhood.

Rebecca Eisenberg echoed the previous speaker's comments. She remarked the only way to have a favorable outcome for a developer was to threaten to file a lawsuit and make Council hold their deliberations in closed session. The Sobrato Organization wanted to convert the space too expensive condominiums and price out moderate- and low-income folks.

MOTION: Council Member DuBois moved, seconded by Council Member Stone to go into Closed Session.

MOTION PASSED: 7-0

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Council went into Closed Session at 3:00 P.M.

Council returned from Closed Session at 4:25 PM

Mayor Burt announced the Council continued the closed session to June 21, 2022.

Agenda Changes, Additions and Deletions

None

Oral Communications

Karen Porter (in person) spoke about the continued use of lead gas at the Palo Alto Airport. She was happy to hear the City intended to provide and promote unleaded gas at the airport but found that there were no funds allocated for it in the proposed budget. She encouraged the City to accelerate its efforts to discontinue lead gas and warn folks near the airport about the harmful health problems of inhaling lead emissions.

Ken Horowitz (in person) requested an update on the Cubberley Community Center and the land swap with Palo Alto Unified School District (PAUSD).

Amy Sung opposed the adoption of the updated Tree Ordinance. The laws regarding mature trees were less desirable because they constrained the development of new homes and constrained the ability to plant new trees.

Aram James encouraged Council Member Cormack to provide the names of the Council Members who do not listen to the public during public comment. He supported the previous speaker's comments about the use of lead gas at the airport.

Fred Balin (in person) stated the City could have mandated the disclosure of top contributors responsible for political advertisements and applied that same rule to groups advocating pros or cons for City Council candidates. Also, the Council could require a pledge to a reasonable voluntary cap on campaign expenditures. He recommended every City Council candidate follow the suggested rules.

Rebecca Eisenberg (in person) asked that the City Council require that Council candidates disclose who contributed to their campaign.

Bill Ross stated that Council should not have scheduled a meeting on a federal holiday. The Consent Calendar contained items that totaled well over 15 percent of the City's total budget and the ballot measure item was listed last on the agenda. This type of practice did not foster public participation.

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Scott O'Neil spoke on behalf of himself and commented that the Council had considered how the Housing Element interacted with the proposed Tree Ordinance. He believed the Tree Ordinance will make certifying the Housing Element infeasible.

Dr. Ravi Sethi shared he recently bought a house on Manuela Avenue. An adjacent neighbor had encroached on his property by 700 to 800 square feet and installed sewer lines without a permit. The neighbor filed an accessory dwelling unit (ADU) application and claimed that the sewer line ran on their property.

Winter Dellenbach mentioned in the City Council Packet was the Palo Alto Police Department's response to the Independent Police Auditor's (IPA) Report from 2021. She appreciated that the item was included in the Packet and looked forward to seeing more written responses in the future.

Matt Schlegel appreciated the work on finalizing the Sustainability and Climate Action Plan (S/CAP). He was delighted to hear that the S/CAP Working Group was focused on replacing fossil fuel water heaters with efficient electric models. He mentioned procurement and installation planning proved to be a roadblock for the work.

Consent Calendar

PUBLIC COMMENT

Bob Moss (in person) stated the Staff report was confusing with respect to Item 12 and the watering of trees. He inquired how often and how long should folks be watering trees and what actions should be taken to meet the 10 percent reduction of water use.

Rebecca Eisenberg (in person) echoed the comment that the Council should not have such a large agenda on a federal holiday. She strongly urged the Council to consider sustainability and protection of the environment in every Council decision. Several items on the Consent Calendar had potentially large impacts on the City's sustainability efforts.

John Kelley wanted to know how many trees were lost annually that were between 15- and 36-inches. There was data that showed that the urban forest in Palo Alto was doing well and the City did not need the changes that were proposed in the Tree Ordinance. He requested that the Tree Ordinance be pulled from the Consent Calendar and sent to the Planning and Transportation Commission (PTC) for review.

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Aram James suggested Item 22 be removed from the Consent Calendar because it opened up the possibility of folks being removed from a meeting because of their tone.

Bill Ross directed his comments to Item 27 on the Consent Calendar. On April 11, 2022, the entire City experienced high winds which resulted in two power outages. The cause of the outage was the firing of the short-circuiting of the electrical cables. The same circumstance resulted in a fire in Paradise, California. He supported the comment to table the item and refer the matter to the Planning and Transportation Commission (PTC).

Cynthia Cole thanked the Council on behalf of the Palo Alto Art Center for the budget restorations for the Art Center. The Art Center continued to provide services to the public at pre-pandemic levels but was 1.5 Full Time Equivalent (FTE) below in Staffing levels.

Vice Mayor Kou registered a no vote on Agenda Item Number 24, 26.

Council Member Cormack registered a no vote on Agenda Item Number 24, 27

Council Member Tanaka registered a no vote on Agenda Item Number 6, 07, 10, 23, 27

2. Approve Minutes from the June 6, 2022 City Council Meeting
3. Approval of Contract Number C23181853A With Accurate Structural Incorporated for a Total Not-to-Exceed Amount of \$2,405,369 for the Installation of 9 Electric Station Perimeter Security Lighting/Camera Additions
4. Approval of a Professional Services Agreement With Carollo Engineers, Inc. for Development of a One Water Plan for the City of Palo Alto Contract Number C23183089 in the Total Amount Not-to-Exceed \$559,000
5. Approval of the Fiscal Year 2023 Investment Policy
6. Approval of a Contract with EPI-USE Labs, LLC to Host Online the City's SAP ERP System and Provide Related Services in an Amount Not to Exceed \$2,214,140 (including of \$2,014,140 for Basic Services and a Contingency of \$200,000 for Additional Services Approved by City via Task Order) over a Three-and-a-Half-Year Term.

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7. Approval of contract number C231833249 with Digitech Computer LLC to provide Ambulance Billing Services in the amount of \$140,000 a year not to exceed \$700,000.
8. Approval of Amendment No. 2 to Contract No. C18168154 with SWA Services Group, Inc. for Janitorial Cleaning and Maintenance Services in Order to Extend the Term by Six Months through February 28, 2023 and Increase the Compensation by \$1,242,777 for a New Total Not-to-Exceed Amount of \$12,272,542.
9. Approval of a New Dark Optical Fiber License Agreement With the Palo Alto Unified School District as a Customer, From December 17, 2022 Through June 30, 2027
10. Approval of Early Renewal of Contract Number C20176092 With Equinix LLC for Addition of \$53,384 for New Service Connections and Maintenance, Approval of Past Charges of \$16,628 for Increased Services, and Approval of Addition of \$50,000 for City Manager Authority to Add Fiber Services, for a Total Not-to-Exceed Amount of \$745,476 from \$625,465
11. Approval of Amendment Number 1 to Contract Number C21178372C with C&S Engineers, Inc. for the Airport Apron Reconstruction Project (AP-16000) in the Amount of \$215,023 for a New Total Not-to-Exceed Amount of \$1,715,023, and approval of a Budget Amendment in the Airport Fund in Fiscal Year 2022
12. Adoption of a Resolution Implementing the Water Use Restrictions in Stage II of Palo Alto's Amended 2020 Water Shortage Contingency Plan in Compliance With the State Water Resources Control Board's May 24, 2022 Emergency Water Conservation Regulations, and Restricting Potable Irrigation to No More Than Two Days a Week, with Exceptions for Tree Health, Health and Safety, and Certain Non-Residential Zone Irrigation
13. Approval and Authorization for the City Manager to Execute Purchase Orders for Electric Distribution Transformers With Prequalified Vendors in an Amount up to \$2,000,000 Annually Between FY 2022 - FY 2026 in a Total Not-to-Exceed Amount of \$10,000,000
14. Policy and Services, Office of the City Auditor and Staff recommends that City Council Approve the Building and Permit Review Report
15. Consent of the Macias Gini & O'Connell's Single Audit Report for the Year Ended June 30, 2021

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16. Approval of an Agreement Between Santa Clara Valley Water District and the City of Palo Alto for Administration and Funding of Water Conservation and Stormwater Rebate Programs for a Total-Not-to-Exceed Amount of \$675,000 Over a Three Year Term Ending June 30, 2025
17. Approval of Professional Services Contract Number C22184801 with Construction Testing Services for On-Call Construction Dewatering and Deconstruction Services in an Amount Not to Exceed \$339,480 Over a 3-year Term.
18. Approval of Contract No. C22184848 with Salas O'Brien Engineers, Inc., for a Total Amount Not to Exceed \$110,212, for Engineering Design Services for the Municipal Service Center Lighting, Mechanical, and Electrical Improvements Project Capital Improvement Program Project (PF-16006)
19. Approve Contract C22184489 with Martina Entriken Not to Exceed \$330,000 for a Term of Three Years to Provide a Preschool/Toddler Program
20. Adoption of a Resolution Proposing the Appropriations Limit for Fiscal Year 2023
21. Approval of Lease Agreement between Palo Alto Unified School District (Landlord) and City of Palo Alto (Tenant) for Extended Day Care Sites for 12 months, Rent Not to Exceed \$707,676 per Year
22. Policy and Services Committee Recommendations that the City Council Support a Pending State Bill Regarding Orderly Meeting Conduct (Senate Bill 1100) and Support with Amendments a Bill Regarding Children's Camp Regulations (Assembly Bill 1737)
23. SECOND READING: Adoption of an Ordinance Amending Palo Alto Municipal Code Section 18.52.070 (Parking Regulations for CD Assessment District) to Continue a Temporary Ban on Eligibility of Commercial Office Uses Above the Ground Floor to Participate in the Downtown Parking In-Lieu Program and Making Clerical Amendments to PAMC Section 16.57.010 (Applicability) in Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District) (FIRST READING: June 6, 2022: PASSED: 6-1, Tanaka No)
24. SECOND READING: Adoption of Two Ordinances Implementing the Objective Standards Project, Including: 1) New Chapter 18.24,

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Contextual Design Criteria and Objective Design Standards; 2) Modifications to Affordable Housing (AH) Overlay District to Eliminate the Legislative Process; 3) Changes to Remove Inconsistencies and Redundancies, and Streamline Project Review Throughout Title 18 (FIRST READING: June 1, 2022: PASSED: 5-1, Cormack No, DuBois absent)

25. SECOND READING: Adoption of an Ordinance Amending the City's Surveillance and Privacy Protection Ordinance to Exempt the Foothills Fire Early Warning System (PAMC 2.30.680). (FIRST READING: June 6, 2022: PASSED: 7-0)
26. SECOND READING: Adoption of an Ordinance Exempting Some Below-Grade Parking Facilities from Gross Floor Area. Zone District: R-1(10,000). Environmental Review: Final Environmental Impact Report (EIR) for the Castilleja School Project certified on June 6, 2022. (FIRST READING: June 6, 2022 PASSED: 6-1, Kou no)
27. SECOND READING: Adoption of an Ordinance Amending Title 8 of the PAMC to Expand Tree Protection to Include Additional Protected Tree Species, Revise Grounds for Tree Removal, and Make Clarifying Changes and Amending Titles 2, 9, and 18 to make Clerical Updates (FIRST READING: June 6, 2022 PASSED: 5-2, Cormack, Tanaka no)

MOTION: Council Member DuBois moved, seconded by Mayor Burt to approve Agenda Item Numbers 2-27.

MOTION SPILT FOR PURPOSE OF VOTING

PASSED ITEMS 2-5, 8, 9, 11-23, 25: 7-0

PASSED ITEMS 6, 7, 10, 23: 6-1, Tanaka no

PASSED ITEMS 24: 5-2 Cormack, Kou no

PASSED ITEMS 26: 6-1 Kou no

PASSED ITEMS 27: 5-2 Cormack, Tanaka no

Vice Mayor Kou could not support Item 24 because she was concerned about opening the process of streamlining to all housing. Concerning Item 26, she reaffirmed her no vote on the item because the findings for the Variance were completely ignored.

Council Member Cormack believed the Objective Standards went too far by limiting homes to 15 percent of windows. Concerning Item 27, the funds and

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Staff would be better spent on planting hundreds of trees instead of the restrictive ordinance.

Council Member Tanaka remarked for Item 6 that the one-time cost with AWS Services was too expensive. Concerning Item 7, there was no justification to use a high billing rate. Concerning Item 10, he wanted to know why the fiber charge was \$10,000 per new connection when it use to be \$3,000 to \$6,000. Concerning Item 23 and Item 27, he reaffirmed his previous no vote.

City Manager Comments

Ed Shikada, City Manager announced that the Center of Disease Control and Prevention (CDC) approved emergency use authorizing the COVID-19 vaccine to be administered to kids 6 months to 5 years old. Santa Clara County continued to provide vaccines by appointment only. Testing for the COVID-19 virus was available at various locations in the City. The open house at the Municipal Service Center was well attended. The City had many activities available to the public for June and July which could be found on the City's blog. He reminded that the use of fireworks was illegal in the City and that the Palo Alto Police Department would conduct high visibility patrols to discourage the use of fireworks. The City would hold its annual Summer Festival on July 4th at Mitchell Park. On August 2, 2022, the City would hold National Night Out and Palo Alto Police Department was taking signups for neighborhoods interested in hosting an event. Upcoming at the Council's meeting on June 21, 2022 was the consideration of the project at 1237 San Antonio Road, gun sales regulations and reproductive rights resolution. After Council's July recess, the Council would discuss airplane noise, hold a joint session with the Utilities Advisory Commission (UAC), discuss the Housing Element and other items.

Mayor Burt shared that the Santa Clara County Health Director announced that the sewage data indicated that the COVID-19 spread in the community was at the highest level in the pandemic. He was concerned about relaxing protocols during a COVID-19 surge.

Vice Mayor Kou requested the City Manager pass along to City Staff her appreciation for the Municipal Service Center open house.

Action Items

28. PUBLIC HEARING: Adoption of the Budget Ordinance for Fiscal Year 2023, Including the Operating and Capital Budgets, Table of Organization, and Municipal Fee Schedule; Acceptance of Updates to the Capital Improvement Plan and Sustainability/Climate Action Plan, and

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the Retiree Healthcare Actuarial Report; and Approval of Contributions for Retiree Healthcare Benefits

Administrative Services Director Kiley Nose announced the action before the Council was to consider adoption of the Fiscal Year (FY) 2023 Proposed Operating and Capital Budget, adoption the FY 2023 Municipal Fee Schedule, accept the FY 2023-2027 Capital Improvement Plan (CIP), accept the update on the Sustainability and Climate Action Plan (S/CAP) and accept the June 30, 2021 actuarial valuation for the City's Other Post Employment Benefit (OPEB) Plan. The FY 2023 Budget was a \$965.7 million budget across all funds. Net sales, other revenue and use of reserves were the City's largest revenue sources. The City's largest expenses included CIPs, salary and benefits and utility purchases. A fiscal sustainability survey was run from February 15, 2022 through May 17, 2022 and overall 400 community members responded. The survey identified and prioritized areas the community wanted to see services restored. The FY 2023 Budget reflected a recovery period and a transition into an endemic state. The Budget was built on actions taken by the Council in FY 2022 as part of the mid-year budget. The Budget included one-time funding to facilitate a limited-term 2-year strategy which provided stability to the organization and the community. After the 2 years, ongoing revenue was necessary to maintain services recommended for restoration. The Budget recommended over \$9 million in service investments across City services and ensured that the Budget Stabilization Reserve (BSR) be maintained at 18.5 percent. Under the 2-year funding strategy, services would be restored to police units, 9-1-1 dispatch Staffing, fire/emergency medical response Staff and hazmat services, various community services and library hours. The total for the General Fund (GF) was estimated at \$247.2 million across all revenue sources. Property Tax, Sales Tax and Transient Occupancy Tax (TOT) continued to be the largest revenue sources for the City. GF expenses were primarily invested in public safety, community and library services, infrastructure and the environment. The BSR was at \$45.7 million and there was a surplus of \$555,000 above the target of 18.5 percent. The Finance Committee made GF adjustments that totaled \$21,000, Capital adjustments that totaled \$27.7 million and Enterprise and Other Fund adjustments that totaled \$2.6 million. Council recently approved the rates for all utilities and those were included in the Proposed Budget. The Finance Committee identified high-level areas that Staff provided more detail on for the full Council. Those areas included recruitment status, pension and OPEB contributions, S/CAP overview, Bike and Pedestrian project status, cumulative investments in the Grade Separation Project and the Information Technology (IT) Department. The Finance Committee recommended two referrals and those were the Non-Profit Audit and future non-profit funding requests as well as the Pension Fund Policy. She noted that the Policy and Services Committee

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recently approved the Non-Profit Audit and that would come to Council on the Consent Calendar.

Assistant Human Resources Director Nicolas Raisch stated the presentation was a follow-up to the discussion the Council had on May 10, 2022. Staff compared the City's turnover rate to its rate of hiring to provide metrics of how the City was doing with Staffing. The turnover rate for FY 2022 was 12 percent and the FY 2022 hiring rate was 14 percent. The promotion rate of 5 percent was uncommonly high. That was due to the unfreezing of positions and 20 new positions were added in the mid-year budget review. Of those 20 new positions, only three remained to be unfilled. Total hiring was outpacing turnover but the total number of vacancies was not reducing. Staff focused on reducing its promotional percent which resulted in decreased vacancies.

PUBLIC COMMENT

Ken Horowitz was disappointed there was no funding for the Cubberley Community Center until the year 2026. He wanted the City to formulate and expedite a plan for Cubberley.

Mora Oommen, Executive Director of Youth Community Services (YCS), recognized Juneteenth and the work that lied ahead to combat racial and social justice. She highlighted what YCS Peer Leaders had done to support youth mental health and wellness in Palo Alto through the Youth Connectiveness Initiative (YCI). Santa Clara County had matched the City's contribution for the next 3-years.

Leif Erickson, retired Executive Director of YCS, thanked the Council for naming community health and safety as a priority area and recognizing youth mental health as a subset of the priority.

Karen Holman mentioned in the 5-years since their inception, YCI continued its good work as well as expanded its services. It had also earned the continued trust and support of Santa Clara County. She encouraged the Council to make the City's contribution an annual contribution while not taking away Human Services Resource Allocation Process (HSRAP) funding from other organizations.

Rebecca Eisenberg repeated making any budget decisions on Juneteenth went directly against the City's declaration in favor of Juneteenth. The budget did not reflect the Council's priority of health and safety.

Council Member DuBois remarked that the Finance Committee found Staff's Budget proposal well thought out and it balanced the community's needs with available revenue. The Finance Committee agreed with the proposed 2-year

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funding strategy but emphasized that the services will be discontinued if ongoing funding was not identified. The Finance Committee discussed at length the Pension Policy and Staff provided a reasoned approach to using California Public Employees Retirement System (CalPERS) Asset Liability Management Forecast Study to continue to ramp down the City's Discount Rate. The Finance Committee also suggested the full Council provide direction on whether to adopt the policy or that it be a recommendation from the Finance Committee on an ongoing basis. The Discount Rate would be reduced from 6.2 percent to 5.3 percent. There was a shift in the IT Department from capital purchases of software to annual subscriptions. The Finance Committee requested that for future budgets that the annual subscriptions be summarized. The City had policies about maintaining administrative expenses as a percentage of the budget and the Finance Committee suggested Council consider whether the policy should be changed. The Finance Committee did a deeper dive into Staffing in each department. Some departments were fully Staffed and others had a larger vacancy rate. On a personal level, he felt part of the issue with Staffing was the overhead and the process of recruiting. The Finance Committee restored the budget for the National Citizen's Survey because many City Department's Key Performance Indicators (KPI) were tied to the survey. He noted that the Finance Committee did recommend placing YCI into the HSRAP process. He later changed his mind and was supportive of providing funding to YCI for 3-years. There needed to be a process to discuss non-profits that fell outside of the human services area. Lastly, he supported more funding be used to update the search function on the City's website.

Council Member Cormack believed the Budget was a transition budget. She understood Staff proposed to use reserves and one-time funds to balance the Budget.

Ms. Nose confirmed that is correct.

Council Member Cormack asked why the expense for the Newell Street Bridge project was increased by \$1 million.

Assistant Public Works Director Holly Boyd stated the project budget had not changed. Staff expected a cost estimate later in the summer which would be coordinated with Caltrains. Per Caltrain's requirements, the City conducted an appraisal and acquisition process for temporary construction easements for the project.

Council Member Cormack mentioned there was a reappropriation for the Junior Museum and Zoo (JMZ) of \$1.3 million.

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Director of Community Services Kristen O’Kane explained the \$1.3 million was for outstanding CIP items.

Council Member Cormack was pleased to see more activities focus on families. She asked if it would be helpful for the Community Services Department to have \$50,000 to use specifically for family activities.

Ms. O’Kane agreed the funds could be used for special events such as the puzzle hunt or additional summer concerts.

Council Member Cormack mentioned there were 46 promotions in Staff but asked if that created 46 open positions.

Mr. Raisch confirmed that is correct and the new hire figure was where the department was making a net gain against the City’s total vacancies.

Council Member Cormack inquired what the process would be to pull the funds forward from FY 2026 for Cubberley Community Center.

Ms. Nose answered existing projects would have to be reprioritized.

Council Member Cormack requested an update from Staff about Cubberley Community Center.

Council Member Stone wanted to know what the current level of security was at the substations and why Staff felt it was not adequate.

Director of Utilities Dean Batchelor explained not all of the substations had cameras. The intention was to provide cameras at all the substations as well as additional lighting.

Council Member Stone requested that Staff elaborate on the concern regarding consistent threats.

Mr. Batchelor remarked the additional security was to mitigate any threat of folks illegally entering the substations.

Council Member Stone was very happy to see the restoration of funding for YCI but asked the Finance Committee to clarify their recommendation.

Council Member DuBois restated the Finance Committee voted to place the funds in HSRAP but he wanted to approve funding for YCI as a separate item.

Council Member Stone agreed that funding for YCI should be a separate item and should be for 3-years. Given the competitive nature of HSRAP funding

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and the consistent allocation process. He expressed concern the \$50,000 would be split among the other HSRAP grantees.

Council Member Filseth stated that Staff had provided more specificity and rigor into not just the Budget but also the Long-Range Financial Forecast as a budgeting tool. The City was facing many challenges that went beyond FY 2023. He echoed the comment that the City must identify ongoing revenue before the 2-year funding strategy ended.

Mayor Burt shared a positive was having \$700,000 in the Budget above the BSR target of 18.5 percent. He supported spending more funds for family services, youth wellbeing and a 3-year allocation for YCI outside of the HSRAP Grant. HSRAP funding should be increased by \$50,000 as well as \$50,000 should be allocated to the Community Services Department for special events. He asked if an allocation of \$5,000 for Friends of Caltrain was included in the Budget.

Transportation Director Philip Kamhi answered no, it was removed during the FY 2020 Budget cuts.

Mayor Burt recommended that allocation be restored. He inquired if there was a net loss of 30 in Staffing.

Mr. Raisch confirmed that is correct and that 30 is the deficit that Human Resources (HR) was trying to catch up to.

Mayor Burt emphasized that it must be made clear that the City had not increased Staffing but rather lost it. The Rail Committee and Council have recognized that vehicle separation has moved along further in design than bicycle and pedestrian separations. Many federal agencies had indicated that there were many funding opportunities from State and federal sources for transportation. The City could not pursue those because the Bicycle and Pedestrian Master Plan was behind schedule due to Staffing shortages. Also, the City did not have the Staffing to accelerate a focus on the bicycle and pedestrian designs for grade crossing to apply for grant funds. He asked what would it take to expedite the process of boosting Staffing to take advantage of State and federal dollars.

Mr. Kamhi agreed Staff could not take on the project without delaying other. It would take a combination of City Staff and a consultant in order to expedite the process for bicycle and pedestrian separation.

Mayor Burt inquired if a placeholder could be placed in the Budget.

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City Manager Ed Shikada stated this was a policy consideration for the Council. The question was not simply a resource question but a sequencing question.

Mayor Burt wanted to see the bicycle and pedestrian separation design be done in parallel with the grade crossing project.

Mr. Kami noted that some of the work that the Bicycle and Pedestrian Transportation Plan would do was similar to grade separation in terms of soliciting feedback from the community about alternatives.

Mr. Shikada mentioned the Council could move to draw on the reserves to fund the Bicycle and Pedestrian Transportation Plan.

Vice Mayor Kou agreed that funding should be supplied to YCI for 3-years. If Santa Clara County continued to fund YCI past the 3-year mark, the City should commit to matching the funds. She inquired what items were being planned for in FY 2024 at the Lucie Stern Community Center.

Ms. Boyd mentioned the theater seats were scheduled to be replaced and necessary updates were required by the Americans with Disability Act (ADA).

Vice Mayor Kou wanted to see funding be provided for Embarcadero Road bicycle and pedestrian planning at Emerson Street and Kingsley Avenue.

Mr. Kamhi mentioned that CIP was removed from the CIP list in FY 2020 during budget reductions. Staff intended to explore smaller near-term improvements for the area.

Vice Mayor Kou clarified that for that small section there were safety concerns for students using the area. She asked if the Resident Parking Permit (RPP) offered free permits for the first 1-year.

Mr. Kamhi commented that to be consistent through the RPPs, Staff removed the provision of a free permit for the first year. He noted that the RPP was not a revenue-generating program and was operating at a loss.

Vice Mayor Kou clarified residents received a free permit the first year an RPP is established.

Mr. Kamhi stated he spoke of the RPPs in commercial districts.

Council Member Tanaka stated the stock market had become a bear market and the technology sector had laid off many workers. There was a lot of talk of a recession hitting the United States of America very soon. The Proposed Budget forecasted a 14 percent annual increase in Property Tax and a 15 percent increase in Sales Tax. Those predictions did not match what was

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actually happening. The City should be hedging its spending rather than planning for a miracle revenue source in the coming years. The FY 2023 Budget proposed aggressive projections for revenue, the City should be backstopping projects with American Rescue Plan Act (ARPA) funds, reconsider the large increase in the Public Works Department given that construction costs may drop in the coming year and the City should decrease spending in the City Manager's Office.

MOTION: Council Member DuBois moved, seconded by Council Member Cormack to:

- A. Adopt the Fiscal Year 2023 Budget Ordinance which includes the Operating and Capital Budgets, Table of Organization, and Municipal Fee Schedule, as amended by the actions outlined in this report, with the following additional adjustments in the general fund:
 - I. Increasing contractual expenditures in the Community Services Department by \$50,000 for additional family events;
 - II. Increasing contractual expenditures in the Community Services Department by \$50,000 for the Human Services Resource Allocation Process (HSRAP);
 - III. Increasing the Reserve: FY 2023 Service Reinvestments (Year 2) in Non-Departmental by \$100,000;
 - IV. Decreasing the Budget Stabilization Reserve by \$200,000
 - V. Amend the recommended funding for the Youth Connectedness Initiative (YCI) to fund \$50,000 annually for a three-year period, ending in FY 2025.
- B. Accept final FY 2023-2027 Capital Improvement Plan as amended by the actions outlined in this report;
- C. Accept an Update on the Sustainability Climate Action Plan (Attachment B); and
- D. Refer items on pension funding policy update and a recommended process for funding non-profit requests to the Finance committee
- E. Accept the June 30, 2021 actuarial valuation of the City's Other Post Employment Benefit (OPEB) Plan and recommended funding levels

Council Member Cormack believed the items under Item A were minor changes and spoke to the Council's priorities. She requested more up-to-date information about folks who participate in the YCI program.

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Vice Mayor Kou asked if the maker and seconder would amend the motion to reinstate the City's \$5,000 allocation for the Friends of Caltrain.

Mr. Kamhi concurred the Office of Transportation would be coming forward to request the restoration of various subscription programs along with the allocation to the Friends of Caltrain.

Council Member DuBois supported the amendment but wanted to see department heads go through the budget process with the City Manager and the Finance Director.

Ms. Nose agreed.

Vice Mayor Kou wanted to see the allocation of \$20,000 for the United Nations Association Film Festival be funded annually.

Council Member DuBois believed the item fell under Item E and suggested the Finance Committee explore it further.

Mayor Burt commented that the investments for the Wastewater Treatment Plant was shared by six different agencies and the improvements were long overdue.

Ms. Nose proposed refinements to the motion.

Council Member DuBois accepted the changes.

Council Member Cormack agreed.

Council Member Tanaka commented that it was super hard to complete projects due to construction costs. As a recession hits, construction bids will be more competitive and it may benefit the City to wait a few years on the repairs of the Wastewater Treatment Plant. In general, he supported YCI but he could not support Items A and B of the motion and requested those items be taken up on a separate vote.

MOTION SPLIT FOR THE PURPOSE OF VOTING:

MOTION PASSES ITEMS A, B: 6-1 Tanaka no

MOTION PASSES ITEMS C, D, E: 7-0

[Council took a break from 7:12 to 7:25]

29. PUBLIC HEARING: Adoption of the Community Development Block Grant Funds (CDBG) Fiscal Year 2022-23 Annual Action Plan and Adoption of

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a Resolution Approving Use of CDBG Funds for FY 2022-23; Approval of a Substantial Amendment to the CDBG Fiscal Year 2020-21 Annual Action Plan and Adoption of an Associated Resolution; and Budget Amendment in the FY 2023 Operating Budget in the CDBG Fund.

Planning and Transportation Director Jon Lait reported that the City was an entitlement community under the Community Development Block Grant (CDBG) program. The City received funding annually to support low- and moderate-income persons through various programs. The U.S Department of Housing and Urban Development (HUD) required the City to provide a 5-year Consolidated Plan that identified needs, strategies to meet the needs and set goals. Also, they required an Annual Action Plan that provided funding for specific projects. Staff recommended the Council act on the Fiscal Year (FY) 2023 Action Plan and approve an amendment to the FY 2022 Action Plan. CDBG contained funding limits for various programs such as a 15 cap for Public Services and a 20 percent cap for Planning and Administration. The City was estimated to receive \$653,168 in CDBG entitlement funding. For the Public Service category, the Human Relations Commission (HRC) and Staff recommended that Catholic Charities, LifeMoves, Silicon Valley Independent Living Center, Project Sentinel and Alta Housing receive funds. For Planning and Administration, HRC and Staff recommended the City of Palo Alto and Project Sentinel receive funding. For the Economic Development, Housing and Public Facilities categories, the HRC and Staff recommended Rebuilding Together Peninsula and the housing project at 525 E. Charleston receive funds. The Downtown Streets Team/Workforce Development Program was a program the City historically funded but it did not meet the qualifications for Community Based Development Organization (CBDO) status. Staff continued to work with the group and was seeking an exemption from their CBDO status. If the Council wanted to fund Downtown Street Team, the Council could use funds from the Budget Stabilization Reserve (BSR). Staff proposed an amendment to the current Annual Action Plan because the City received funds back from LifeMoves which was \$194,500.50. Staff recommended those funds be reallocated to MOVE Mountain View for their Safe Parking Program and LifeMoves' COVID-19 testing program.

PUBLIC COMMENT

None

Council Member Cormack asked why MOVE Mountain View's Safe Parking Program was not on the original CDBG list.

Mr. Lait mentioned the program was relatively new to Palo Alto.

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Planning Manager Claire Campbell confirmed MOVE Mountain View did not apply.

Council Member Cormack inquired if 525 E. Charleston would be under construction in the allotted time period of the grant.

Ms. Campbell mentioned the project could use the funds for pre-development costs.

Council Member Cormack recommended that be clarified in the Staff report.

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

A. The Human Relations Commission (HRC) and staff recommend City Council take the following actions:

1. Adopt the draft Fiscal Year 2022-23 Annual Action Plan (Attachment A) and the associated resolution (Attachment B) allocating Community Development Block Grant (CDBG) funding for Fiscal Year 2022-23; *with the following amendment:*
 - a. *Reallocate CGDG funding shown in Attachment A from Downtown Streets Team to Mitchell Park 525 East Charleston Housing Project*
2. Authorize the City Manager to execute the Fiscal Year 2022-23 CDBG application to fund the Fiscal Year 2022-23 Annual Action Plan and any other necessary documents concerning the application, and to otherwise bind the City with respect to the applications and commitment of funds; and
3. Authorize staff to submit the Fiscal Year 2022-23 Annual Action Plan (Attachment A) to U.S. Department of Housing and Urban Development (HUD) by the July 12, 2022 deadline.
4. *Approve an amendment to the Fiscal Year 2023 Operating Budget Appropriation for the General Fund (requires 2/3 approval) by:*
 - a. *Increasing the expense appropriation in the Planning and Development Services Department by \$167,477; and*
 - b. *Decreasing the Budget Stabilization Reserve by \$167,477.*

B. Staff recommend City Council take the following actions:

1. Approve CDBG Substantial Amendment to the Fiscal Year 2020-21 Annual Action Plan to reallocate \$194,501 of CDBG-CV funding to two new projects;

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2. Adopt a Resolution (Attachment C) reallocating CDBG-CV funding as recommended in the above action and as described in this report; and
3. Authorize staff to submit CDBG Substantial Amendment to the Fiscal Year 2020-2021 Annual Action Plan to HUD.
4. Approve and authorize the City Manager to accept \$653,168 in grant funding from the U.S. Department of Housing and Urban Development (HUD)
5. Approve an amendment to the Fiscal Year 2023 Operating Budget Appropriation for the Community Development Block Grant Fund (requires 2/3 approval) by: a. Increasing the revenue estimate by \$847,669; and b. Increase expense appropriations by \$761,307; and c. Increase estimated ending fund balance by \$86,362.

Vice Mayor Kou agreed there are a lot of needs in the community and this was a small way for the City to support those needs.

Council Member DuBois supported the motion. He requested further details regarding Downtown Streets Team.

Mr. Lait understood there was a change to Downtown Street Team's Board membership. CDBG required a certain number of Board Members to serve a neighborhood or organization.

City Manager Ed Shikada concurred Staff was working with Downtown Streets Team in identifying options that might work going forward.

Council Member DuBois inquired if the intent was that Downtown Streets Team would be compliant for the next cycle of CDBG.

Mr. Shikada restated that the issue with the Board did reflect the CBDO classification which focused on neighborhood level or single City level organization.

Council Member Tanaka wanted to know what impacts the City will see with the removal of Downtown Street Teams.

Mr. Shikada expressed hope that Staff and Downtown Streets Team would establish a way to allow Downtown Streets Team to provide their services to the community.

Council Member Tanaka emphasized it was important to keep the streets clean.

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Mr. Lait noted the Staff's recommended motion allowed street cleaning services to continue with the use of BSR funds.

MOTION PASSED: 7-0

30. PUBLIC HEARING / QUASI-JUDICIAL. 2850 West Bayshore [21PLN-00177]: Approval for a Major Architectural Review, Conditional Use Permit, and Vesting Tentative Map to Allow for the Demolition of an Existing Office Building and Construction of 48 Townhomes with Associated Private Streets, Utilities, Landscaping, and Amenities. Environmental Assessment: Exempt per CEQA Guidelines Section 15332. Zoning District: ROLM (Research Office and Limited Manufacturing).

Council Member Tanaka disclosed he talked about housing prices with the applicant for a few minutes before the meeting.

Mayor Burt announced he recently met with the applicant and reviewed the materials in the Packet.

Council Member Stone met with the applicant roughly one year ago.

Planning and Transportation Director Jon Lait reported that seven of the 48 proposed townhomes would be deed restricted to 100 and 120 percent Area Median Income (AMI). The project complied with the City's parking requirements and provided other amenities in compliance with local regulations. The project consisted of 3- and 4-bedroom units that ranged from 1,600 to 2,100 square feet. The project qualified for a density bonus under State law. The applicant was allowed one concession and they requested an increase in floor area ratio to 1.1. The project agreed to install a sound wall between West Bayshore Road and Highway 101 as well as widen the bike lane on West Bayshore Road. The recently adopted Objective Standards did not apply to the project because they were not established when the project was filed. Also, Senate Bill (SB) 330 prohibited a jurisdiction from imposing subjective design standards on a project. Any conditions or suggestions for the project must not lessen the permitted intensity of housing. The Housing Accountability Act (HHA) stated that jurisdiction could not deny a project unless specific adverse impacts to health and safety were identified. The density bonus could not be used as evidence showing that the project did not comply with the Municipal Code. The Architectural Review Board (ARB) recommended the Council deny the project. The ARB was not able to find that the design created an internal sense of order. That the proposed building did not provide a harmonious transition in scale, mass and character. Also, the project did not use high-quality materials and the materials did not differentiate the buildings from each other. Lastly, the layout did not support

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a functional use of the space for pedestrians and bicycle traffic. He emphasized that SB 330 and HHA did not provide a mechanism for the City to deny a project based on subjective criteria. In response to the ARB's ruling, the applicant changed the massing and unit variation, height transitions, replaced some of the materials and integration and improved circulation. The Planning and Transportation Commission (PTC) reviewed the project on May 25, 2022 and recommended approval of the project. Staff received input from the Palo Alto Historical Association on potential street names for the four private streets. They recommended the names be Ellen, Josephine, Juana and Esther. Staff recommended the Council support the Conditional Use Permit (CUP), approve the Major Architectural Review application and approve the Vesting Tentative Map application.

ARB Commissioner David Hirsch concurred the ARB recommended denial of the project because it violated several of the ARB's findings significantly. The project was overly car-centric and available parking for guests was a significant distance from the site. The façades and details of the eight residential block buildings had identical plans and did not use high-quality materials. The ARB was concerned that the project had assumed its base grade level as a filled-in height of the site because it was located in a flood zone. This was noticeable on the façade facing the park. The ARB requested the applicant make numerous changes but the applicant did not response.

ARB Commissioner Peter Baltay remarked that the building would not comply with the City's Objective Standards. The project had a ground floor units that were flush with the grade, one housing type instead of three and several other elements that did not meet the Objective Standards. He recommended the Council requires the applicant to meet the ARB's subjective findings or the City's Objective Standards.

Developer John Hickey shared that SummerHill Homes had been building communities in the Bay Area for more than 40 years with its offices located in Palo Alto. The site was a 2.3-acre site located near Greer Park and the project was fully consistent with the Comprehensive Plan and the Zoning Code. The project fully complied with the City's standard requirements for site coverage, building height, open space, units per acre, setbacks and other development standards. The project had gone through several study sessions, hearings and community outreach. The project was designed to engage with the surrounding public space with front door entries facing West Bayshore Road or towards the park. The buildings were arranged in a traditional grid to allow residents and visitors using all transportation modes to navigate the site easily. Though it was not required, the project supplied four guest parking spaces and a short-term pull-out space for deliveries. To address ARB's comments, the project included a widened bike lane, more guest parking, a

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direct pedestrian connection to Greer Park, a new building type for buildings 7 and 8 and many other changes. The seven units reserved for low- and moderate-income levels would be prioritized for folks living or working in Palo Alto. The project was designed to be sustainable and meet Palo Alto's Energy Reach Code and Green Building Code Tier 2. The project would provide \$2.3 million in funding for Palo Alto parks as well as provide an increase in the Property Tax Base by \$75 million.

PUBLIC COMMENT:

Mary Sylvester was concerned about the health and safety of residents because the project was adjacent Highway 101. She wanted to know the rationale as to why the developer may receive almost twice as much square footage than allowed. She recommended the Tree Ordinance be enforced.

David & Jane Moss stated the project was fantastic and strongly encouraged the Council to accept the proposal.

Rebecca Eisenberg seconded Mr. Moss's comments. She echoed the project proposed to build family units which the City desperately needed.

Winter Dellenbach was disturbed that the ARB provided many comments about the project on multiple occasions and the applicant made no effort to address them.

Mr. Hickey acknowledged the comments regarding the proximity to Highway 101. The project would have MERV 16 and MERV 13 filtration systems to address concerns about air pollution. He concluded that the applicant team in good faith tried to address the comments made by the ARB.

Council Member DuBois asked about the Conditions of Approval for fill dirt.

Planner Garret Sauls concurred the City had not seen many projects that required large amounts of fill dirt. Due to the project being located in a flood zone, the minimum elevation the project must meet was 11 ½-feet above the flood zone. Federal Emergency Management Agency (FEMA) was considering increasing the required height for flood zones and the applicant anticipated that by building the project up to 12 feet. The Conditions of Approval included conditions regarding dirt, dust, drainage and filtration of stormwater during construction.

Council Member DuBois asked if there was a requirement to use pervious materials.

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Mr. Sauls mentioned the Public Works Department allowed some amount of off flow towards the park but the stormwater would primarily go toward the landscaping.

Council Member DuBois wanted to know if there are standards about the quality of the fill dirt and how densely packed it should be.

Mr. Lait answered yes.

Council Member DuBois inquired if there was a commitment to place more landscaping on the widened retaining wall terraces.

Mr. Hickey confirmed landscaping will be in the terraces.

Council Member DuBois wanted to understand how the circulation worked for repairpersons and housing cleaning services.

Mr. Hickey believed that the proposed parking was more than adequate. The project contained 32-foot wide streets that allowed short-term visits behind the garage of the homeowner. The parking spaces located along Colorado Avenue were almost always available and the pedestrian path from the project through the park followed Colorado Avenue. The path to the park was Americans With Disability Act (ADA) compliant and included a ramp down to the park.

Council Member Cormack appreciated that the project was all-electric and that the units all contained 3- to 4-bedrooms. She asked if the sound wall ran the entire length of the project.

Mr. Sauls answered yes and the wall would be terraced at the edges.

Mr. Hickey clarified the 14-foot height of the sound wall extended the entire opposite frontage. The wall then reduced in height after the frontage ended.

Council Member Cormack wanted to know what hips and gables were.

Mr. Lait commented it was a form of architecture for rooves.

Council Member Cormack asked if there were materials of higher quality beyond hardie board.

Mr. Sauls remarked hardie board was a commonly used material in multi-family construction.

Mayor Burt acknowledged ARB's expertise and their recommendations on the project. The applicant did make changes to the project after the final ARB

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hearing. He highlighted that housing projects within the City were majority studio or 1-bedroom units. This was due to State law and regulatory structure that encouraged smaller units. He appreciated that the project included high filtration systems and noted that having a higher density near a park created safer conditions for folks using the park. Though there was no public transit near the site, the site was located near strong bicycle access routes. He commended the applicant's efforts to make the project sustainable and that the project was all electric. Concerning the street names, the one person who was overlooked time and time again was Rose Bird.

Vice Mayor Kou thanked the ARB Commissioners for their work and for upholding the City's high standard for aesthetics. She thanked the applicant for providing a project that included family units. She understood the bicycle path would be on City property.

Mr. Sauls stated there will be a public right of way easement that would be recorded partially against the site.

Vice Mayor Kou had witnessed many speeding cars near the location and was concerned about bicycle and pedestrian safety. Also, many RV dwellers parked along Colorado Avenue. She asked what drilled piers meant concerning the tiered retaining walls.

Mr. Hickey explained the posts in the ground were smaller in square footage compared to a spread footing and that provided more protection for trees.

Vice Mayor Kou highlighted that many folks when buying a house ask what the parking is like and that needed to be taken into consideration. She recommended continued monitoring be done for light pollution in the Baylands. She asked if the windows included bird-safe glass.

Mr. Hickey answered yes.

Vice Mayor Kou requested that Staff evaluate whether the buildings were being constructed with bird safety in mind. She wanted to know if the Homeowners Association (HOA) would be exempt from having to hold flood insurance due to the elevated height of the structure.

Mr. Hickey confirmed that is correct.

Vice Mayor Kou inquired if the project could be changed to have three distinct building types.

Mr. Hickey believed that was a matter of interpretation of the Code. He believed there were three distinct styles for the buildings.

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Vice Mayor Kou acknowledged that the floor area ratio was very high but found the project to be very good.

Council Member Stone asked if the project would interfere with the expansion of the skate park at Greer Park.

Mr. Lait mentioned it was not something that was emulated in terms of a private development proposal on private property.

Mr. Sauls added there were no concerns related to the expansion of the skate park.

Council Member Stone wanted to know if Staff explored light pollution on Simkins Court across from Greer Park.

Mr. Sauls remarked the project followed the half-foot candle limitation at the property line.

Council Member Stone wanted to know the price range for the units and the below-market-rate units.

Mr. Hickey commented that Alta Housing sets the below-market rate but understood it would be mid to high \$300,000 for the 3-bedroom units and high \$500,000- low \$600,000 for the 4-bedroom. For the market rate units, the price range was \$1 million to low \$2 million.

Council Member Stone acknowledged the ARB's frustration and noted that the applicant was conservative in what could have been done under State law. He appreciated the project's sustainable components, access to the park, the seven affordable units and the removal of office space.

Council Member DuBois agreed with the Mayor that it was a welcome sight to have family-size units, convert offices to housing and the other benefits of the project. He encouraged the ARB to keep up their vigilance and to be clear about the respective changes they would like to see. He suggested the applicant provide additional aesthetic features to the sound wall. He asked if the applicant would be willing to make the project comply with the City's new Objective Standards.

Mr. Hickey could not claim that SummerHill Homes could make the project conform to all of the Objective Standards. The townhome style was not fully contemplated in the Objective Standards. The sound wall would have scoring lines and vines growing on it.

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Council Member DuBois asked if the applicant was amendable to having a Condition of Approval stating that the project would not be part of a Residential Parking Permit (RPP) Program.

Mr. Hickey agreed to a condition that did not allow residents to participate in an RPP for west of Simkin Street.

Council Member DuBois announced his support of the project. He recommended For mixed-use projects that were trying to use an increase in commercial to show a decrease in housing. That Staff apply a net housing demand metric to the project and factor that into the cost analysis.

Council Member Tanaka understood an approval of the project would not encumber agencies in fully engaging and enforcing all standards and guidelines.

Mr. Lait confirmed that is correct.

Council Member Tanaka invited the member from the PTC to provide comments.

PTC Member Giselle Roohparvar stated the PTC voted unanimously in support of the project and greatly appreciated that the project proposed family units.

MOTION: Council Member Tanaka moved, seconded by Council Member Dubois to:

- A. Approve the Conditional Use Permit to enable multiple-family residential use of the ROLM-zoned property.
- B. Approve the Major Architectural Review [21PLN-00177] application based on findings and subject to conditions of approval.
- C. Approve the Vesting Tentative Map [21PLN-00178] application with proposed street names based on findings and subject to conditions of approval.
- D. Agree not to be part of any future Residential Permit Parking program on Colorado west of Simkin's court
- E. Incorporate the street names recommended by Palo Alto Historical Association

Council Member DuBois requested that the Condition of Approval regarding the RPP be added to the motion.

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Council Member Tanaka agreed.

MOTION PASSED: 7-0

31. Adoption of Resolutions: (1) Placing a Measure Affirming the Gas Utility Transfer on the November 2022 Ballot; (2) Placing a Business Tax on the November 2022 Ballot; and (3) Adopting a Spending Plan for Business Tax Proceeds

[The Council took a 5-minute break]

Administrative Services Director Kiley Nose reported Staff was seeking discussion and adoption of the measure to Affirm the Gas General Fund Transfer, the Business Tax and Resolution of Council's intentions regarding the use of proceeds. Overall, the Council approved characteristics that generated gross revenue of approximately \$19 million from a Business Tax. That assumed a \$0.10 per square foot per month calculation, with an implementation date of January 1, 2023 and no collection until January 2024. The Council established an Ad Hoc Committee that worked with the business community on potential adjustments to the tax.

Mayor Burt stated the coalition opposing the tax had indicated that they would not oppose a tax that had a rate of \$0.05 per square foot per month as well as a 20,000-square foot exemption. Also, a tax that included modifications to the Consumer Price Index (CPI) proposal, a sunset clause and a cap for the largest businesses subject to the tax. He remarked the coalition's proposal fell far short of what the City had identified as its needs. Through discussions with the coalition, the Ad Hoc Committee proposed greater limits on the CPI, reconsideration of a sunset date if there was no opposition, consideration of a higher square footage exemption of 10,000 square feet, gradual elimination of a cap and a reduction in the rate. The representatives for Bad for Palo Alto coalition considered the proposal and declined to accept any changes other than their proposal. It was agreed upon by both parties that the sunset and CPI provision were the lesser concerns and he encouraged Council to consider that outside of the agreement process. He disclosed his disappointment that an agreement could not be reached and was skeptical that an agreement could be reached. It was explained to the business community the timing of the Business Tax.

Council Member DuBois understood that due to the varied groups within the opposing coalition that they were unwilling to move off their parameters. It was a negotiation that involved relaying the discussion back to the larger group which hindered the ability to reach a consensus. He believed that part of the square footage was exempted across all business. That would result in millions of square footage being excluded from the tax. He suggested the

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Council consider a lower rate for businesses ranging from 5,000 to 20,000 square feet.

Council Member Filseth mentioned many neighboring cities had an older tax. In most cases, the Palo Alto proposed Business Tax was lower than the City of East Palo Alto and the City of Oakland. He emphasized that was particularly true for small businesses and the notion that Palo Alto would have the highest tax in the Bay Area was not supported by data.

PUBLIC COMMENT:

Rebecca Eisenberg stated no other city in the past 20 years had proposed a tax based on the square footage of the office of a tenant. Every tax that had been proposed in the past 6-years had won in a landslide because they taxed revenue, payroll, headcount or by parcel.

Arthur Keller supported the Business Tax as proposed and suggested that grocery stores be exempted.

Bill Ross stated the City was not being open and transparent on the Gas General Fund Transfer. The ratepayers should not be forced to pay the judgment issued to the City. The Business Tax was not a Special Tax and a Special Tax would adequately fund the Palo Alto Police Department, Palo Alto Fire Department and the libraries. He believed the outreach to the community was nonexistent.

Edesa Bitbadal represented NAIOP Silicon Valley and stated that NAIOP represented commercial property owners and developers throughout the region. Over the past 2-years, NAIOP's members were impacted negatively by the COVID-19 Pandemic because they assisted struggling businesses without government subsidies. NAIOP joined the opposing coalition because the discussion about the Business Tax either did not include or dismissed the business community's needs and struggles. NAIOP supported a Special Tax that specifically addressed the needs of the community.

Karen Holman encouraged the Council to place a Business Tax on the ballot and allow the public to determine if large businesses should be taxed or not. If a Business Tax had been implemented sooner, the City would not have had to cut community services, could have funded affordable housing and could have provided more safety to the community.

Keith Reckdahl spoken on behalf of himself and commented that the new Housing Element had assigned the City an extremely large affordable housing allocation. The allocation was an unfunded mandate that required Palo Alto to subsidize housing without State funds. With many affordable housing

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residents working for Palo Alto businesses, it was fair and appropriate for businesses to fund housing. More housing would improve the recruitment and retention of lower-income employees.

Council Member Cormack asked what the procedure was when the Mayor established an Ad Hoc Committee.

City Manager Ed Shikada believed that the Mayor had the right to select the members of the Ad Hoc Committee and announced it to the other Council Members.

Council Member Cormack shared she had several conversations with the business community over the past week and stated she was having cold feet in approving a Business Tax based on those conversations. She noted the community was experiencing turnover of local landlords, persistent vacancies and businesses making unconventional decisions. She believed a tier for businesses with 5,000 to 10,000 square feet having a different rate may be supportable. She did not support increasing the tax rate just because the business community was unwilling to negotiate. Her risk tolerance for going forward in the face of clear and convincing opposition was not high. That tolerance was based on reviewing the data.

Council Member DuBois noticed that property management was added to the exemption.

Ms. Nose clarified that property management companies would be taxed based on their administrative offices within City limits. Property management companies that oversaw a residential property or unoccupied property would not be taxed.

Council Member DuBois suggested that language be clarified. He asked if that language was included in the ordinance update.

Ms. Nose answered yes.

Council Member DuBois recommended the Council decide whether both measures be placed on the ballot. He supported placing the Business Tax on the ballot and not the Gas General Fund Transfer. Also, to add a 35-year sunset provision and remove the CPI and rollover provision.

Mayor Burt agreed the CPI and rollover provision should be removed.

Council Member DuBois restated an increased square footage exemption would apply City-wide. One potential option was to exempt 0 to 5,000 square feet businesses from the tax. Then have a \$0.06 rate for businesses between

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5,000- to 20,000 square feet and then a \$0.12 per square footage for businesses larger than 20,000 square feet.

Mayor Burt stated the most inflammatory action that had been taken was that the Bad for Palo Alto coalition distributed a campaign mailer that had significantly false information. Also, twice the coalition expressed they would spend large amounts of funding to oppose the Business Tax as well as oppose the Gas General Fund Transfer if the City did not agree to their terms. He remarked the use of the tax was to be used for affordable housing, transportation and public safety. All three would benefit the community as well as the business community. He was increasingly concerned about the role of developers and big technology in the region and their willingness to undermine local democracy and the sustainability of the region. The City was proposing a tax that was 1 percent of the average office rent in Palo Alto and the threat that such an increase would drive businesses out of Palo Alto was false. He expressed his disappointment in the approach the coalition had taken and that the business community was unwilling to negotiate.

Vice Mayor Kou agreed it was disappointing to hear the business community was unwilling to negotiate. She mentioned that through her discussions throughout the week. Many folks supported the Business Tax and they understood that the revenue would be returned to the community. Many of the businesses in opposition did not operate within the City. Not passing a Business Tax would impact residents and services for them. She liked the tiered approach but asked at what point was it not worthwhile to put forward a tax.

Council Member Stone asked if Council Member DuBois's tiered approach reached the current revenue projection of \$19 million.

Council Member DuBois stated it came to \$16.5 million.

Council Member Stone supported the proposed Business Tax as well as Council Member DuBois's tiered approach. He appreciated Mayor Burt's comments and agreed it was disappointing to see campaign tricks happening at a local level. Support of a Business Tax was support for affordable housing, support for public safety and support for continuing to help the community run smoothly. He encouraged the Council to emphasize that the Business Tax was asking that everyone pay their fair share and that the community would suffer if the taxes were not passed. He supported placing both the Gas General Fund Transfer and the Business Tax on the ballot.

Council Member Tanaka mentioned the City polled twice on a tax rate of \$0.20 per square foot per month and he understood why the opposing coalition

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believed the City was putting forth a \$60 million Business Tax. He asked how many polls had been run.

Ms. Nose answered three statistically valid polls as well as one community feedback survey.

Council Member Tanaka wanted to know how much the City had paid in polling, how much Staff time had been spent on the polls and how much Staff time was spent working on the Business Tax.

Ms. Nose remarked the contract with FM3 was \$130,500 and there had been two full-time dedicated Staff positions devoted to the taxes. In recent months, Staff time had increased significantly as Staff worked on finalizing adjustments.

Council Member Tanaka inquired how much each Staff person costs annually.

Ms. Nose predicted \$200,000 annually.

Council Member Tanaka wanted to know how much was allocated for the Business Tax in the Fiscal Year 2023 Budget.

Ms. Nose stated none.

Council Member Tanaka remarked the City was experiencing record high vacancies. He wanted to know if Staff had estimated how much Property Tax would be impacted if rents were lowered to keep Palo Alto competitive.

Ms. Nose could not speculate to know what the impacts would be.

Council Member Tanaka disclosed that not knowing the impacts indicated that the City should do an Economic Impact Report. He articulated that the City should prioritize its spending and that now was not the time to tax businesses that were laying off employees. There was more community support for a Special Tax and Special Tax would tie the tax to tangible improvements in the community.

Council Member Filseth supported Council Member DuBois's suggestion of looking at the thresholds and the rates. He liked the idea of protecting smaller businesses. He mentioned that large companies in Palo Alto paid twice as much in rent to be in Palo Alto. Without new revenue, the City would not be able to invest in public safety, affordable housing/homelessness and transportation and the community would have to face reductions. He summarized the safety situations that had happened in the City recently and emphasized that now was the right time to invest in public safety. It was the

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City's responsibility to provide a sensible and balanced measure that could fund the important needs of the community.

Council Member DuBois recommended deferring a decision on the Gas General Fund Transfer until the August 1, 2022 Council meeting.

City Attorney Molly Stump stated Staff was comfortable with that approach as long as there were no substantives changes to the Gas General Fund Transfer made at the August 1, 2022 meeting.

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

- A. Defer adoption of a resolution to submit a measure to the voters at the general municipal election on November 8, 2022 to affirm the natural gas utility transfer until August 1, 2022;
- B. Return with a resolution on August 1, 2022 to submit a measure to the voters at the general municipal election on November 8, 2022 to adopt a business tax; and
 - I. Change the tax rate to exempt the first 5,000 square feet, to tax from 5,000 – 20,000 at \$.06 per square feet and 20,000 +.12 per square feet per month. The initial rate would be effective January 1, 2023 at 50% of the above rate for the first 24 months.
 - II. Add in a 35-year sunset
 - III. Remove the CPI roll over
- C. Adopt a resolution to inform the public of Council's spending plan for business tax proceeds.

Council Member DuBois asked how Item C of the motion would be used.

Ms. Nose confirmed it would be included on the City's website as well as be retained in the City's records.

Council Member DuBois believed Council intended to fund improvements to University Avenue and California Avenue through the General Fund (GF). He wanted the resolution to be very clear that the revenue would be used for affordable housing/homelessness, public safety and transportation improvements.

Mayor Burt stated that since Proposition 13 the proportion of Property Tax revenue had shifted from business sources to residential. The Business Tax balanced the responsibilities of all the sectors to address the severe needs in

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the community. He remarked the growth of the technology section had driven the need for significantly greater investment in affordable housing and in transportation. He emphasized that the Bad for Palo Alto coalition had cherry-picked information and expected that the Bad for Palo Alto coalition would not support the City's measure.

Council Member Cormack was surprised that the motion deferred the Gas General Fund Transfer to another meeting. The polling showed that there was more support for the Gas General Fund Transfer than the Business Tax. She wanted to know what other information would be available at the August 1, 2022 that was not available now.

Council Member DuBois wanted to see how the campaigns were going before deciding on the Gas General Fund Transfer.

Ms. Shikada remarked that Staff would have to bring back the Business Tax on August 1, 2022 as well. The changes to the tiered rate were sufficient and Staff wanted to ensure that it was written up correctly.

Mayor Burt noted that the opposing coalition may want to negotiate.

Council Member Cormack inquired if the intent was to retain the Ad Hoc Committee and continue negotiations.

Mayor Burt answered yes.

Council Member Cormack inquired if the maker and seconder would be open to changing Item B (i) to \$0.05 and \$0.10.

Council Member DuBois did not support the change.

Council Member Cormack requested that Staff return with the impacts that Item B (i) would have.

Ms. Nose concurred that Staff would return with orders of magnitude.

Council Member Cormack believed the motion was placing emphasis on the wrong measure if the concern was long-term stable funding. She was not supportive of placing the Business Tax on the ballot alone.

Council Member Filseth shared Council Member Cormack's comments regarding the Gas General Fund Transfer. He commented that employment in Palo Alto had grown much faster than the population had over the last decade. It was hard to make a case that commercial consumed a lower share of City services compared to 15 years ago.

DRAFT SUMMARY MINUTES

Council Member Tanaka asked if the City of Oakland or the City of East Palo Alto had a Gas General Fund Transfer.

Ms. Stump answered neither city ran a gas or electric utility.

Council Member Filseth believed the transfer was to PG&E shareholders.

Mayor Burt clarified that the City of East Palo Alto has a square footage Parcel Tax at \$0.20 per square foot as well as a Gross Receipt Tax.

Ms. Nose requested the Council provides clarity on the intention for the tiered rate schedule in terms of implementation.

Mayor Burt supported 2-years between the first phase and the second phase.

Council Member DuBois indicated he supported either approach.

MOTION PASSED: 5-2, Cormack, Tanaka no

Council Member Questions, Comments and Announcements

Vice Mayor Kou inquired about the proposed funding from the Council's Contingency Fund for the United Nations Association Film Festival (UNAF).

City Manager Ed Shikada remarked at the request of the Mayor and the Vice Mayor. The City planned an expenditure of \$25,000 from the current year's City Council Contingency Fund to support the UNAF.

Mayor Burt articulated that the City was experiencing constraints in purchasing new electric transformers. Staff was exploring the possibility of rebuilding the existing transformers to more rapidly increase the City's electric capacity. The City's Advanced Metering Area Median Income (AMI) program was tentatively scheduled to have 1,000 homes participating in the program.

Adjournment: The meeting was adjourned at 11:16 P.M.