



# CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting  
December 5, 2016

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

Present: Burt, DuBois, Filseth, Holman, Kniss, Scharff, Schmid, Wolbach

Absent:

## Closed Session

1. CONFERENCE WITH LABOR NEGOTIATORS - CAO Compensation  
Agency Negotiators: Mayor Burt, Council Member Kniss  
Unrepresented Employees: City Manager, City Attorney, City Auditor, City Clerk  
Authority: Government Code Section 54957.6(a).
- 1a. CONFERENCE WITH CITY ATTORNEY- EXISTING LITIGATION  
Subject: City of Palo Alto v. Public Employee Relations Board (PERB) (International Association of Fire Fighters, Local 1319, real party), Cal. Court of Appeal No. H041407, on appeal from PERB  
Case No. SF-CE-869-M  
Authority: Government Code Section 54956.9(d)(1).

## CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees  
Employee Organizations: Fire Chiefs Association, International Association of Fire Fighters (IAFF), Local 1319, Palo Alto Peace Officers' Association (PAPOA), Palo Alto Police Management Association (PAPMA)  
Authority: Government Code Section 54957.6(a).

Mayor Burt: Our first item is a Closed Session. We actually have—I'm sorry. I need the updated agenda. I'm sorry. I only have the older one here. Thank you. We have two Closed Session items, a conference with labor negotiators regarding Council Appointed Officers' (CAO) compensation, agency negotiators, Mayor Burt, Council Member Kniss. This is regarding unrepresented employees: the City Manager, the City Attorney, the City Clerk and the City Auditor. Then, we have a second Closed Session item which is a conference with the City Attorney regarding existing litigation of

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the City of Palo Alto versus the Public Employee Relations Board and International Association of Firefighters Local 1319. This is regarding a California Court of Appeal, Item Number H041407, on appeal from the Public Employee Relations Board. We have one speaker, Herb Borock. Welcome.

Herb Borock spoke on Agenda Item 1A: Thank you, Mayor Burt. You read into the record the description that appears for Agenda Item 1A at the bottom of Page 1 of the agenda. However, that description continues on the top of Page 2.

Mayor Burt: Correct. You're right.

Mr. Borock: I did request in my letter to you that that second part of Agenda Item 1A is with labor negotiators. It doesn't identify the names of the representatives who you would be meeting with, who would then be negotiating on your behalf with each of those employee organizations. I believe that's required by the Brown Act, and you have done it in every other case that you've had that type of negotiation item on your Agenda. Thank you.

Mayor Burt: Thank you. Let me add for the record that the continuation of Item 1A is a conference with labor negotiators with the City-designated representatives of the City Manager and his designees, and the employee organizations are the Fire Chiefs Association, the IAFF Local 1319, the POA and the PMA. On that note, we will entertain a Motion to go into Closed Session.

Council Member Kniss: So moved.

Vice Mayor Scharff: Second.

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

Mayor Burt: Motion by Council Member Kniss, seconded by Vice Mayor Scharff. Please vote. That passes unanimously 8-0. We will now go into Closed Session.

**MOTION PASSED:** 8-0

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

Council returned from Closed Session at 6:53 P.M.

Mayor Burt: ... returned from two Closed Session Items. We have no reportable actions.

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## Special Orders of the Day

2. Four Resolutions: Resolution 9644 Entitled, "Resolution of the Council of the City of Palo Alto Honoring Joe Saccio (24 Years), Retiring From City Service;" Resolution 9645 Entitled, "Resolution of the Council of the City of Palo Alto Honoring Joe Teresi (32 Years), Retiring From City Service;" Resolution 9646 Entitled, "Resolution of the Council of the City of Palo Alto Honoring Jane Ratchye (31 Years), Retiring From City Service;" and Resolution 9647 Entitled, "Resolution of the Council of the City of Palo Alto Honoring Scott O'Neill (31 Years), Retiring From City Service."

Mayor Burt: We will now move onto Special Orders of the Day. I think it's only three Resolutions we're reading tonight. Correct? We have Resolutions honoring the long service of three highly valued employees of the City: Joe Saccio, Joe Teresi and Jane Ratchye. I'd like to start things off with Joe Saccio. Council Member Schmid, would you do the honors?

Council Member Schmid read Joe Saccio's Resolution into the record.

Mayor Burt: Thank you. As is our practice on Resolutions, we vote to approve that. Please vote on the board. That passes unanimously. Joe, I'll meet you up to here pass this off to you. I think you have a few words you wanted to share.

**MOTION:** Council Member Schmid moved, seconded by Mayor Burt to adopt a Resolution honoring Joe Saccio.

**MOTION PASSED:** 8-0

Joe Saccio, Administrative Services Assistant Director: Thank you, Council Member Schmid, for the words on the Resolution. I thank you for the coffee we had once, talking about history. That was really great. In another life, that was one of my professions. Thank you, Mayor Burt and Vice Mayor Scharff and Council Members, for letting me speak. This is the first time I'm at the microphone without having to answer any questions. This is really a great experience. I've been with the Council since 1992, when Council Member Kniss was one of the first members, I think, that I met on the Council along with Supervisor Simitian and Judge Huber and some others. I want to say thanks to a group of people. I want to say thank you to you and prior Councils for all your thoughtful deliberations and incisive questions over the years. I consider myself very fortunate to have worked in a City that is full of ideas and noteworthy projects and all the aspirations that the City has had over the years. I want to thank the City Manager, City Manager Jim Keene, for allowing someone as straightforward, sure to have

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opinions and serious as myself to express myself. I have absolutely understated those words about my opinions and things like that, as people who know me know. I couldn't have performed as well without the many outstanding direct reports who very rarely get a chance to be up here. I really want to recognize them. I've been with them for 15 years, and I really couldn't have done my job without them. I'm going to only mention a few names. Tarun Narayan who does a lot of the work on debt, investments and banking; Josie Stokes and her group who run revenue collections and answer the many questions of citizens who come in and others and deliver excellent customer service; Scott O'Neill who's run the warehouse, who's also retiring with me. I guess he thought it was a good time to leave, with me that is. He's done a great job there. Someone who retired, Nancy Nagel, who some of you may know, who worked on sustainability for the City and did a really great job there and helped with labor negotiations when we did that. Of all the Staff, I really want to acknowledge my boss, Lalo Perez, your Chief Financial Officer (CFO), whose management style has really allowed me to flourish. I'll never forget his trust in my abilities and work in all the diverse areas that Council Member Schmid mentioned a while ago. He had faith that I could do that and give him good advice on all the different projects I've been on. I also want to say that he reflects many of the values that I hold important. He always believes in the end to do what's best for the City. The City has been fortunate to have him as a financial guardian. My last thanks go to my wonderful wife, Kathleen, and our daughter, Ava, who's in the audience and who just became engaged, for their support over the years. When I get a little cranky maybe or whatever, when I come home, they've offered a lot of solace. Finally, I just want to say that you learn about a lot of stuff in the elevators. You hear rumors and stories. One of the things that I've heard is that the City has—there's movement afoot for the City to be a world-class organization. Throughout my years of work here, I have really, truly been impressed by the quality and the caliber of the people that I've worked with throughout the departments. There are many I may have disagreed with, but I really do respect the quality even in the differences that we've had. I would say to you do recognize the noteworthy talent that already exists here as you move forward into the future with the organization that you think is best for the City. Thank you very much for the recognition. It's been a really good time working with the City. It's been a stimulating and fulfilling career. Perhaps as a resident, I will come back and talk to you and use my full three minutes.

Mayor Burt: Thank you. Our next Resolution is in honor of Joe Teresi. Council Member Holman will be reading it.

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Council Member Holman: It's my honor to do this. Of the four that are retiring, that are being recognized tonight, it represents 115 years of public service. She read the Resolution for Joe Teresi into the record.

Mayor Burt: We actually have one speaker who wishes to speak on this item, Hal Mickelson.

Hal Mickelson: Thank you. I'm speaking in my capacity as the Chair this year of the Citizen Oversight Committee for the Storm Drain Enterprise Fund. Joe has had to deal, among other challenges, with his very own watchdog and audit committee with whom he was required to meet regularly, so that the Committee could confirm that the Fund is applied in accordance with the purposes declared to voters. It has been a pleasure and a source of unending education to work with Joe. There is no member of the City Staff whose expertise is more evident or whose expertise is more dedicated and geared to practical results for the City. There is no member of the City Staff who is more dedicated to the City's wellbeing. I would venture to say there is no one in the public life of the City, whether officially or as a volunteer or as a member of Staff, whose good nature and friendliness could make it more of a pleasure to achieve the City's (inaudible). This Committee gratefully supports this Resolution.

Mayor Burt: Thank you. Please vote on the board. That passes unanimously.

**MOTION:** Council Member Holman moved, seconded by Vice Mayor Scharff to adopt a Resolution honoring Joe Teresi.

**MOTION PASSED:** 8-0

Joe Teresi: I guess I'll say a few things as well. Actually I'd like to start just by introducing some of my special guests. My wife, Sherry, is here with us tonight as well as my mom, Mable, who's a 60-year resident of Palo Alto. Also, I'm very grateful for members of the Storm Drain Oversight Committee here today. In addition to Hal, Stepheny McGraw and Nancy Clark and Dick Whaley made time out of their busy schedules to come. I really appreciate that very much. Thank you. As was said, I am a hometown boy. I grew up in Midtown. My mom still lives there. That's been part of the fun of working for the City of Palo Alto, to see how I can make changes and make it a better place. I've been very proud to work on lots of different projects and see the results. That's a real source of pride for me. I'd like to say thank you to some people as well. To all the folks here at the City who have been very supportive, of course, all of you members of the Council and in addition City Manager Keene and Assistant City Manager Ed Shikada, Mike Sartor, Brad Eggleston, Phil Bobel. They've all been great as leaders that have

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worked with me to achieve the things that I've been able to do. I also have two Staff members who worked with me to implement our storm drain program, Rajeev Hada and Shari Carlet, who formed part of my team. Also I wanted to say that Michel Jeremias is here. You'll be seeing more of her as she's been selected to be my successor. She's been working here in the City for several years, and I'm sure you'll enjoy working with her in the future. Really I wanted to echo what Joe said about the quality of the Staff. I'm sure all of you know this, but I think it's worth saying. We really do have a great Staff here that's very engaged and dedicated and hardworking. I have to say maybe of all the groups that probably Public Works is a little bit on the high side of that spectrum. Everybody is a great team, but especially Public Works. Go team. Again, I hope I've made a difference working here all these years. I thank you for the opportunity to serve. I will say that although I won't be working here after the end of the month; I'll still be around. One of the things I really love to do is volunteer. One of the first things I plan to do is to come back and work as a volunteer member of the campaign committee to pass the storm drain ballot measure, because I've a very vested interest in the success of that particular item. I will be back to ensure that we get the support of our community on that. I'm also very interested in history, so I think I'm going to be doing some work volunteering with the Palo Alto Historical Association (PAHA). I hope to see you around. Again, thank you so much for everything.

Mayor Burt: Our next Resolution is for Jane Ratchye. Vice Mayor Scharff.

Vice Mayor Scharff read the Resolution for Jane Ratchye into the record. I just wanted to say, Jane, I've really enjoyed working with you a lot on both the Northern California Power Agency (NCPA) and the Utilities Advisory Commission. You've really done a great job for the City of Palo Alto. Your depth of knowledge of the intricacies of policy and all of that have really been helpful and very worthwhile to the City. I've got to say after reading all this, I'm not sure there's anything left for us to do. Congratulations and thanks again for your service. I really have appreciated it.

Mayor Burt: Council Member Holman.

Council Member Holman: To add just a few words. I bump into you quite a bit in elevators and around town. I just have always appreciated not only your expertise and your professionalism but also how accessible you are, what a positive attitude you have and how accessible you are to people in the community too. I know it's more than one person who's said to me, "There was this Utilities person riding around on her bicycle and stopped to see how my landscaping project was going." That's just real commitment and very much appreciated.

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Mayor Burt: Please vote on the board. That passes unanimously.

**MOTION:** Vice Mayor Scharff moved, seconded by Council Member Holman to adopt a Resolution honoring Jane Ratchye.

**MOTION PASSED:** 8-0

Jane Ratchye: I didn't have any prepared remarks like Joe and Joe. I really do appreciate the opportunity to work at the City. It's very fun; I'm going to miss it. The people are great. The Council's great; the Utilities Advisory Commission (UAC) is really fun and good to work for and force us to do good work. I'm going to miss it, miss all of you. Thanks.

Mayor Burt: Thank you. Scott O'Neill was not able to be here tonight. We need to vote on his Resolution as well. Please vote on the board. That passes unanimously.

**MOTION:** Mayor Burt moved, seconded by Vice Mayor Scharff to adopt a Resolution honoring Scott O'Neill.

**MOTION PASSED:** 8-0

Mayor Burt: It really is a rarity that we have such a group of people retiring at the same time, who have served this community for so long at such high levels in the organization and had such impacts. I just want to say on behalf of the entire Council thank you.

## Agenda Changes, Additions and Deletions

Mayor Burt: Moving onto our meeting. The next item is Agenda Changes, Additions or Deletions. We do not have any.

## City Manager Comments

Mayor Burt: We move onto City Manager Comments. Mr. Keene.

James Keene, City Manager: Thank you, Mr. Mayor. Members of Council. I know that felt really good. Now I feel really crummy with these guys not being on the Staff anymore. They've left a big hole in our organization, but we do wish them the very, very best. We have a new generation who, I think, are looking forward to the chance to try to match their accomplishments. Thank you. I know that Council heard plenty about the fact that we began to receive some complaints last week, that there was an unpleasant change in the taste and odor in the City's water supply. As you know and I'm sure the public knows, the cause of this really was that the San Francisco Public Utilities Commission (SFPUC), which is the City's water

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supplier along with many other jurisdictions around the region, began blending water from the Hetch Hetchy reservoir, which is our constant supply, with other surface reservoirs on the Peninsula. Other SFPUC customers receiving this blended water will likely be experiencing the same effects that were reported in our community. A water blend change typically happens every year around this time. The reason for that is that it is a necessary component of the SFPUC's need to perform routine maintenance on the Hetch Hetchy water distribution system. As they shut that down to do some of that work, they've got to add some additional water on a temporary basis. We generally haven't had an issue with the blended water supply of late and did not seek to notify the community in advance that this was going to be taking place because in recent years we hadn't had any sort of water taste or odor. I have asked our Staff to be sure to ask SFPUC to let us know each year in the future when this is going to take place, and we can let the public know that this is what's happening. I think it's important to remind everyone again we continue to conduct daily water quality testing on our water supply. It is absolutely safe and healthy. We did contact the SFPUC about why there was an usually elevated change in the taste and odor as a result of the blended change. They told us that it was due to a higher volume of materials such as sediment than normal that may have entered the system during the blending, which caused the water to taste or smell earthy or musty. Our Utilities Staff have flushed various areas of the City's water distribution system starting last week to try to mitigate these changes. We're told that the effects should be resolved for most of the City by Wednesday as the water moves through our system. There are more details available on our water quality webpage at [cityofpaloalto.org/waterquality](http://cityofpaloalto.org/waterquality), all one word. I think, Roger, you guys may have some photos for me on the installation of a gas pipeline. Joe Teresi, I guess, has left the room. This was part of Joe's work also. Last week with Palo Alto's help Pacific Gas and Electric (PG&E) completed installation of the 2,300 feet of high pressure, 24-inch gas pipeline, which was needed to abandon the old one which was very close to East Palo Alto homes. The new line goes along the edge of Palo Alto's golf course, which is a much safer location for the gas pipeline. The other good news is that the salty groundwater which had to be pumped for the trench construction was much less than originally estimated. Our Staff worked with PG&E on construction methods, the treatment—this photo here—and monitoring to reduce the estimated amount from over 1 million gallons to less than 50,000 gallons actually needed to be pumped. The pretreatment and discharge to Palo Alto wastewater treatment plant was also successfully completed on Friday. Further good news is that all of this was done ahead of the golf course completion so that no future interruption of play will occur. Obviously our course is closed. We were extremely concerned about the financial impact this construction schedule, if it had been delayed, could have on that capital



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project. That's good work. Also, some other good news coming out of what else, the Public Works Department. Kudos to Public Works who completed the road maintenance work on Embarcadero Road a week ahead of schedule. That was maintenance and cleaning work that began on Monday, November 28, between Emerson and El Camino and was expected to take two weeks, but our crews finished it in time for the morning commute on Friday, December 2nd. As you will recall, this was necessary to clean up and deal with the dirty and unsightly problem coming from hundreds of pigeons living in the I-beams underneath the Caltrain tracks. Due to continual maintenance and cleanup costs, the Public Works Department installed bird netting during the closure period to deter birds from roosting in the structure in the future. Now is the season. Another reminder to prepare for winter storms and flooding. Staff from the City's Public Works Department and Office of Emergency Services will be hosting a sandbag day on Saturday, December 17th, from 9:00 A.M. to noon in front of the City Municipal Services Center that's at 3201 East Bayshore Road. The City's three sandbag stations are stocked for use by our residents. For storm and flood preparedness tips and storm-related web resources and phone numbers, please visit [cityofpaloalto.org/storms](http://cityofpaloalto.org/storms). We kicked off the holiday season with the sixth annual Tree Lighting last weekend at Lytton Plaza. The Mayor was on hand to start the festivities, which included carolers and a lot of fun activities for kids and families. It was a nice way to start our holiday season. Finally, adding to what was kind of an unpleasant weekend on a lot of levels, we had some traffic problems last Thursday in town, which I know the Council heard a lot about. First off, the day started with an accident early in the morning involving a dump truck on Dumbarton Bridge, which caused a haz mat incident, caused significant traffic delays throughout the Bay Area including Palo Alto. Later in the day at 4:56 P.M., a truck traveling eastbound on the Dumbarton Bridge broke down, became disabled and generated an extensive traffic backup. Although the truck was moved in less than an hour, traffic congestion throughout the Peninsula and Palo Alto remained heavy until 8:30 P.M. Our 24-hour dispatch center received two calls for service. Those were just reporting erratic driving behavior in the area of the afternoon backup. We also received a couple of inquiries on Twitter, asking about the source of delays. We got a lot of concerns about why our Police Department wasn't out and looking at directing traffic. The Chief and his team are doing a complete review. This is a time of day where we have typically just about six folks on shift Citywide. I'm not making any excuses. I'll give the Council a fuller report. We need to realize that attempting to direct traffic in a regional traffic jam presents some complications in our ability to be able to move traffic across different areas. I'll give the Council a full report. We will also look to improvements that we can make in the future. Something tells me this isn't the last traffic jam that we're going to have in our region. As to channels that people can tune into

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to obtain some of those updates and how we might better use some different traffic applications available for smart phones and other means of communication, just a beginning, but I'll give the Council a fuller report. That's all I have to report.

Mayor Burt: Thank you.

## Oral Communications

Mayor Burt: We will now move onto Oral Communications. Our first speaker is Ken Horowitz, to be followed by Pam Warrior. Welcome.

Ken Horowitz: Thank you. Ken Horowitz, I live on Homer Avenue. I'd just like to give you an update of what's going on. You've heard me a number of times talking about 755 Page Mill Road. It was a little over 2 years ago that nearly 100 citizens and myself were here telling you about the closing of the Page Mill Y. Today, I went to visit that site, Page Mill 755. I'm sad to say that even though the owner, the manager of that particular site is devoting some of that space—it was a 15,000-square-foot recreational center. He's converted about a third of it to offices, and the remaining two-thirds is going to be a fitness center, but it's going to be private. It's sad to say. The other part I wanted to talk about, which I think Vice Mayor Scharff talked about, is Planned Communities (PCs). That particular site, which was the corner of El Camino and Page Mill Road, back in the late '70s was zoned for a Planned Community. It was kind of interesting. They were given a huge amount of space there for offices, administrative offices, etc., but at the same time they were also going to provide some uses for the public. There was supposed to be a restaurant there. There was also supposed to be a 300-guest-room hotel at that particular site. Of course, there was the recreational center. Unfortunately, now the only thing left for a Planned Community is the theater. That theater I know the Council saved it for a couple of years, but that may not be something that will be longstanding. The thing I get from all of that is that I think Planned Communities are great, but they need to have more teeth associated with them and enforcement, etc. If there was more teeth put into them and more enforcement, we'd probably have a hotel there. I know the Council talked about that at last meeting, about the benefits of a hotel there. I also think that the recreation center, which served for many, many years, since 1979, would still be available to our residents. I thank you for your time. I haven't given up hope, Manager Keene, that maybe someday that particular recreation facility, which is a fitness center—unfortunately the owner said that he's only going to lease it or allow the tenants of the building to use it. I hope someday that he'll change his mind and open it up to the public. Thank you for your time.

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Mayor Burt: Thank you. Our next speaker is Pam Warrior, to be followed by Lynn Krug.

Pam Warrior: Good evening, Mayor, City Council. My maiden name was Wong, so I'm a long-term resident, actually a former resident. I was born in Palo Alto and work in Palo Alto. I moved out to Mountain View. I work for VCA, Palo Alto Animal Hospital, which is on El Camino. Like I said, I'm married to William Warrior, who is a long-term employee for the animal shelter. If you outsource this shelter, you will reduce any of the revenue for the City. Like I said, the City means a lot to me. Outsourcing it removes the money. This shelter, like I said, there's no reason for giving money to somewhere else, like I said, Redwood City or to any other place. If you retain the money, this allows the community businesses around to help out and raising money for it. Retain the money within Palo Alto such as allowing a cat café, like Ada's Café, to have a coffee cart over there. That will help bring in money. There's a lot of money out there for VCA. If you reach out to these communities, like I said, you'll retain the money and keep the money within Palo Alto. Thank you.

Mayor Burt: Thank you. Our next speaker is Lynn Krug, to be followed by Stephanie Munoz.

Lynn Krug: Good evening, City Council Members. I, like many of you, come from originally private industry. I know the directive across the City has been amongst many managers and—I'm not sure—originating from you to reduce headcount and contract out. I find that perplexing because we are a diversified industry. We aren't like you or I may have come from, a single industry. Making blanket statements or plans to contract out across the board without really thinking about what is innovative. What is innovative is not top-down management. What is innovative is building a team, building an organization, looking up from our cell phones and trying to participate to actually acknowledge that this is something our community wants and needs. It takes a lot of courage for somebody like Pam to come here. Theater and arts people are used to fundraising. We're just getting this off the ground. We fully intend to address fundraising, organizing around our organization and others to get this off the floor. We're here tonight to save our shelter. We're working to have the Palo Alto animal shelter remain a community animal shelter. We have employees who work there now, who do great work. Why would we pay someone else to do that work? Why would we not support our team? Innovation comes with support and dedication. We believe we can organize and raise money through the efforts of our volunteers and building on their work which they've now started. At this time, the volunteers have now begun a pet pantry, and we are now working towards fundraising efforts and a blind auction. We are capable of

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giving visibility and action with your endorsement and help. We're asking you to seriously consider not contracting out and to keep Palo Alto's animal shelter a Palo Alto community animal shelter and acknowledge the great work of the employees who work there now. Thank you.

Mayor Burt: Thank you. Our next speaker is Stephanie Munoz, to be followed by Mark Mollineaux.

Stephanie Munoz: Good evening, Mayor Burt and Council Members. You know Measure A passed, and that's a great thing. There was a remark by a very respected person who has been elected to the Council. Since she got a lot of votes, I think we should really pay attention to what she's saying. I respect her, but I think she's wrong. She says we can't expect to house everybody. Yes, we can. That's the responsibility of a civilized city, that everybody will have some kind of shelter from criminals, from cold and the elements in general and some place to perform bodily functions. I think everybody should have some kind of shelter, not necessarily a palace. I think that we should look at what the resources are and use them very wisely. First of all, Measure A is not the only Measure A. There's something I might call Measure A1. That resource is the power of the City Council selectively to enforce ordinances, which you do all the time. You often make exceptions to the setbacks, to the height, to the this and to the that. If you judiciously use these exceptions to make it possible for people to have their own place, I think that will be very well done. What I mean by that is older people—I'm one of them—do not need a family room, a dining room, a game room. They need a room like a hotel room. You can make it possible for everybody who has Social Security to live in a place with 200-square-foot rooms. I believe that it will be acceptable. This is the new thing. I believe it will be acceptable if you have them all with a façade of a very large balcony which is gardenized. If the City were to take an interest in these gardens, like they would have the equivalent of a green wall, that would be attractive to the other people in the City. I hope that doesn't sound silly. It seems to me that a great deal of your housing efforts have gone toward making low-income housing look really nice, so it will blend in with high-income housing. Isn't that true? Thank you.

Mayor Burt: Thank you. Our next speaker is Mark Mollineaux, to be followed by Larkin Lapides.

Mark Mollineaux: Hello there. My name is Mark Mollineaux. I graduated from Stanford, and now I live in Redwood City. Last week I spoke several times here to the Council about the nature of Proposition (Prop) 13 and its effects on Palo Alto, how it has led Palo Alto to, despite its best efforts—they do try very hard—it still leads Palo Alto to contribute to pollution and it

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leads Palo Alto to prevent affordable housing. Just a day after I spoke last week, the website Trulia produced a report. The report was called *Winners and Losers from America's Legendary Taxpayer Revolt*. This talked about the effects of Prop 13 almost 40 years later. It talked about overall effects. \$12.5 billion go to subsidies for homeowners each year through Prop 13. It also looked at a city-by-city basis. They looked at all cities in California with a median effective property tax rate. Palo Alto was last. At 0.42 percent, Palo Alto pays less taxes effectively than any other city in California. I find that pretty surprising. It's certainly an incredible statistic. I find it surprising because I feel it's a progressive value to support government programs and support taxes that support these government programs. I find it surprising because Palo Alto draws great value for its land and its homeowners from its placement in the region with its other communities. Yet, it depends upon the other communities to pay for its programs. The schools are paid by Sacramento instead of local taxes. Even my income taxes go to pay for Palo Alto schools. I find that surprising. I just have to feel that Palo Alto in general has a general feeling of fairness and knows in its best interests it would thrive by having a more fair system than the unfair system of Prop 13 we have now. To go back to the effects on affordable housing in the Bay Area, I just want to draw on the fact that it is not a minor issue. Friends of mine also Stanford graduates have been forced out to the East Bay. You may have heard of the Oakland warehouse fire that happened this Friday. Good friends of mine lost good friends of theirs in the warehouse fire. No one wants to live in slum lord run places. No one wants to live in places that aren't up to Code, but people do it when places like Palo Alto are forced by systems like Prop 13 not to make affordable housing. I think it's about time Palo Alto takes it seriously and supports reforming these systems. A repeal of Prop 13 would really be good for fairness in the community. Thank you very much.

Mayor Burt: Thank you. Our final speaker is Larkin Lapides.

Larkin Lapides: Good evening. I'm Lark, and I'm going on 10 years as a Palo Alto animal services volunteer. I have seen firsthand the dedication and commitment of the Palo Alto Animal Services (PAAS) Staff, both to the animals who come to them and to the folks who come to adopt, to bring in an animal in need of care or shelter or sadly to relinquish an animal, often a sick or older animal, that they can no longer care for. All are taken in. Palo Alto should be proud of these folks and their service. Give them and their supporters a chance to create a plan that allows Palo Alto Animal Services to remain Palo Alto. Thank you.

Mayor Burt: Thank you.

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## Consent Calendar

Mayor Burt: We will now move onto the Consent Calendar. Do we have a Motion to approve?

Vice Mayor Scharff: So moved.

Council Member DuBois: Second.

**MOTION:** Vice Mayor Scharff moved, seconded by Council Member DuBois to approve Agenda Item Numbers 3-7.

Mayor Burt: Motion by Vice Mayor Scharff, second by Council Member DuBois. Council Member Holman.

Council Member Holman: I believe City Attorney had some comments to make about Item 5.

Molly Stump, City Attorney: Yes, thank you, Council Member Holman. Just to clarify. The attachment, the City list of filing categories for City officials is not a comprehensive list in that it includes only the local additions to the preexisting list that's a part of State law, that include for example all Council Members, the City Manager and myself as your City Attorney as well as the Planning Director and Planning Commissioners. Certain categories of folks are specified under State law and are requirements of State law. This attachment is the additions that the City makes to that process.

Council Member Holman: Thank you very much.

3. Approval of a Budget Amendment in the Electric Fund to Complete Conversion of Overhead Electric Facilities to Underground for Capital Project EL-11010 Underground Utility District 47 Increasing the Project From \$2,346,000 to \$2,946,000; and Finding of CEQA Exemption Pursuant to Guideline Section 15302.
4. Approval of a Contract With Professional Account Management, LLC, in an Amount Not-to-Exceed \$130,000 per Year for Five Years for the Handling and Processing of Parking Violations and Approval of Budget Amendments in the General Fund.
5. Resolution 9648 Entitled, "Resolution of the Council of the City of Palo Alto Amending the Conflict of Interest Code for Designated City Officers and Employees as Required by the Political Reform Act and Regulations of the Fair Political Practices Commission and Repealing Resolution Number 9471."

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6. Approval of a Contract With Peninsula Corridor Joint Powers Board in the Amount of \$76,380 for 2017 Caltrain Go Pass Program.
7. Approval of a Contract With TetraTech in an Amount Not-to-Exceed \$170,000 for a Period of Five Years for Emergency Operations Planning Support.

Mayor Burt: Thank you. Let's vote on the board. That passes unanimously on an 8-0 vote.

**MOTION PASSED: 8-0**

## Action Items

8. Resolution 9649 Entitled, "Resolution of the Council of the City of Palo Alto Approving a Carbon Neutral Natural Gas Plan to Achieve a Carbon Neutral Gas Portfolio by Fiscal Year 2018 With no Greater Than 10¢/Therm Rate Impact and Terminating the Palo Alto Green Gas Program;" and Provide Direction to Staff Concerning Aspects of Plan Implementation.

Mayor Burt: We now move onto our first Action Item, which is a Finance Committee recommendation that the Council adopt a Resolution approving a Carbon Neutral Natural Gas Plan to achieve a carbon-neutral gas portfolio by Fiscal Year 2018 with no greater than 10 cents per therm rate impact and terminating the PaloAltoGreen Gas Program and, two, provide direction to Staff concerning aspects of the plan implementation. Mr. Shikada, you're taking over?

Ed Shikada, Assistant City Manager/Utilities General Manager: Yes, very good. Thank you, Mayor and members of the Council. Actually Karla Dailey, Senior Resource Planner, will report out for Staff.

Karla Dailey, Senior Resource Planner: Good evening, Council Members. I'm Karla Dailey. I have a short presentation for you this evening. The Agenda just quickly in front of you. Just to give a little bit of background on how we got to where we are tonight. The Council-approved gas utility long-term plan has a number of strategies and objectives. Strategy Number 4 says reduce the carbon intensity of the gas portfolio in accordance with the Climate Protect Plan by designing a voluntary program using reasonably priced, non-fossil fuel gas resources and by purchasing non-fossil fuel gas for the portfolio as long as it can be done with no rate impact. Staff did design and Council did approve a PaloAltoGreen Gas program. It was modeled very closely after the PaloAltoGreen program as a voluntary opt-in. The current participation in that program is about 4 percent of residents,

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100 percent of City facilities. That's about 6 percent of the City's overall gas demand. We supply that program with environmental offsets with a preference for California projects. A number of months ago, we had a conversation with the UAC about PaloAltoGreen Gas and presented some pros and cons of leaving that program as an opt-in voluntary program or converting it to an opt-out voluntary program. At that same discussion, put on the table an alternative to scrap the voluntary aspect altogether and move toward a carbon neutral gas portfolio, which the UAC really liked. That was how we moved forward with designing a carbon neutral gas portfolio plan. Natural gas use in 2015 accounted for about 27 percent of the City's greenhouse gas emissions. You can see that as the electric portfolio has become carbon neutral, the most significant contributor is still transportation, but natural gas is by no means insignificant in the contribution of greenhouse gases. Just to set the stage for the discussion that will happen this evening. An environmental offset—so that everyone has the definitions, that we're all speaking on the same terms—is a reduction in emissions of CO<sub>2</sub> or other greenhouse gases made in order to compensate for or to offset an emission made somewhere else. As an example, installing a manure management system on a dairy farm that reduces methane emissions will generate offsets. The California Air Resources Board, CARB, has a number of protocols that provide robust methods to quantify and report on these reductions. Another term that will probably come up in the discussion this evening is biogas, and that is methane produced from the decay of organic matter. A dairy farm that is generating offsets by preventing methane from entering the atmosphere can also be selling that biogas as a renewable resource. The price of biogas right now is driven by the Federal Renewable Transportation Fuel program, and it's quite costly compared to offsets, about 28 times more costly. The original Staff recommendation that was made to the UAC and then to the Finance Committee included biogas in the portfolio, in that proposal. Staff estimated that for a 10 cent per therm rate impact, we could incorporate about five percent biogas into the portfolio with the remaining being covered by offsets. That was the original proposal that went to the UAC and Finance, not the proposal that's before you this evening. Also, when we spoke to the UAC and the Finance Committee, we laid out a number of different portfolio combinations of offsets and biogas and presented what the rate impacts would be for those different portfolios. I'm not going to spend time going through them, but they are in the report for you. Rate impact. I think it's important to talk about the difference in the rate impact situation for the electric carbon neutral portfolio versus a gas carbon neutral portfolio. For the electric portfolio, because of the RPS requirement and the large hydro supply in that portfolio, becoming carbon free was not as much of a leap as it is for gas, so the rate impact was relatively small to move to carbon neutrality for the electric portfolio, about 1-2 percent and then almost zero



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after 2016. The gas portfolio on the other hand is 100 percent fossil fuel. There are no renewable requirements. One would expect that the rate impact would be a bit more than a 10 cent per therm rate impact, which was again the proposal that went to the UAC and Finance. That incorporated some biogas in the portfolio and is about a 10 percent rate increase. A 4 cent per therm, which is Staff's estimate of what it would cost to use just offsets, is about a 4 percent rate increase. There's a table at the bottom of the slide that shows Palo Alto's gas rates relative to PG&E's. You can see that on a volumetric basis the Palo Alto rate is significantly lower than PG&E's. We also generated this graph to show you, because Palo Alto has a fixed charge associated with our gas rates, that it's important to look at different usages and where our rates differ from PG&E's. You can see that at about 20 therms per month in the winter time is when we break over as being less expensive than PG&E. An average customer's winter usage is more like 50 therms per month. On the other hand, in the summer we're actually a bit more expensive than PG&E. The Finance Committee voted 2-1 to recommend the following: approving a resolution that approves the Carbon Neutral Plan and terminates the existing voluntary program. They additionally directed Staff to develop an implementation plan; provide an option for Council to consider prioritizing local offsets and prioritizing maximizing carbon reduction within the 10 cent per therm rate impact cap—staff interpreted this to include the following steps—implement a 100 percent carbon neutral gas portfolio by FY '18; spend no more than 10 cents per therm but only buy enough offsets to cover the gas burned here in Palo Alto, which is really expected to cost about 4 cents per therm; use high quality environmental offsets as we currently do for the voluntary program; do not purchase any biogas; and the environmental offsets would prefer California projects only if the cost is equal to non-California and prefer local projects if such a project can be developed by Staff. We would need to return to Council to determine whether a premium above market is warranted for those local projects. Based on how Staff has interpreted the Finance Committee's direction, this is the recommended resolution before you tonight: to approve the Carbon Neutral Gas Plan; terminate the voluntary program; and then direct Staff to do the following things: develop an implementation plan for the program; prefer offsets from California projects if it's price competitive; minimize the cost to achieve carbon reduction within the 10-cent per therm rate impact cap; return to Council so that it can determine the acceptable premium if any to be paid for local offset projects; and consult with stakeholders on potential methods to fund alternatives to offsets including methods involving voter approval. Our next steps are to get your direction this evening; revise the resolution, if needed; execute enabling agreements to purchase offsets; develop new rate schedules for your approval; revise Gas Utility Long Term Plan (GULP) because, if you remember at the beginning of the presentation, GULP is

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inconsistent with any rate impact to customers for carbon neutrality; and then communicate with the current voluntary program participants to let them know that that program would be terminating. That concludes Staff's comments.

Mayor Burt: Thank you. Before hearing from members of the public, we can ask technical questions of Staff. Does anyone wish to kick this off? Council Member Kniss.

Council Member Kniss: Let me ask the question—I was just searching through my emails and see if I could find some of the inquiries that came in, dealing in particular with offsets. I think offsets are not well understood. Maybe you can go into that a little further. As somebody wrote, if I could find the exact quote, doesn't this really excuse somebody else in some other part of the world for what may be happening there? I think offsets are not—as I said, I've not clearly understood. I see your examples. I just want to hear it in everyday language.

Ms. Dailey: An offset excuses what is happening in Palo Alto by reducing greenhouse gas emissions somewhere else. That's the concept of an offset.

Council Member Kniss: Can you go a little further in that?

Ms. Dailey: If there's a project somewhere else that is preventing greenhouse gases from entering the atmosphere, then natural gas can be burned here instead. The example that I gave of a dairy farm preventing methane from going into the air generates an offset. We purchase that offset in—TerraPass is a pretty well-known offset program that you may remember. They had a lot of popularity a few years ago where people would buy offsets from TerraPass to compensate for the gasoline burning in their vehicle and put a TerraPass bumper sticker on the back of their car. Same concept.

James Keene, City Manager: Council Member Kniss, could I jump in? Just since you asked that.

Council Member Kniss: Please. There are those that think this is a feel-good kind of option instead of a real option.

Mr. Keene: I'm just giving my perspective on it. It's more of a layperson's perspective. Some folks may agree or not agree. One simple way to think about it is for each one of us, say, air travel is one of the most carbon intensive things that we do. I can fly some place, and I could buy an offset that would in a sense green-up the trip that I took. That being said, the airplane I was flying in was still putting carbon all into the atmosphere. This

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is the disconnect that can exist. Are we really changing our behavior by having offsets? On the other hand, I think the City has demonstrated that offsets are a step from just burning carbon to moving to a carbon-free setting. The Staff recommendation here even on offsets, as I understand it, and the Finance Committee is to make a step in greening up our portfolio along the way to allow for the use of offsets while we're also looking at more permanent changes that would not be offset heavy.

Council Member Kniss: I understand what you're saying. I understand the intent for sure. If there were comments that I saw repeatedly coming in on my email, that was one of them. Maybe somebody in the audience will give a much better explanation or one that's more a sidewalk explanation as we go forward tonight.

Ms. Dailey: One of the things that we currently operate under for the voluntary program is to use only California Air Resources Board approved protocols, verified projects. The intent of that is it's very well documented that whatever greenhouse gas reduction was truly additional to what that operation would have done without the money for the offset.

Mayor Burt: Thank you. Council Member DuBois.

Council Member DuBois: Hi. Can you talk about the process a local entity would have to go through to qualify to provide offsets?

Ms. Dailey: Again, the CARB has a number of protocols that spell out in detail what constitutes an offset project. One example would be an urban forestry project. I'm not an expert on the details of how to certify an urban forestry project, but it has to be additional to what would have happened under normal operations of a City or whoever might be planting the trees. The trees have to stay in the ground for some certain number of years, stay alive for some certain amount of time. There's a lot of rules about what constitutes an offset project. Should the City, for example, decide to certify an urban forestry project, they would have to meet all those protocols laid out by CARB.

Mr. Shikada: If I might add, Council Member. I think it's fair to say from the Utilities Department's perspective, we've done a relatively lite review of the steps involved with actually certifying a project. I know that Public Works urban forestry is looking into the potential to develop a certified project. As Karla pointed out, my understanding is both the planting that needs to be evaluated in terms of its carbon benefit as well as maintaining the trees, in this case, for 25 years. There is a specific protocol that's involved. The City could look further into developing a certified project if that's something that the Council wants to pursue.

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Council Member DuBois: Do you think we'd be able to be certified ourselves and use the money for our projects?

Mr. Shikada: Base on an initial read of the documentation, it does look like the protocols set up for a city or a utility to take on—we really are not ready to say what would be involved much less whether it would be cost effective at the scale of a Palo Alto project and in comparison to the market price of carbon offsets. Those are the kinds of issues that we'd want to look more deeply into.

Council Member DuBois: A different kind of question. We're looking at increasing gas rates of 4-10 percent. What would be the impact on low-income or fixed-income consumers? Would they actually pay less than that?

Jane Ratchye, Utilities Assistant Director: We would have to increase the rate for everyone. We can't have the low-income folks be excluded from it. We do have low-income programs that they can be eligible for. What's it called? Residential Energy Assistance Program, REAP. We go and do weatherization and provide free furnaces and appliances like refrigerators to reduce the usage. There's also programs where they do get a discount on electric and gas bill. The rate would go up ...

Council Member DuBois: Not tied to the increase?

Ms. Ratchye: The bill would go up, and they'd be subject to that too.

Council Member DuBois: Thanks.

Mayor Burt: Council Member Schmid.

Council Member Schmid: One of the discussions at the Finance Committee was the problem of doing local offsets especially in those areas where the greatest value seems to be, cooking, heating, local purchases of electric cars, that Prop 216 or 26 form a legal barrier to take a Citywide utility cost and benefit single individuals. Maybe it's a legal question. Is there any possibilities over the next couple of years of there being cases or interpretations that might allow a greater freedom for utilities to utilize their funds?

Molly Stump, City Attorney: Thank you. It's a broad question. City Attorney Molly Stump. California Constitutional Amendment Proposition 26 does apply to gas and electric rates and sets some basic requirements. It doesn't drill down to the very specifics that we may want to explore here. We are working to understand various innovative ideas and how they might apply under the law. Under the California Constitution, voters also have the

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ability to ratify a program and essentially pass it as a voter matter. That will enable a lot more flexibility in areas where we may be limited otherwise.

Council Member Schmid: Thank you.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. I'm trying to phrase this question. One of the recommendations you have here is prefer California projects if cost equals non-California, prefer local projects. I clearly get preferring local projects as a separate value. Is the overarching value to reduce greenhouse gas emissions? Do the people rank it like—this is really my question. If you rank these carbon offset programs, do they say this one reduces greenhouse gas emissions by this for this amount of money and this one reduces this amount? What do they look like when you go out to the market to buy them?

Ms. Dailey: It's a dollars per ton. It's a market clearinghouse.

Vice Mayor Scharff: If something is in California and something is in Nebraska, for instance, it makes no difference. It's just a market price. We could buy in California and it wouldn't be that we could get better bang for our buck in Nebraska or anywhere else like that. It's just a pure market on what you get.

Ms. Dailey: That's correct.

Vice Mayor Scharff: Can you choose between California—they'd be the same price then, the California ones and the Nebraska ones, right? The California and the non-California, why don't I just say that?

Ms. Dailey: I see where you're going. Yes, they should be the same price, but there's not always a California project out there and available. If there happened to be one in California, we would buy that one.

Vice Mayor Scharff: If not, we wouldn't. That's what that means?

Ms. Dailey: Correct.

Vice Mayor Scharff: I got that. There's a group that certifies. What's it called? The California Air Resources Board (CARB), is that it? Who certifies? Who makes sure this is a high-quality, real thing that we're buying, that's really reducing greenhouse gas emissions?

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Ms. Dailey: CARB certifies the protocols, all the steps that a project has to go through. We would hire a third-party verifier to make sure that what's supposed to be happening out in the field is actually happening.

Mr. Keene: Just so we're clear for the public, that's the California Air Resources Board.

Vice Mayor Scharff: In terms of biogas, just briefly, I see that there's a Federal—I saw it somewhere in here. Where is it? There's a mandate to buy biogas by the renewable transportation. That's a Federal mandate, is that right? That makes it 21 times higher, the price, for that. Is all the biogas that's produced bought? It must be at such a high price.

Ms. Dailey: Yes, but there are new projects coming online all the time.

Vice Mayor Scharff: What does a biogas project look like?

Ms. Dailey: More often than not it's a landfill.

Vice Mayor Scharff: It's landfill gas?

Ms. Dailey: Mm hmm.

Vice Mayor Scharff: Is biogas the same thing as landfill gas projects?

Ms. Dailey: Yes.

Vice Mayor Scharff: It could be landfill gas, and it could be dairy. Are most of the big ones landfill gas? I was just trying to get a sense of what these ...

Ms. Dailey: Most of the big ones are landfill gas.

Vice Mayor Scharff: There's two ways then to do landfill gas. What they do is they burn the gas to produce electricity, which they sell into the market, or you can actually collect the gas and sell it as biogas.

Ms. Dailey: That's correct.

Vice Mayor Scharff: From an environmental greenhouse gas emissions perspective, do we care which one they do?

Ms. Dailey: Do we as Palo Alto care?

Vice Mayor Scharff: Let's assume our value is the least greenhouse gas emissions, and that's our overriding value. Is there a difference in which creates more or less greenhouse gas emissions if we produce electricity or if

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we bottle this up? I don't know what we do. Do we have a pipeline that goes to a natural gas? I assume it goes into the natural gas grid wherever it is.

Ms. Dailey: Right. If we, Palo Alto, were going to buy it, we would do some sort of exchange where we would actually buy gas closer to home and we would swap it with gas somewhere else. We wouldn't physically move it from a landfill in Wisconsin or wherever to Palo Alto.

Vice Mayor Scharff: My question is about incentives. My question is whether or not we buy this gas or not, it's not going to make a huge difference. The question is what are we incentivizing. Are we incentivizing taking this and doing it as gas or burning it onsite and creating electricity? Which is better for the environment? If we're buying the gas from landfill gas rather than buying the electricity, we are saying we have a preference and we think that's the environmental preferable alternative as opposed to having them create electricity out of it. I was asking which one we think is better. I remember the Sierra Club had huge issues with landfill gas period. There was a whole bunch of stuff they wrote about it. I remember we had these arguments, and we talked about not buying any more landfill gas projects for our portfolio. I don't know if you recall those discussions or not.

Ms. Ratchye: As I recall the arguments against the landfill gas projects, that was where we had an electric generator sited right at the landfill, they didn't like the idea of having recyclables or other things that would ultimately break down into methane brought into the landfill at all. They felt like there was some incentive to continue to put things like paper and things that would ultimately break down rather than recycling them and getting them out of the waste stream. That was one of the big arguments against the landfill gas (crosstalk).

Vice Mayor Scharff: That would be the same with biogas from a landfill. You'd have the same argument I assume. My question was which is preferable. Maybe we don't know from an environmental point of view.

Ms. Ratchye: Once you destroy it by burning it, it's equal environmentally. It's really bad if you let the methane just go up into the atmosphere.

Vice Mayor Scharff: Clear enough. I think we should check on that, because there may be issues involved in distribution and collection and how that all goes into that makes a difference in Greenhouse Gas (GHG) emissions. If we're going to try and set an example—this is really what this is. This is not going to make that much difference in greenhouse gas emissions from what we use. It's much more of what is best practices here for the rest of the world to look at, frankly, if we're going to put it in those terms. I think we

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should understand the impact of what we're doing and why we're doing it on a more granular detail when it comes to biogas. I know we're not looking at purchasing biogas under the Staff recommendation, but that may come back to us at some point, and I think I'd like to understand biogas a lot better at that point.

Mr. Shikada: If I might comment. Your point, Vice Mayor, is relevant to other potential offsets to the extent that you're pointing out some of the issues associated with the life cycle costs and/or life cycle impacts of delivering, whether it be the gas itself or offsets. I think that's part of the certification process or at least the development of the protocols that lead to certification that would be involved in this case whether it's CARB or some other certifying body. In the case of biogas, if we were to pursue that, those same issues of how far you chase the analysis would be relevant.

Vice Mayor Scharff: Thank you very much.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I'm looking at Slides 12 and 13. A couple of questions. I should remember because I was there. Did we specifically say that we preferred California over non-California as a recommendation at Finance Committee?

Ms. Dailey: Slide 11 shows the Finance Committee's Motion.

Council Member Wolbach: That's what I thought. Secondly, on Slide 13 when it says—maybe it was ... It's also on Slide 12. This question of at current offset prices it's 4 cents a therm to buy enough offsets to have a completely carbon neutral gas portfolio. Correct?

Ms. Dailey: Correct.

Council Member Wolbach: We said we were comfortable with a rate impact up to 10 cents per therm. Correct?

Ms. Dailey: Correct.

Council Member Wolbach: Is it possible to have the rates go up by 10 cents a therm and use the difference between the cost of full carbon offset and 10 cents a therm for other improvements such as efficiency improvements at properties in Palo Alto as long as it's available to all Palo Alto residents or all ratepayers? I think that's (crosstalk).

Mr. Shikada: Let me take a crack at that. I think that's a compound question. Karla or Jane could kick me under the table if I go astray here.



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There are a few pieces to that. One is there's a bit of a conflict between using the 10-cent rate and minimizing—as stated here, purchase the lowest cost environmental offset. There's that gap between the 4 cents and the 10 cents that we were trying to reconcile. That's one. The other is what any increase in revenue could be used for. As the City Attorney pointed out, our assumption, the baseline, is that we're operating within the bounds of Prop 26, which says that we effectively could only use those funds—the funds are for the delivery of this service. Again, a bit of a conflict for us in identifying uses that would justify—this is not stated correctly—the additional revenue. That's where we have been challenged to identify a way to meet all of the elements of the Finance Committee's recommendation, which is where we took a stab on Slide 13, as you pointed to and as the City Attorney pointed out and Council Member Schmid, in looking at the potential value of taking a little more time in evaluating what some of those options would be. The last recommendation including consulting with stakeholders on methods to fund alternatives to offsets including methods that could require voter approval is where we took that extra step of saying, "I don't think we're quite ready to definitively state what those uses would be." We might suggest some additional analysis and some additional time to identify what those options and paths forward would be.

Council Member Wolbach: I just want to make sure I really understood. Basically we can look into that and we're not sure yet, but we're able to investigate that question for the future.

Mr. Shikada: Correct.

Council Member Wolbach: Thank you for clarifying.

Mayor Burt: Let me follow up on some of those questions on other uses or other sources of funds to be able to achieve some of the objectives that we might have to reduce our natural gas use in the City. First, we have a certain amount of leakage loss, correct? Refugee gas. Could we use these funds for that purpose? Serving every ratepayer equally presumably because they would get not only the environmental benefit of not having a high impact greenhouse gas emission from methane going directly to the atmosphere, which has far greater impact than CO<sub>2</sub>. They would also get some return on that investment basically because we're right now paying for every amount of that gas that leaks. Could any of these funds between what the Finance Committee authorized up to the 10 cent a therm impact and the four cent that it would perhaps cost us for the offsets used for that purpose?

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Ms. Dailey: You're asking if we could use money to fix more leaks than we're fixing now.

Mayor Burt: Correct.

Ms. Dailey: We can certainly look into that. I would assume we're fixing all the leaks that we find already.

Mayor Burt: I'm sorry?

Ms. Dailey: I'm assuming that we're already fixing leaks that we know about.

Mayor Burt: I don't know how many we know about. What's the balance between the amount of gas that we acquire wholesale and what we sell? I thought there was a gap between them.

Ms. Dailey: There's a gap definitely. Not all of that is leakage; some of it is billing errors, metering errors, that sort of thing. Actual leakage ....

Mayor Burt: Have we done—what's the company that—Pissarro has the mobile monitoring of methane emissions. Have we surveyed how much leakage we have going on in the community?

Ms. Dailey: Yes. We do an audit. I don't know the number off the top of my head, what leakage is off the top of my head. You're right. There is some leakage.

Mayor Burt: I assume that there is some greater effort that we could take. It may be that on a pure—outside of this issue, we might have one economic analysis that says for every dollar we spend to detect a leak, we only save 80 cents of gas, hypothetically. When we put it in this context, then we're saving significantly on greenhouse gas emissions. Methane is 20 percent times more impactful than CO<sub>2</sub> on ...

Male: Twenty-nine (inaudible).

Mayor Burt: Twenty-nine I'm hearing. Do we go for 30? That ...

Female: (inaudible)

Mayor Burt: I'm sorry? I'll let people—in the public comments, they'll let me know the correct number. Let's just say it has a very significant greenhouse gas impact from any of those refugee emissions. My question was is there anything that restricts us—under Prop 26, would we be able to spend the dollars for that purpose?

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Mr. Shikada: I believe we could.

Mayor Burt: Second, we currently get cap and trade dollars back to the City. Can you explain, to the best you're prepared to tonight, how many dollars those are and how they are restricted and whether any of those dollars potentially could be used for purposes of either efficient electric appliances that, by the way—also if they were replacing gas stoves or gas hot water heaters or gas dryers whether those funds either from a gas cap and trade fund or electric cap and trade fund could be used toward our electrification objectives? I'm assuming that we have greater discretion on their use than we might on these funds. I guess that's another clarifying question I would have. Do we in fact have greater discretion?

Ms. Ratchye: There are rules around what you can use that money for, and those are from CARB. We do get maybe \$4 1/2-\$5 million a year on the electric side from the sale, which we're required to sell the allowances that are provided for free. We don't know if this program will persist after 2020. On the gas side, we get some, but we also have a compliance obligation. We have to buy these allowances in the cap and trade auction. It's a cost to us. In fact, we have a little part of the bill that's a rate component where these cap and trade cost. You're saying it's about \$1 million in cost and revenue and on the gas side. On the electric side where we have the \$4 1/2-ish million a year, those funds have to be used to benefit electric rate payers. What PG&E does with them is give it back to electric ratepayers in their bill every six months. Here, according to the policy, we spent it on renewables, efficiency and Carbon Neutral Plan in the electric.

Mayor Burt: We choose to spend it on electricity efficiency; that's directly. If it must go to electric ratepayers—I'm an electric ratepayer. If the City offered me a discount on an electric heat pump or an induction stove or an efficient gas dryer, aren't those funds helping me as an electric ratepayer? If we favored most efficient electric appliances and we did not offer them for less efficient electric appliances, wouldn't that be compliant?

Ms. Ratchye: Not if it's not cost effective. All the efficiency programs we do are cost effective. In other words, it's cheaper for us to do the efficiencies than not, so that benefits all ratepayers whether you participate in the program or not.

Mayor Burt: Cost effective to what end?

Ms. Ratchye: Using the total resource cost test, it's a (inaudible) test. Overall, the total cost is less than the total benefit. You can argue about what might be included on both sides of the equation.

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Mayor Burt: If in Palo Alto I have carbon free electricity and if I'm looking at cost effectiveness of a given subsidy toward reducing greenhouse gas emission, which I assume that's the cost effectiveness standard—is that correct?

Ms. Ratchye: Can you repeat that definition again?

Mayor Burt: You say it has to be cost effective. It's cost effective against what standard? Reducing greenhouse gas emissions? Is that the standard of cost effectiveness?

Ms. Ratchye: It is the total cost, the lifetime cost, of that appliance and all the electricity it uses versus the cost of the gas appliance and the gas it uses or whatever things you're comparing. Whether you want to add an internal sort of extra carbon cost on that, remember the cap and trade program does include the carbon value for electric and gas. It's included in that form.

Mayor Burt: Mr. Keene.

Mr. Keene: If I can jump in. I may be mistaken in what I'm talking about. First of all, I don't think the Council's questions tonight are driving towards a specific resolution completely tonight, but trying to get clear about what can happen in the future. Most of what we've been talking about are potential limitations or restrictions placed upon the City by Proposition 26, which is outside of the City's control. I'm not saying that this is correct, but this chart that I'm reading here says in 2015 it looks we got \$501,000 in revenue through cap and trade stuff related to the gas portfolio. I'm just saying. That's not huge amounts of money to be reinvesting in energy efficiency. Even if it's that number, the Council adopted permissible allowances for the revenue investment in energy efficiency programs for the City's natural gas portfolio and retail customers, a number of options. It sounds to me like our energy efficiency program is our own program, the way we determine what we're going to invest. The reason I bring that up is that's a big difference between our own policies that we've set, that exist for very good reasons but for which the City has complete discretion over and Proposition 26.

Mayor Burt: Let me try to just frame this a little along the lines of what I think the City Manager was talking about. Our traditional energy efficiency programs were we took electricity efficiency and we looked at ways that we could reduce our electricity use. We took our gas and looked at ways we could reduce our gas use. Now, we're looking at a transfer from one energy source to another. The efficiency was to reduce our environmental impact; that was the purpose of the efficiency. If we have a clean commodity of our electricity and a greenhouse gas-emitting commodity of our gas, then we have a new concept of efficiency of switching from dirty gas to clean

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electricity is arguably an efficiency in reducing our environmental impact. I don't want to try to resolve that tonight, but that was the purpose of those questions, to probe whether we can rethink that definition of permissible uses in order to obtain efficiency. They're not just within that bucket. They could be moving from one bucket over to another bucket and might have a far greater efficiency in terms of reducing our environmental impact. I'll just leave that, because this is supposed to be a question session. Final question is I'm trying to understand how various initiatives that we might take would help achieve this electrification objective that we've said we have also. It's in our Sustainability Plan. We now have this next generation of PACE programs, which I don't know a lot about. They supposedly have streamlined and made Property Assessed Clean Energy (PACE) programs more attractive in some ways. I was thinking we were going to be getting from Utilities Department a new global PACE program authorization that allows different providers to have their program more readily adopted in our City. How might that fit in with, say, on-bill financing of some of these appliances and things? Is that another way that we can achieve this outcome?

Mr. Shikada: At this point, I think the limit of what Staff has been working on is the follow-up on the Association of Bay Area Governments (ABAG) authorization that's looked at multiple PACE providers and provide more of a categorical ability for cities to participate in those programs or ultimately residents to participate in those programs. I'm not aware that it crosses over from energy efficiency in solar to gas efficiency per se.

Mayor Burt: I asked one of the providers whether things like heat pumps could be included in these new PACE programs. Their answer was yes, it could. That goes into a question. There's not really a financial contribution that the cities make when they enable PACE programs. Would that be another way that we might be able to promote adoption of the electrification initiatives that we're seeking? I don't know what would be permissible within that context either, either a use of the cap and trade dollars or under Prop 26 any of these dollars. Why don't I just leave that with Staff for the moment? What we're doing is trying to probe ways that we can solve this problem and have perhaps a parallel path between the offsets that we have and what we're talking about of where we go beyond that to begin to achieve the electrification. This is our opportunity to look at direction that we might want to give Staff to follow-up on, not that we would be able to decide these things tonight, as the City Manager said. Let's go to the public. We have a number of speakers. Our first speaker is Sandra Slater, to be followed by Lisa van Dusen. Welcome.

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Sandra Slater: Thank you, Council Members, for the opportunity to address you this evening. Also, thank you for your commitment and all the hard work you do on behalf of our community. To the Staff also for all their hard work on this project. This has definitely been a group effort involving Lisa van Dusen and me as citizens bringing this forward, the UAC, our fine City Staff. Thanks to Jane for your 30 years of service, and to Karla for her work and the Finance Committee. We've been advancing and shepherding this through the various entities. There's been really a unanimous agreement that something must be done to mitigate the harmful effects of natural gas. Natural gas was once considered a great way to wean ourselves off of coal, and as such was touted as the cleaner bridge to a renewable energy future, but we were misinformed. Natural gas is an extremely potent greenhouse gas. In fact, in answer to your question, Mr. Mayor, according to the Union of Concerned Scientists, the drilling and extraction of natural gas from wells and transportation and pipelines results in the leakage of methane that is 86 times stronger a greenhouse gas over a 20-year period. Preliminary studies and field measurements show that these so-called fugitive emissions are just the tip of the iceberg. They occur not only in extraction but in the transporting of gas right here in Palo Alto and even as it travels through the City to our homes and businesses. Karla alluded earlier that about 27 percent of our carbon footprint comes from natural gas, but that doesn't even include the fugitive emissions, which are substantial. The purchasing of high-quality offsets is the least we can do. It's not a panacea, but it is a great step in the right direction. I would support developing local offsets as we've discussed tonight to make our community even more efficient and resilient and hope that you can direct Staff to study this further. You voted last week to adopt the S/CAP of 80 by '30, and I applaud your unanimous decision for that. The green gas initiative supports this effort and will send a signal to Palo Altans that we are using all the tools in the toolbox to reach that goal. The green gas program offers an interim strategy. I'm a firm believer in an all-of-the-above tactic to get to where we need to be. We need efficiency programs, local offsets, fuel switch to cleaner energy sources for our cars and our homes. We need a real tax on carbon, but these things all take time. It's imperative that we increase our efforts on efficiency in fuel switching, finding creative ways to finance and implement these programs through programs like on-bill financing. The Council passed a resolution in 2009 to account for all externalities in the way the City does its business. This helps you fulfill that promise of that resolution. We have as a community decided to be bold. Let's continue down this moral path with a program that moves us in the right direction and know that we're doing as much as possible as quickly as possible. Thank you.

Mayor Burt: Thank you. Our next speaker is Lisa van Dusen, to be followed by Dr. William Conlon.

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Lisa van Dusen: Good evening, Mayor Burt and members of the Council. It's a pleasure to be here tonight after more than a year and a half of hatching and herding this initiative along. We have mandates from all corners to move as swiftly and boldly and nimbly as possible to address Palo Alto's remaining carbon footprint. We've seen on the screen where that lies. When Sandra and I, both members of the S/CAP Advisory Council though we're here as individuals tonight, scratched our chins about mid-2015 about where to best point our carbon-reducing energy, we spotted this initiative as low-hanging fruit, looking at the opt-in green natural gas program and what that could become. Fast forward, we're standing here tonight because we've work with, as Sandra mentioned, all the people involved. Again, I want to just tip my hat to Jane Ratchye's 30 years of service. I have experienced all the things that were said about her tonight personally. It's really been a team effort. It wouldn't be without the City Council, the Finance Committee, the UAC, some members of which are here tonight, Gil Friend and others in the community that we are here. It's gotten better every step of the way, I'd like to just say. Also, the discussion happening tonight is really helpful. It's really encouraging to hear this discussion and all the thinking. Thank you. Thank you for approving that framework and for your commitment. I think that commitment is what's really important here, which is that this is a beginning and this isn't an ending point. I'm hearing that commitment in your discussion and also at the UAC level. This is flexible. As all these things become clearer and there's a lot of work to do, I think this resolution before you can flex with the new technology, the regulations, our local needs and opportunities. It can move along with that. We're also in a position where carbon emissions know no borders. We're sending a price signal that we want to get off natural gas. Just the increase in price alone is powerful. As a number of you have said, we want to lead. Let's not let perfect be the enemy of the good here. Take the action you can take tonight and look to all the ways that we can be more and more serious and local and leaderly in the way that we move ahead in deploying our financial and other resources. You do have an opportunity to communicate to the citizens of Palo Alto as well as to the world that we're not going to stop until we reach and ideally beat our goal of 80 by '30. Keep calm and carbon reduce on. Thank you very much.

Mayor Burt: Thank you. Our next speaker is Dr. William Conlon, to be followed by Frank Wasku.

Dr. William M. Conlon: Thank you. Good evening. My name is Bill Conlon, and I've been professionally engaged in reducing CO<sub>2</sub> emissions since I first learned about the greenhouse effect in 1973. I've been involved in the energy business since receiving my Ph.D. and have decades of experience in power generation including California's largest, single, carbon free electricity

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source, the Diablo Canyon nuclear power plant. I co-invented and commercialized the steam-injected gas turbine for combined heat and power, at the time the most fuel efficient means of converting fossil fuel into useful heat and work. I led the development and commercialization and sale of utility-scale solar power, supervising projects on three continents. I'm the founder and president of Pintail Power, which is revolutionizing the storage of renewable power at the largest scales. I'm a professional engineer licensed in the state of California and a spouse of Utility Advisory Commissioner Judith Schwartz. Despite my qualifications, I'm speaking as a resident of Palo Alto for nearly 35 years. Think globally, act locally. That's the mantra of effective environmental leadership. This measure really turns this mantra inside out. First of all, biogas is virtually the same as natural gas. Any biogas we would procure under this measure or other measures will come out of the same pipeline as before without actually changing greenhouse gases locally within Palo Alto. Globally, this measure would not create a market for biogas, because that market already exists. There's a dire shortage of biogas, and all we could do is worsen that shortage and drive up prices still more. You already know that the price of biogas is unaffordable. As a compromise, we're considering offsets, but offsets will not reduce local fossil fuel emissions. Offsets will not reduce fugitive emissions of methane as the gas production, transmission and distribution infrastructure is unchanged. This measure is about thinking locally while hoping that global action occurs. Instead Palo Alto needs to again take action locally, take leadership locally, and that's things like increasing electrification, teams to go after fugitive emissions from all the accessible natural gas joints in the City, teams working with Fire and Building and Utilities to go after inside building fugitive emissions. Let's set up a program to get people more efficient appliances, and let's keep the existing opt-in program for people who want to do this while we go about the real work of solving this problem. Thank you.

Mayor Burt: Thank you. Frank Wasku to be followed by Bruce Hodge.

Frank Wasku: Good evening, Honorable Mayor and distinguished City Council Members. I am Frank Wasku, Director of Programs for the Clean Coalition. The Clean Coalition is a nonprofit organization whose mission is to accelerate the transition to renewable energy and a modern grid through technical, policy and project development expertise. We, the Clean Coalition, support the Carbon Neutral Natural Gas Plan that has been recommended by the Finance Committee and Staff. The Clean Coalition will also encourage that Council direct Staff to investigate possibilities for using the collected funds for local electrification measures. As you probably know, the Clean Coalition is keen to facilitate local solutions. While the proposed Carbon Neutral Natural Gas Plan relies on remote offsets at the start, Council



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can guide Staff to research the legal and programmatic options for investing in local electrification projects. Key opportunities exist for supporting local electrification measures including prioritizing electric vehicle purchases when fulfilling the City's vehicle needs going forward and incentivizing broad community adoption of electric appliances like heat pumps, induction cook tops and electric dryers. As a case in point, San Francisco has a program that could serve as a guide, collecting funds that are used for local projects. The program I'm referring to is the San Francisco Carbon Fund. This innovative fund is the first of its kind to invest solely in local projects that reduce greenhouse gas emissions rather than large-scale offset projects across the globe. Finally, the proposed Carbon Neutral Natural Gas Plan would, however, also be an important part to meeting Council's aggressive sustainability goal to reduce the City's GHG emissions by 80 percent by 2030. Thank you for your time and consideration this evening.

Mayor Burt: Thank you. Our next speaker is Bruce Hodge, to be followed by Bret Andersen.

Bruce Hodge: Good evening. Bruce Hodge from Carbon Free Palo Alto. I want to take this opportunity to thank Jane Ratchye for her years of service with Utility and her contributions towards establishing a carbon neutral electric utility. I'm quite sure that her departure will leave a knowledge gap that will be hard to fill. Best wishes to her in her future endeavors. We've submitted a policy brief for your consideration, which examines the Carbon Neutral Natural Gas Portfolio Plan in more detail. In a nutshell, we believe that the use of offsets alone is an ineffectual approach. Yes, we're aware of the Prop 26 issues and submit that a further exploration of the possibilities of qualifying local investments under Prop 26 are in order. The idea would be to invest in activities that would bootstrap the electrification efforts and benefit all gas customers equally by creating a pathway to avoid the damage that is being done by the use of natural gas. Creating a fund for subsidies and rebates is not what we have in mind. Instead of taking an expedient approach that papers over the problem and skirts the larger issues at hand, we urge the Council to send this proposal back to Staff to generate a more comprehensive and holistic approach that details the relative spending and emphasis on a suite of strategies for reducing the use of natural gas. In fact, our understanding is that this is already in progress, so it would not be a curve ball for Staff. However, almost by definition the Staff response needs to be a cross-departmental effort. After completing this broader examination, we may conclude that this strategy of tapping into ratepayer revenues is actually counterproductive given the restrictions of Prop 26. Lastly, the proposal neglects to mention the very real negative perceptions that could be associated with an offsets-only approach. The potential fallout from both residents and external observers should be avoided by spelling

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out a comprehensive approach that results in real local reductions in the use of natural gas. Thank you.

Mayor Burt: Bret Andersen to be followed by John Kelley.

Bret Andersen: Good evening, Council Members. My name is Bret Andersen, from Carbon Free Palo Alto. I want to add onto what Bruce said regarding our brief that was sent to you prior to this evening. Our objection to the Plan is really as a standalone plan. Offsets might be useful as a bridge if there is a specific and recognizable path off of those offsets and off of gas in the ultimate goal. We're asking ratepayers potentially to pay, if we look at a four percent increase, about \$1.2 million per year from our gas. We may be paying for allowances, from what I heard earlier this evening, perhaps half a million per year just for the gas portfolio. If we're not making investments congruent to that on the electrification and the path off of gas, I don't think we can credibly just offer an offsets program without some linkage to funding efforts to get us off the gas itself. That represents money that's leaving our community and not being reinvested in our homes for the comfort and the real benefits that we get from higher efficiency as well as higher functionality but also we're not investing in our own electric infrastructure, which we need going forward in an electric future. We need that functionality; we need the additional storage from electric vehicles; we need the additional electric loads that are provided by the heat pumps as well as other electric appliances that may replace the gas appliances. The other financing aspect of this is that anything that reduces the gas use—that could be insulation and it could be other ways to save, weather stripping, new windows. These are upgrades to the home that also have an impact on the use of the natural gas, so that reduces the load required for the gas, but it also reduces the load when we convert to electric. All of those items can be financed, the upfront costs, using our own utility, which provides the benefits of financing on the bill, making it easy for customers to choose those measures and basically addressing the barriers that have historically inhibited investment in efficiency and electrification that would otherwise be cost effective or profitable in the long term for customers. With our own utility, we have a very big advantage in moving forward aggressively to introduce with any kind of an offset program an actual electrification program that gives people real, local choices to improve their own comfort and efficiency at home. Thank you.

Mayor Burt: Thank you. Our next speaker is John Kelley, to be followed by Don McDougall.

John Kelley: Mayor Burt, Vice Mayor Scharff, Council Members. I think Council Member Kniss really asked a good question, which is what is the

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common sense analogy that will help you deal with this issue. I was thinking I'll give it a whack, trying to answer that. What I'd like to offer you is that an offset is a little bit like a bottle redemption fee. When you go in the store and buy a can of beer, a bottle of pop, whatever it is, and you're stupid enough to throw it away, and somebody comes back and picks it up, and they take it to the store, and they get five cents back, that's kind of like what an offset really is. If you're stupid enough right now—we all are—to go out and put methane or CO<sub>2</sub> in the atmosphere and think it's not doing harm to the world, we kind of get away for free, because we haven't paid the five cents at the store. If we do offsets, if we increase the price, it's like charging all of us a modest fee, five cents. I think it actually should be much higher than that, but we're starting small here. You've already said you're comfortable going up 10 cents a therm. It's like raising that bottle fee from five cents to 10 cents. Some of us will get the message through that price increase. This is the single most important thing that you can do tonight. You put this in place; you raise the price on carbon emissions and on methane emissions, and we will do less wasting because we'll be more conscious about how we do it. I'm very sympathetic to what Bruce has said, to what Bret said, to what others have said. Doing anything to increase efficiency is fantastic. Let's not make the mistake of waiting for something that's perfect before we start doing things that are good. This is particularly true now, in the current national political climate. We've got to do things here because there's not going to be much happening nationally over the next few years. That's sad; it's unfortunate, but we have an opportunity here. If you want to do something, do it now. Make it clear to the rest of the world that we can raise the price of the emissions, we can take that bottle fee from a nickel to a dime to a quarter. Maybe we should really be taking it to \$2 if we were being sensitive to these issues. We can do it over time; we can do it as the market adapts; and we can do it as we get a better sense of what we can spend money on. The other thing I'd like to point is that some of the people who are speaking against Staff's recommendation tonight, the clarified recommendation, are really attacking a straw man. There's nothing in here that says this is going to be an offset-only program. In fact, if you put up the slide of the clarified recommendation again, I just was to read what it says. Direct Staff to—a bunch of other things—"e," consult with stakeholders on potential methods to fund alternatives to offsets including methods involving voter approval. I think Staff is sensitive enough and smart enough and creative enough and dedicated enough to really tackle this problem. If they can find good ways to use money to improve our greenhouse emissions program other than buying offsets, I think Staff will come back to you very promptly with a great set of recommendations. Thank you.

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Mayor Burt: Thank you. Our next speaker is Don McDougall, to be followed by Lisa Altieri.

Don McDougall: Good evening, Mayor Burt and Council Members. Pretty hard at this point to say much original relative to all of the great speakers you have. I want to re-echo applauding all of the people who have been involved at this point, the Staff, Gil and the 80/30, Lisa and Sandra, the Carbon Free Palo Alto people who have participated in a vigorous and robust and energetic and thoughtful debate on this subject. What I want to do is say from all of those people that have agreements and disagreements, there's certainly one thing I think everybody agrees on. A real carbon free Palo Alto is really the objective, not necessarily a carbon free Palo Alto that is created by buying offsets. The urgency of that has been talked about and is worth repeating. The methane problem that is really new—you know it's relatively new if *The Economist* and *Business Week* are all of a sudden starting to talk about the methane problem that we're starting to understand that. Relative to the offsets, we should try to do everything we can to have real carbon free here and not necessarily deal in the offsets. We're supposed to be the center of innovation; that's the thing that Palo Alto's all about, the center of innovation. To ask a farmer in Iowa to be more innovative relative to eliminating methane than we can be is contradictory. I do appreciate that this is a much, much bigger leap than the electricity leap. I do support the suggestion that, if we are going to or if Council is going to approve this evening, it at least should be done with conditions or modifications so that if there are offsets, they should be only local, that the offsets should be just temporary and the Council should define that temporary condition. I applaud the Council's debate tonight, the kinds of questions. The one thing I would encourage that instead of talking about lowest cost or maximizing, a word that could be used in this case is optimizing. Mayor Burt talked about the electrical bucket versus the gas bucket. Optimizing, within the constraints of Prop 26 and whatnot, the energy bucket is really the goal. Thank you.

Mayor Burt: Thank you. Our next speaker is Lisa Altieri, to be followed Lisa Forssell.

Lisa Altieri: Hi, good evening. Again, I want to echo thank you, Staff, Council, Utilities Staff, for looking into strategies to deal with our natural gas emissions. They are very dangerous, and they are very important to our climate goals. However, offsets as has been said are not direct reductions in emissions. It's critical for us at this point, given science-based climate goals, that we really directly go to our direct reductions here in our community. Offsets have been one of the main reasons why the Kyoto protocol and many other efforts on climate reductions have failed and failed

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to produce local, actual emissions reductions. This plan will remove capital from our community. If we enter into an offset program, we will be taking that money, and we will be sending it out of our community instead of using it here to foster fuel switching and electrification that we so desperately need here. It will also discourage some, and it will be confusing for some in our community if we're asking them to consider electrification and fuel switching when they have a gas offset program. They'll ask us, "Why do I need to do this? Aren't my emissions already taken care of?" It also takes capital away from them that they could be using towards the costs in order to switch over to electricity for their water heater and their dryer and other appliances. I think it's extremely important that if we move a program forward, that program have only a focus on local fuel switching and local offsets to benefit our community. We have an opportunity. Palo Alto is extremely forward-looking. There are few communities who have gotten past the electrification and are now looking into how do we deal with natural gas. We're leaders here, and it's so important that we set an example for taking this head on and really doing it right. We encourage you to consider making a condition that any program be directly put towards electrification locally. Thank you.

Mayor Burt: Thank you. Lisa Forssell to be followed by Grant Dasher.

Lisa Forssell: Mayor Burt, Vice Mayor Scharff, Council Members, I'm Lisa Forssell. I'm a member of the Utilities Advisory Commission; although, I'm here tonight just in my own personal capacity as a resident. I turned in my comment card, Council Member Kniss, when you expressed a desire for a plain English explanation of offsets. I thought I'd give a couple of invented examples to try to explain the concept. We talked a lot about what we're buying, but maybe coming at it from the other side of what's being sold by those who are selling offsets. If you operate a factory somewhere and it's an old, aging, dirty, smelly factory that emits lots of greenhouse gases, carbon dioxide and others, but you're fully within the law, you're not regulated, there's no reason you would reduce your emissions and it's really expensive to upgrade your factory to reduce the emissions, the offset market provides a funding mechanism so you can, with third-party verification to make sure you're taking the steps, you install the equipment, you cleanup your emissions, get a certain amount of money per ton of carbon dioxide equivalent that you are no longer releasing into the atmosphere, that you otherwise would have had you not made these investments. That's one example. Another one might be if you're a landowner who wasn't going to plant trees but you take up forestry and according to accepted forestry protocols are sequestering carbon in a tree canopy, you can sell those carbon offsets into the market. That, when we

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talk about what we're buying, is my best attempt to explain to you what we're buying when we buy offsets. Thank you.

Mayor Burt: Thank you. Grant Dasher to be followed by our—we have another card—by Mike Danaher.

Grant Dasher: Hello. Thank you, everyone. My name's Grant; I'm a Palo Alto resident. I just wanted to thank everyone for the hard work that went into this effort. I'm very happy to live in a City that takes this issue seriously. I want to say that—I want to make a couple of points. One is about offsets, and one is about biogas. On offsets, first of all, perhaps the most important thing going on here is the demand side impact. This has been brought up a couple of times. It's effectively a form of a carbon tax. Regardless of what you do with the revenue, by raising the price you change the market. To the extent that we can impose a carbon tax within the constraints that the Constitution of California puts on us, it's a relatively clever way to do that. The second is about the supply side. Palo Alto is well known as being the home of some major Venture Capitalists (VCs). One way I think about offsets is it turns the City effectively into a VC for funding carbon reduction around the world. Global warming is a global problem. There's been a lot of talk about local initiatives and whatnot, but we know that the effect of carbon is felt globally. The major impacts of this are not necessarily in the United States; they're in other countries that have low-lying regions that are going to totally sink into the ocean due to our emissions. Us funding the reduction of carbon elsewhere in the world is a useful thing for us to be doing with our money to solve the problem globally. As a relatively wealthy community, I think it's something that we should be doing, especially when you look at the timelines. It may not be the case that there are shovel-ready projects in the City of Palo Alto, which we can reinvest our capital in around things like electrification. In the interim while we figure out what those projects are, spending that money elsewhere where there are shovel-ready projects that we can have an impact on tomorrow rather than two years from now seems like a pretty good use of our money. Those four cents per therm can be redirected in two or three years when there are projects toward local initiatives. I'm totally supportive of that. The final point is around biogas. It's important with things like this to look at the net energy and the energy return on investment (EROI). I'm not super familiar with the details of biogas, but just to point out a hypothetical example. If there was a huge demand for biogas, you could imagine that it would actually incentivize the production of more cows in order to collect the methane they emit. The production of those cows could consume yet more carbon to feed them and to produce all of the subsidiary materials that go into generating that methane. In all of these kind of things, it's important to look at the total energy chain that goes into the

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production of these things. I don't actually know how it all nets out with biogas. I know with biodiesel, for example, it doesn't necessarily come out favorably. It's mostly a subsidy for the agriculture industry. I think it's important when we look at things like that to read into the details to understand the final impact. Thank you.

Mayor Burt: Mike Danaher to be followed by our final speaker, Craig Lewis.

Mike Danaher: Mr. Mayor, Council Members, I'm Mike Danaher. I'm Vice Chair of the UAC. We have discussed this several times. I feel like I've come upon a group of Warriors fans arguing about which player they like best.

Mayor Burt: Mike, if you're representing the UAC, you get more time.

Mr. Danaher: I'm going to be very brief. We're all on the same team, same climate action club. I have affection and respect for everybody who is working towards the same goal. My philosophy on the UAC has been we want the biggest bang for the buck. We want the biggest carbon reduction we can per dollar, and we should apply that consistently. I think part of Palo Alto's leadership is showing how other communities can do the same. If we opt for the Neiman Marcus plan, we're not showing leadership that's going to be followed by many other communities. On offsets, I don't agree with people who dismiss offsets. They are direct reductions in emissions. They are often the biggest bang for the buck, and we should do that. I don't oppose electrification efforts, but I would oppose, for example, an electrification initiative that costs 100 times per unit of carbon saved relative to other things. I think we need to get the biggest bang for the buck. That's why I'm in support of this and not at all against pursuing or investigating more electrification. The proposals or the analysis we've seen at the UAC shows many of those initiatives are very expensive relative to what you save. That's all. Best wishes to all my fellow Warriors fans.

Mayor Burt: Thank you. Our final speaker is Craig Lewis.

Craig Lewis: Thank you, Mayor Burt Council Members. I am Craig Lewis, the Executive Director of the Clean Coalition. I have worked with most everybody here up at the dais over the years. The Clean Coalition is very focused on local renewables and local solutions. We've worked here in Palo Alto to help design the feed in tariff program, which is to get local renewables. We were hired to design the Request for Proposals (RFP) to get solar on top of the City parking structures. We have been hired by the Office of Emergency Services to help design a solar emergency micro grid at Cubberley Community Center, which you'll hear more about hopefully in the not too distant future. With all that said, I think we need to take advantage

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of this moment. There's been a lot of work to put a very creative policy forward. It's a policy, frankly, that the Clean Coalition will take to other communities to model. We're not going to have the same Council in a month or two from now. We need to take advantage of the leadership that we have in Mayor Burt and the Council Members we have sitting here today. I've worked with Ed Shikada, and I'm thrilled that he's leading the Utilities Department now. I trust that he will do a very diligent job at finding local solutions. With all the commentary that came before me, it did occur to me that there is something that we could do, that the Council could do tonight in addition to voting what the Staff has recommended. That is to take a portion of the funds that will be collected and allocate those on a best-efforts basis. I don't know the legal ramifications of Prop 26, but I do know that there's a universal desire to get the money spent locally. I didn't hear any dissent to that. At the same time, I heard that we need to stay within a certain budgetary constraint. That's been set, and I think there was a fair level that was set. We want to get to zero net emissions. We want to get to zero net emissions within a certain budget, and we want to try our best to get local spending. Let's put one more condition onto that list and say let's try for 25 percent of the spend at the launch of the program to have that money spent locally while maintaining the other conditions, keeping within the 10 cents per therm and making sure that we still maintain zero net emissions. That's the one idea that I will add into the mix. At the very least, I encourage you to support the proposal before you hopefully with that one additional idea mixed in. Thank you.

Mayor Burt: Thank you. We'll return to the Council for discussion and a Motion. Council Member Wolbach.

Council Member Wolbach: First, I also want to thank Jane and everybody else on Staff who's worked very hard on this. Thank you, everybody from the public who came out to speak. We definitely hear some disagreement about the best way to move forward to reduce greenhouse gas emission in Palo Alto. What's really awesome is that we're having a debate how best to reduce greenhouse gas emissions in Palo Alto. I'm really proud of that. I just want to take a second to remark that we're much ahead of many other communities and sadly ahead of where our incoming national administration may be. On that note, I do want to point out—I think it was alluded to by some of the public that the Trump Administration is not going to pay dairy farmers in Iowa to reduce the methane emissions from their cows. The Trump Administration is just not going to do that. We can pay them to do that. That's the idea of offsets. There was some discussion about this at the Finance Committee. I understand that there's maybe a legitimate concern that offsets aren't fully priced, and that we still aren't fully capturing the price of greenhouse gas emissions including methane. It's a step in the



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right direction. Anything we can do to price greenhouse gas emissions to acknowledge those externalized costs is important. Ultimately, the underlying political economy driver has encouraged and led to climate change. Since the Industrial Revolution, we haven't priced greenhouse gas emissions. We've allowed all of us to externalize those costs. A step in that direction is a positive step as I see it. I respectfully don't understand how taking this positive step in any way inhibits taking further steps, how pricing methane prevents us from pursuing electrification or efficiency in our system or efficiency in homes. Part of what we're trying to do here is give Staff the direction, the encouragement, the leeway to investigate just how can we spend these funds. We're not sure yet, but we're looking to investigate can we spend rate funds on system improvements to look for fugitive emissions at joints, etc., can we spend it on improvements in homes, could we even spend it on electrification in homes and other properties owned by ratepayers. That's the goal here. Also, the concern that this is taking money out of our community. Again, the focus here is to prioritize local offsets either that exist now or that may exist in the future. The question of whether we can trust that the offsets are well accredited. We are using California Air Resources Board, CARB, standards. We are looking to them to evaluate offset programs. As we discussed at the Finance Committee, that's probably the best standard around, at least in our area, that's accessible to us. If there is a better standard, I'd love to hear it. They have to continue to improve over time, and I expect they will continue to improve in the future. With that commentary, I'd like to move forward with the recommendation and ...

Vice Mayor Scharff: Are you making the Motion?

Council Member Wolbach: Yeah. I'd like to move the Staff recommendation.

Vice Mayor Scharff: I'll second.

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

A. Adopt a Resolution that:

- i. Approves the Carbon Neutral Gas Plan, enabling the City to achieve a carbon-neutral gas supply portfolio starting in FY 2018 with a rate impact not to exceed 10¢/therm; and
- ii. Terminates the PaloAltoGreen Gas program established by Resolution 9405; and

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B. Direct Staff to:

- i. Develop an implementation plan for the Carbon Neutral Gas Plan; and
- ii. Minimize cost to achieve carbon reduction within 10¢/therm rate impact cap; and
- iii. Return to Council to determine an acceptable premium, if any, to be paid for a local offset project when a certified project is identified; and
- iv. Consult with stakeholders on potential methods to fund alternatives to offsets, including methods involving voter approval.

Mayor Burt: Did you want to speak any further to the Motion?

Council Member Wolbach: Yeah. Let's go with the—actually let me clarify. Let's go with the clarified recommendation except to not prefer offsets from California. If we can provide an incentive to Iowa farmers to do a better job, we can do that through our money in a way that unfortunately Washington, D.C., is probably not going to be as aggressive about. We'll have a small impact, but it's something. I still do want to emphasize the priority for local as in Palo Alto offsets.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: First of all, I'd like to thank the Finance Committee for their work on this. I was really happy with the direction the Finance Committee took. I thought it was very thoughtful, and it was a good outcome. I understand the concerns that Carbon Free Palo Alto has. Again, I would associate my thoughts with Sandra Slater's comments, which I thought were excellent. In looking at this, we need to find a way forward. I think there's a first step in thinking about this. Buying the offsets and having a carbon neutral portfolio on gas is the right way to go. I don't think that takes away from the efforts that we need to think about this, of how we're going to look at this issue long term. Right now, we have something that we can do that's positive, and we should do it right now. That's why I support this. I did have a question for Staff. When I read this, it looks to me like we go ahead and we spend 4-5 cents roughly to go and do the offsets. At which point, there's 5 cents left and possibly going up to a 10-cent per therm issue. Within this Motion, is Staff going to come back after thinking about it and analyzing it and say to themselves, "If we were to use that 5 cents to get the most bang for the buck, to move us forward, what

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would that look like"? Is that included in this Motion? I thought it was, but it's not necessarily clear.

Council Member Wolbach: Just to be clear, you mean the extra 5 cents up to using the full 10 cents?

Vice Mayor Scharff: Correct.

Council Member Wolbach: Even if we get carbon neutrality from 4 or 5 cents, Staff's going to look into spending the full 10 cents.

Vice Mayor Scharff: If you don't mind, Pat, I'd like to ...

Mayor Burt: (inaudible)

Vice Mayor Scharff: That's my question. Are you going to go analyze that or do we need to add into the Motion a "vi" which is "analyze the best way to use the additional 5 cents"? I don't want to necessarily say we have to use it. It may not make sense using it. "Analyze possibilities of how we would reduce greenhouse gas emissions relating to the gas portfolio using the additional possible 5 cents." I'm looking for Staff's thoughts on that.

Ms. Ratchye: What we were trying to clarify is if it only costs four or five cents, that's all we would spend. We couldn't spend more than 10. We don't know what the price of offsets will do over time. It sounds like we're going to come back relatively soon anyway with a potential different Plan or maybe different options to review after we get more information. This is kind of like the Carbon Neutral Electric Plan where Council had a rate cap of 0.15 cents a kilowatt hour, and it cost us less than 0.5. We didn't spend up to the cap, but that's all we could spend. That's what we were viewing the 10 cents as, the cap, but we would only spend what we needed in the beginning. At the current price of offsets, we believe that to be around 4 cents.

Vice Mayor Scharff: Go ahead.

Ms. Dailey: Let me add to what Jane said. Also included in the Plan is if a local project is identified and if it seemed like that local project needed additional money, more than the market price of an offset, then we would come back to Council and get some sort of decision about how much of a premium you would want to spend on a local project. "E" included in there that we would be looking at other potential non-offset options.

Vice Mayor Scharff: You will be looking at other non-offset ...

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Ms. Dailey: If we identify those—if it was more expensive, we would come back and explore those with you as well.

Vice Mayor Scharff: "E" really covers that then.

Ms. Dailey: I think it does.

Mr. Shikada: It does. In particular as we've spoken informally about, soon after the first of the year—we were hoping to get off the ground sooner, but after the first of the year—beginning a strategic plan for the department overall. This would certainly be a cornerstone element of looking at the role of the Utility with respect to carbon reduction and recognizing the synergy of having the multiple Utilities under one roof.

Vice Mayor Scharff: Thank you very much.

Mayor Burt: I'd like to offer a couple of amendments. They're really around giving some better clarity about what "E" is intending. It would be to "direct Staff to return with methods"—excuse me.

Vice Mayor Scharff: Would that be a "vi"? They were starting at "i."

Mayor Burt: Yeah. "v" you mean? This would be "v." "Direct Staff to return with a set of programs to reduce natural gas usage within Palo Alto including electric appliances and streamline permitting for such appliances and potential programs to reduce fugitive natural gas emissions indoor and outdoor." Then, a "vi" that would restrict purchase of offsets from landfill natural gas to exclude landfills that receive recyclable organic materials that would be excluded from landfills under best practices. Let me see if it's acceptable. I could speak to it and explain a little more or seek acceptance first.

Council Member Wolbach: I think so. I'm not sure if I caught the second part of that. Would you mind restating it?

Mayor Burt: This is actually aligned with what we did on our renewable portfolio a number of years ago of saying we're not going to purchase natural gas harvested from landfills that are accepting materials that shouldn't go into landfills. That's the thrust of it. I can work on the wording to capture that.

Council Member Wolbach: I'm inclined to support it. I'm wondering whether, Mayor Burt, how broad Number v is intended to be and whether—I want to have a sense of how broad that is. I'm inclined to support it.

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Mayor Burt: I should have included within "v" a reference to "within the constraints of Prop 26."

Council Member Wolbach: I think I'm okay with that. I'm willing to accept that.

Mayor Burt: Pardon me?

Vice Mayor Scharff: I'd feel more comfortable if you say "within constraints of Prop, to return with a set of options" as opposed to "programs." I think "programs" are a little more ...

Mayor Burt: That's fine.

Vice Mayor Scharff: ... fleshed out. Before Staff goes and does a lot of work creating programs.

Mayor Burt: I said fine. Does Staff see any problems with that? (Inaudible) We don't want to just go exploring. We want to actually have you come back with a set of alternatives. Council Member Schmid.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "

- v. Within the constraints of Proposition 26, return with a set of options to reduce natural gas usage within Palo Alto including electric appliances and streamlined permitting for such appliances, and potential programs to reduce fugitive natural gas emissions both indoor and outdoor; and
- vi. Exclude purchases of natural gas offsets from landfills that receive recyclable organic materials that would be excluded from landfills under best practices."

Council Member Schmid: I support the Motion. I think it's essential that we get it underway and start as soon as possible. Two, I think it's important that we acknowledge that we don't have all the answers and that this is a process that we'll go through. Number 3, I think the reference to Prop 26 is essential. A lot of what we can do here, the ideas that the public was sharing with us are dependent upon interpretations of 26. That's something that we need to have as an involving item. The other thing is offsets. We're going to start with offsets because they are economically efficient. I'm concerned a little bit that the notion of offsets are a little too dependent on the robust definitions given by the California Air Resources Board. I know there's three or four references in the text to we're taking the offsets from

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them, and they are good and meaningful. I would just, as an example, point to the clash between the California Air Resources Board and the Los Angeles Public Works Department over the last couple of years. It's about the issue of not biogas but conversion technologies, which go well beyond the definitions of what biogas are now. There has been, I guess, pointing to a rash of new technologies that deal with municipal waste in a very, very different and more effective way. One of the outcomes of that dialog between Los Angeles and the Air Resource Board is the—there was a conference a couple of months ago at Berkeley Law School Center for Law, Energy and the Environment. They came out with a paper on the results of that, called "Wasting Opportunities: How to Secure Environmental and Clean Energy Benefits from Municipal Solid Waste." I think that's an example of somewhere in there, there will be new technologies emerging, I think, fairly soon that could have a big impact on the choices and options we take. Rather than just rely on the current wording coming out of the Air Resources Board, to anticipate some of the changes on what offsets might be and how effective they are, that are likely to be coming over the next couple of years.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I support the Motion. I think there's a lot of good things here. I appreciate Staff's clarified recommendation. My colleagues have said it; I agree with what they've said. This is just the first step; we're not stopping here. That's important to emphasize. I do think the sentiment was that we prefer local offsets. In "B iii" here, we talk about local offset projects, but I'd like to offer an amendment, that we modify "B iii" to say that we prefer local offset projects and return to Council to determine ... At the very beginning of that sentence, just make it clear that the preference is local offset projects if they exist.

Council Member Wolbach: I would actually agree with that. If you guys identify them, definitely move forward with them right away. You only need to come back to us if you need to charge more money or if you need to spend more rather.

Vice Mayor Scharff: What's the language?

Council Member DuBois: Keep everything there and, at the very beginning of that sentence, say "prefer local offset projects and return to Council to determine" blah, blah, blah.

Vice Mayor Scharff: That's good with me.

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**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add at the beginning of the Motion Part B.iii., "prefer local offset projects and."

Council Member DuBois: The third one is my last point. I'm not going to propose this as a Motion. I think we really need to start talking about what the endgame is here. I'd like to see Staff consider the future of the gas utility and suggest a strategy for maximizing it while it still has value. As we start to shift customers away, it's going to get more and more expensive. I know we're very proud as a City that we have all our own utilities, but we shouldn't let that get in the way of getting rid of a utility that we don't want. I think it's time to start thinking about that. The longer we wait the less value it's going to have.

Mayor Burt: Council Member Holman.

Council Member Holman: Thank you, Council Member DuBois. You took care of my things with your changes to Number iii. Just a little, tiny cleanup on Number vi. I think it should be "landfills that receive recyclable or organic materials." Just a little cleanup. Thank you, Council Member DuBois.

Mayor Burt: No. It's actually in this context inorganic recyclables don't matter. They're not producing methane.

Council Member Holman: True. Thank you.

Mayor Burt: Council Member Kniss.

Council Member Kniss: I certainly support the Motion. I'm not going to go in and tweak it. I want to go off on a slightly different tangent. Yesterday's *New York Times*—I'm going to guess a lot of you have read it. It's called "Cashing in on Climate Change." If you haven't read it, I suggest you do. It was in the review section. What is fascinating is they put—as Henry Paulson recently put it, the greenhouse gas crisis won't burst like the housing bubble of 2008, because climate change is more subtle and cruel. I thought that was just fascinating. It goes on to mention later the number of places that are now switching away from fossil fuels as part of their retirement programs, whether it's California State Teachers and New York State's retirement plan in general. What is intriguing about this—I will finish with this. It's worth noting that business interests and President-Elect Trump, who sells himself as a consummate businessman, were integral to making the Paris deal happen in the first place. They realize environmental stability is absolutely at the base of financial stability. I think that is such a fabulous sentence. Lastly, discussing China, it talks about China aims to build

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charging stations to power five million electric cars—I know Bruce Hodge will like that one—by 2020. That's absolutely fascinating. If you're looking at this as where is the rest of the world going, this is an intriguing article. Remember what this is saying, this is good economics, not just good for the planet. It's actually good for our economic future, which is something we really haven't discussed tonight. I think it's important to put that on the record. With that, I am supporting the Motion.

Mayor Burt: I see we have no more comments. I'll just echo what some of the speakers had said. Given our national circumstance and where we may be headed on Federal climate change protection, we're really sort of back where we were before the Paris accord, where initiatives of local and regional and state governments and private sector are going to be the primary drivers for the time being in the U.S. on climate protection. Palo Alto has been a leader on this. The initiatives we take do have highly leveraged impacts as others are trying to figure out what's over the horizon as they become electrified and then what's next, as we're struggling with that. I think this is a great initiative. I want to thank everybody involved from the citizen activists on this to the UAC and our Staff. Look forward to the next steps here. Please vote on the board. That passes unanimously. Thank you all. Moving right along.

**MOTION AS AMENDED RESTATED:** Council Member Wolbach moved, seconded by Vice Mayor Scharff to:

A. Adopt a Resolution that:

- i. Approves the Carbon Neutral Gas Plan, enabling the City to achieve a carbon-neutral gas supply portfolio starting in FY 2018 with a rate impact not to exceed 10¢/therm; and
- ii. Terminates the PaloAltoGreen Gas program established by Resolution 9405; and

B. Direct Staff to:

- i. Develop an implementation plan for the Carbon Neutral Gas Plan; and
- ii. Minimize cost to achieve carbon reduction within 10¢/therm rate impact cap; and
- iii. Prefer local offset projects and return to Council to determine an acceptable premium, if any, to be paid for a local offset project when a certified project is identified; and



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- iv. Consult with stakeholders on potential methods to fund alternatives to offsets, including methods involving voter approval; and
- v. Within the constraints of Proposition 26, Return with a set of options to reduce natural gas usage within Palo Alto including electric appliances and streamlined permitting for such appliances, and potential programs to reduce fugitive natural gas emissions both indoor and outdoor; and
- vi. Exclude purchases of natural gas offsets from landfills that receive recyclable organic materials that would be excluded from landfills under best practices.

## **MOTION AS AMENDED PASSED: 8-0**

- 9. Approval of an Agreement With the County of Santa Clara With Respect to a Tobacco Retailer Permit Program; and Discussion and Potential Adoption of an Ordinance Amending Chapter 9.14 to Restrict Smoking in Multi-Family Housing.

Mayor Burt: Our next item is approval of an agreement with the County of Santa Clara with respect to a Tobacco Retail Permit Program and discussion and potential adoption of an Ordinance amending Chapter 9.14 to restrict smoking in multifamily housing.

Phil Bobel, Public Works Assistant Director: Phil Bobel, Public Works. We don't have a slide show for you. We've been through this, mostly with the Policy and Services Committee, and now it's back to the full Council. The item has two parts. The first part relates to a program to permit and restrict the sale of tobacco products. The second part is restrictions on smoking in multifamily units and in the common areas for multifamily. I won't take too much time, but just to divide up into those two parts and to come back to the first part first. We are presenting you with what we think is a real innovative partnership with our County to have the County run the program for tobacco retailer licensing in Palo Alto. This would be the first city in the county to be operated this way. The County operates a program in the unincorporated areas of the county currently. There is precedent in other counties but not ours for the county running a program in a city. We're very excited about this agreement with the County. I think Nicole—I didn't have a chance to find her. Is Nicole Cox here? Yep, there's Nicole. Come on up here, Nicole. Nicole is our County representative. The only County representative tonight, I think.

Nicole Cox, Santa Clara County: We have one more.

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Mr. Bobel: One more. Who else is here?

Ms. Cox: Joyce Villalobos.

Mr. Bobel: Joyce Villalobos is here from the County as well. They can probably field in-depth questions even better than I can about the agreement. Basically, the City will adopt the same Ordinance that the County has. There's one sort of error in what we have in the Staff Report. We say that in December the County will be adopting a revised Ordinance. Actually, they've already done that. The County Ordinance exists. We didn't have time to catch up with it, because it's a fairly late-breaking change, from our perspective anyway. We say here in February we'll come back with an actual Ordinance. Tonight we just have the agreement with the County for you. We need to match our Ordinance changes to the County's. That's actually part of the agreement. The County doesn't want to mess with us unless we're having the exact same Ordinance that they have, so their inspectors and their team don't have to remember where they are and are the details different. We understand that, and we agreed to that. We'll be putting their Ordinance in our numeric system, but the facts or the requirements will be identical to the County. In the future, if the County changes theirs, after a period of time we'll have to come back and modify ours as well. The County isn't expecting any near-term changes in their program. This should last for a while. As far as enforcement goes, the County will enforce most of the provisions of the license permit, and they'll do inspections. The exception to that is the underage part of it. The only way to really catch that in action is through sending out an underage person from the Police Department. Our Police Department will do that. Once a year, they will send an undercover person out who is underage and look for violations of the now 21-year age limitation on purchasing. With that exception, the County will enforce the other provisions. An example is there's a new 1,000-foot requirement from a school. They'll make sure that that type of thing is adhered to. What else to tell you about that? That's really the big picture on the thing. The City would write a citation if our Police Department finds an underage violation. The City would write the citation, but the County would follow-up with formal enforcement action. Should there be a hearing, the County would be responsible for that. You'll see in the agreement and the attachment to the agreement how that works back and forth. There's quite a bit of detail in there. That's the big picture. That's half of it. The other half is this restriction on smoking in multifamily units. It's really completely separate. The agreement with the County doesn't cover this; it's really a separate thing. The multifamily unit is purely a Palo Alto action. The Policy and Services Committee directed that we bring this back to the full Council as a revised Ordinance. We had a previous Ordinance. We've been back and forth. We made the changes suggested by

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the Policy and Services Committee, and we're now bringing back the Ordinance for the multiunit restrictions, both in the common area and the actual living unit. We're bringing that back to you tonight. You'll see qualifiers in there. We do not have the resources as a City—none of our departments do—to enforce those requirements. In part, it's a resource question, but it's also in part sort of an activity function question. How would you actually go about enforcing this? We have sort of two problems. The biggest one is really resources. I stress that because it's not just resources for what you might think of as enforcement, but it's also resources for outreach, for answering inquiries, for following-up on complaints, all the things that might arise once we put something like this on the books, once we create an expectation of greater activity. We just don't have the resources to conduct that greater activity that might be expected. I want to underscore that for you. I think it was Vice Mayor Scharff that put it well at the Committee meeting, and several other of you possibly also, saying there's still a benefit to putting this on the books. There's a social norming, a precedent-setting benefit not to be discounted. Without discounting those benefits, I did need to underscore that there really would be no enforcement. There would be no follow-up. There would be no complaint investigation, and there would not even be any substantial public outreach on this. That's the second part. I think I'll stop there. Nicole and I can answer questions or whatever your pleasure is.

Mayor Burt: Thank you. Council Member Kniss.

Council Member Kniss: Mr. Mayor, would you be willing to accept a Motion at this point? I realize it's pretty ...

Mayor Burt: We have to hear from the public.

Council Member Kniss: You really want to get into questions, right?

Mayor Burt: No. We not only have questions, we need to hear from the public.

Council Member Kniss: Sorry. I sometimes forget the protocol. Thank you. I will have a Motion.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Just two quick questions. How many tobacco retailers do we have? I think we said it was something like 30.

Ms. Cox: There's 29 currently.

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Council Member DuBois: Twenty-nine. Are the fees that are in the County Ordinance, which I don't think we saw much of before—this Ordinance looks pretty new. Are those cost neutral fees?

Ms. Cox: Yes, all the fees are based on cost recovery of the administration and enforcement of the Tobacco Retail Program.

Council Member DuBois: Thanks.

Mayor Burt: Council Member Holman.

Council Member Holman: I have just a handful of questions. This may sound odd coming from somebody who is so supportive of Healthy Cities. I just wonder if we're maybe going down a path of unintended consequences. What makes me wonder that is you just said that the fees are cost recovery. When I was reading through the brief Staff Report, it says that there's permitting of retailers, collect permit application, annual permit fees, currently \$340 and \$425 respectively. Does that mean in the first year you're paying an application fee of \$340 and a permitting fee of \$425, so the first year you're paying \$765?

Ms. Cox: I'll want to double check that with Environmental Health Department. It's been a number of years since we set this up originally. I just want to make sure—I believe what we did originally was charge that application fee to set up the system, get the businesses into the administrative system. I don't recall if they then had to also pay the annual fee at that same time or if that came a year following, the renewal fee. I would want to clarify that with our Environmental Health. I do believe that that would be the case.

Council Member Holman: We didn't have the Minutes from Policy and Services. Was there outreach to these 29 retailers?

Mr. Bobel: We did not do outreach to them, no.

Council Member Holman: I think that's a big missing piece here, it seems like. What would be the difference between ... let me ask two questions. The State has already put in place the law that raises the age from 18 to 21. How does the City regulate that or do we get complaints?

Mr. Bobel: That's a very new piece of legislation.

Council Member Holman: Let's just go back to 18, because the 21 is new. Let's just go back to 18. Were there complaints of violations?

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Mr. Bobel: I'm not aware of complaints; there could have been some. I suspect there were a very limited number to our Police Department. Over the years, they have done sting operations of the type I described, that we would do in the future. In the last year, I don't believe we did any.

Council Member Holman: You're talking of not having any Staff to do Code enforcement for the apartments. My issues are with Number 1 and Number 2; they're not with Number 3. The undercover sting operations, I don't know how we would have Staff to do that either.

Mr. Bobel: The Police Department has committed to do one round of those per year. Those resources, they believe, they can find, but that's it.

Council Member Holman: If there wasn't outreach to these 29 retailers, was there any extrapolation of what kind of financial impact on the business these kinds of fees would have on their ability—the reason I'm asking this is I know of maybe one place that sells only tobacco products. Pretty much every place else that I know about—just to be clear, I'm not a smoker—that sells tobacco products also sells any number of other things like magazines or wine or whatever. I'm just wondering what kind of impact these fees would have on their ability to continue business. Was there any kind of extrapolation of that impact?

Mr. Bobel: We felt it would not be significant. As Nicole pointed out, we think in the first year it could be \$340 plus \$425 for a total of roughly \$800. In subsequent years, it would be roughly \$400. We did not feel that was going to drive anybody out of business.

Council Member Holman: Based on? The reason I ask the question is because—we heard retailers talking about to some of them the impact of—it may sound silly, but retail is not the easiest brick and mortar business to be in these days, even paying a \$50 business license registration fee. I'm not going to defend or not that, but those were comments we actually got from people. It seems maybe a little cavalier to think that \$340 or \$425 is not a significant impact to these retailers.

Mr. Bobel: I would point out we discussed this several times at the Policy and Services Committee. It's been noticed a number of times. We haven't had that comment.

Council Member Holman: Isn't it typical in process and practice, though, to do outreach, especially when you've only got 29 businesses? I'll stop there. You hear my concerns.

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Mayor Burt: We will now go to members of the public. We have three speakers. Our first speaker is Don Tran, to be followed by Mike Amidi.

Don Tran: Good evening, Mayor Burt and Council Members. My name is Don Tran, and I am the Community Development and Health Policy Associate at the Silicon Valley Leadership Group. I'm here on behalf of the Leadership Group to offer our support on the adoption of a locally based Tobacco Retail License Program and to offer our comments on the consideration of a multifamily smoking restriction Ordinance. The Leadership Group represents over 400 of Silicon Valley's most respected employers in various public policy issues that impact the quality of life within the Silicon Valley. Collectively as a whole, Leadership Group members provide one of three private sector jobs within the Valley. The Leadership Group supports the adoption of a locally based Tobacco Retail License Program as it will regulate and enforce and encourage responsible tobacco retail practices. A locally based program will also allow local jurisdictions to play an impactful role in determining what would be best for their respective communities. Ultimately, we believe that the program as demonstrated in other cities will help drastically reduce the rate of tobacco accessibility and also usage among minors. Regarding the consideration of smoke-free multiunit housing ordinances within Palo Alto, there are many negative health outcomes and dangers associated with secondhand smoke exposure. Due to the close living quarters of these multiunit developments, we believe that residents within these developments are at a higher risk of secondhand smoke exposure. Thus, it's important to consider restrictions on units and common areas of these developments. Many current landlords in other Santa Clara County cities have already voluntarily adopted smoke-free regulations within their properties. It's something that should be considered. The Leadership Group is deeply committed to advocating for public health issues that promote health equity. We applaud the County and City Staff for their work on these ordinances. We also want to thank the Council for their leadership and continued dedication towards the health and wellbeing of residents within the City of Palo Alto. Thank you for your time and consideration.

Mayor Burt: Thank you. Our next speaker is Mike Amidi, to be followed by our final speaker—I'm sorry I can't make it out. Ron, I believe, something.

Mike Amidi: Good evening, Mayor and Council Members. My name is Mike Amidi. I own the Valero station at 705 San Antonio Road. I submitted a letter last week that spelled out some of my concerns with this Ordinance. I would like to take this opportunity to highlight one of my main issues, and that is the ability to sell my business and transfer my tobacco license in the future. Our station is located within 500 feet of another station. Based on

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the Santa Clara County Ordinance, the first person to sell their business or even transfer the business to a family member loses the right to sell tobacco. The value of my store seriously would be diminished without an ability to sell tobacco. It is important that the right to sell tobacco included flavored tobacco is extended to the future owner. My wife and I have invested a lot of money into this gas station, and we have owned it for very few months. We were not reached out by anybody regarding this Ordinance being in effect. We did not invest blindly here. We researched and planned before investing here. We knew all of the rules and regulations before we invested, and the City approved our station knowing we would sell tobacco. Banning most of the tobacco category goes beyond simple regulation change that we could not have anticipated. It is significant change to the rules since tobacco is one of the few things we are able to sell in our kiosk. It is unreasonable to force us to remove a majority of tobacco product from the shelf. As you likely know, the City already limits size of the kiosk that we have. The grocery item can't be sold at gas station. Had we known the City intended to ban flavored tobacco, we would not have invested here. I also wanted to point out that the State law requires that all tobacco is behind the counter, meaning it is not accessible to customer of any age. All of the tobacco laws are already enforced by Food and Drug Administration (FDA), Board of Equalization (BOE) and the County Health Department. They regularly conduct youth decoy operation, and we have never failed a tobacco complying survey in my 30 years that I have other sites. What is the purpose of this? If I'm licensed by the State, I'm in compliance, and I don't sell tobacco illegally. Why am I being punished? I urge you to exempt existing businesses from new flavored tobacco sales restriction. My last point is that I think it is highly irregular for the City to sign an agreement with the County that blindly agrees to future changes to this Ordinance. I don't know anyone who would agree to that. At the same time, you are putting Palo Alto businesses at the mercy of the County that clearly disregard retailers. We generate taxes for the City; we provide jobs; and we legally sell tobacco. I hope that you will support us and vote against an agreement with the County. Thank you.

Mayor Burt: Thank you. Our next speaker is Ron—I can't make out the last name.

Ron Tate: It's Tate, T-A-T-E. Sorry about that.

Mayor Burt: Tate.

Mr. Tate: I do everything on the computer, so I can't write anymore. I'm anti-tobacco. I don't smoke tobacco. I don't drink alcohol. I don't drink coffee. I don't drink diet drinks. I'm a vegetarian. The methane gas deal, if

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you wanted to outlaw meat, we could cut this down very fast. I don't eat anything with ears or eyes. The tobacco issue is any time you put taxes or you put restrictions on something, it is not going to slow it down. I just don't think it is. Look at the gasoline tax. You have the huge gasoline tax; we pump 450,000 gallons of gas at our San Antonio station a month. We're filled up with Ferraris, Maserati's, SUVs. The gas tax doesn't do anything for it at all. I agree that we should try to deter people using any form of tobacco. Worse than that, we should deter everyone from drinking any kind of alcohol. That's even worse than tobacco, but that doesn't seem to be an issue because it's kind of a popular thing for people to do. Any time the government gets involved in policing things, it just never works out. How are you going to peep in people's houses to find out if they're smoking inside their house? I agree. I live in Los Gatos actually, and we have anti-smoking rules where you can't smoke within so many feet of a restaurant. You see people standing around 10-15 feet away in groups smoking cigarettes. It doesn't slow them down. I don't think that the taxes on cigarettes, which keeps rising, has really deterred smoking at all. For businesses in Palo Alto such as the station we bought, we relied on a certain amount of retail business, which some of it is tobacco. All of our tobacco is behind the counter. You have to come in; you have to ask for it. It's not out on display. I really suggest that you don't follow the County's rules and hop on board with this, because you're not going to be able to police it. The more rules we have that you can't police—we have enough rules and regulations as it is. In any event, I do applaud you on wanting to make certain that we've cut down on smoking for especially the young people, but it doesn't seem to be working. It's still on the rise. Thank you.

Mayor Burt: Thank you. Our final speaker is Marc Prensky.

Marc Prensky: Mr. Mayor, Council Members, thank you very much. My wife and I moved here a year and a half ago from New York City, Manhattan. We're thrilled to be living here. We live in a multifamily dwelling. It's supposed to be nonsmoking. Unfortunately, the landlord has allowed somebody who is an incredibly high smoker to keep his apartment to live, and the result is that there's a lot of secondhand smoke in the building. We're prevented from doing much about that because there are no ordinances here. I think they would be amenable to doing more if such ordinances took place. We have a young child who is exposed to secondhand smoke that there's no way of preventing from coming through the building. We urge you to pass this multiunit, nonsmoking provision. Thank you so much.

Mayor Burt: Thank you. We'll now return to the Council. Council Member Kniss.



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Council Member Kniss: Once again, thank you again for the public for coming, especially from the Silicon Valley Leadership Group (SVLG). That was very appreciated. One never wins a popularity contest when we're talking about tobacco, whether we're talking about selling it or whether we're talking about policing it or whether we're talking about it in multiunit buildings. I was at the County when we actually passed this. I remember a number of times that people were extraordinarily unhappy with it. I feel very strongly about this. I was just with my family over the weekend. We were discussing that all of the five children that my family had are the recipients or the victims of secondhand smoke. I grew up with my father in the station wagon with all the windows up, and he smoked. Many of you probably had that same experience. Each one of us has some residual from that. I am so sympathetic with the man—I didn't catch your name exactly—in the apartment house where someone is smoking. The smoke literally does go out through the windows; it comes in through the door. I agree with you. It's incredibly unpleasant. I certainly don't hesitate in moving this Motion for those reasons. As I said, no popularity contest ever was won with reducing or discussing cutting down the use of tobacco. However, I am very enthusiastic about this. It worked well at the County. Thank you so much for being willing to oversee that within our City. I really appreciate it.

Mayor Burt: (inaudible)

Council Member Kniss: I did make a Motion, yes.

Vice Mayor Scharff: I'll second it.

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

- A. Approve an Agreement with the County of Santa Clara relating to the administration and enforcement of a Tobacco Retail Permit Program in the City of Palo Alto; and
- B. Direct Staff to draft an Ordinance amending Chapter 9.14 (Smoking and Tobacco Regulations) of the Palo Alto Municipal Code to establish a Tobacco Retail Permit Program; and
- C. Adopt an Ordinance amending Chapter 9.14 (Smoking and Tobacco Regulations) of the Palo Alto Municipal Code to ban smoking in units in multi-unit residences and common areas, and make other minor amendments to smoking restrictions (remove bingo games as places and workplaces exempt from the City's prohibition against smoking in enclosed places).

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Mayor Burt: I didn't hear that done.

Vice Mayor Scharff: I didn't hear it either.

Mayor Burt: You're moving the Staff recommendation?

Council Member Kniss: Yes, I'm moving the Staff recommendation.

Mayor Burt: That's the Motion. Thank you. Did you want to speak further to your Motion?

Council Member Kniss: I think I've spoken enough.

Mayor Burt: I think so too. Vice Mayor Scharff.

Vice Mayor Scharff: Thank you. First of all, I'd like to thank Nicole and the County for all their hard work and actually for working with our Staff on this. Also thank our Staff. I know it's been a long progress, and you guys have spent a lot of time thinking this through and coming up with what's before us tonight. It's been a long haul. I also think it's one of the more innovative partnerships between the City and the County. The County's actually going to take a huge burden off of us by doing the enforcement for all of this. I think we're going to become a model with this partnership for the rest of the cities in the region as they move towards this. We all made Healthy Cities one of our Priorities this year. This is what Healthy Cities means; it means passing a tobacco retailer Ordinance and moving forward with multifamily housing. We won't be the first city. In fact there's a number of other cities that have already outlawed it in multifamily housing. We're actually playing a little catch-up as opposed to leading on this. Joining the County in doing this innovative partnership, I think we're showing that we can be a leader in this. I think this is a really important thing to do. I really appreciate all the work that's gone into this.

Mayor Burt: Council Member Schmid.

Council Member Schmid: Just a follow-up to one of the commenters. It's the County that has 18-370 that the retailer loses the right to sell cigarettes if a new person obtains ownership within 500 feet. As he pointed out, that's a new rule that's come in, that has a major impact on life savings. Does this make sense?

Ms. Cox: The County has a non-transferability clause in our tobacco retail permit. If there is a change in ownership, the grandfathering provision that the business had is lost as a result. The reason for doing this, the County has placed limits on having any new businesses be located near schools and

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also a goal of reducing overall the number of tobacco outlets near schools. That's one way that the County has looked at doing that. The same thing for reducing density of tobacco outlets. That's where the 500-foot provision in our County Ordinance comes into play. The reason behind that is that there are studies that show when there are more tobacco outlets and more access near schools, there's higher smoking rates amongst youth. That's also true when you have a higher number of tobacco outlets in a given geographic area, high density. It is one of the provisions in our Ordinance.

Council Member Schmid: What it hits here is gas stations near freeway entrance, where you have a number of stations on a corner. It's not kids getting out of school but drivers. It seems it hits family ownership pretty hard.

Mr. Bobel: As a practical matter, in Palo Alto I'm trying to think of an instance where within 500 feet we have two gas stations. It might be the corner of San Antonio and Charleston.

Council Member Schmid: Middlefield, yeah.

Mr. Bobel: With that exception, I really can't see where there are two currently within 500 feet.

Council Member Schmid: Two gas stations across the street.

Mr. Bobel: Two places selling tobacco period but, yeah, gas stations.

Council Member Schmid: Middlefield and San Antonio. It sounds like an Ordinance to kill off gas stations. Is there any way of getting exceptions?

Mr. Bobel: We've committed to adopting the exact same Ordinance that the County has.

Council Member Schmid: Is there a way through the County Ordinance?

Ms. Cox: There's not currently.

Mr. Bobel: We could explore the degree to which there's—are those actually franchises and family owned or are they part of a corporation? I think the ones at San Antonio and Charleston, at least one of them is corporate ownership. I could be wrong.

Council Member Schmid: This is at Middlefield and San Antonio.

Mr. Bobel: Maybe it's Middlefield, yeah.

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Council Member Schmid: I think it would be helpful if you could check on that and see if it could make a difference.

Mayor Burt: I just pulled up on Google Maps. In Palo Alto there are two locations where there are stations within that distance. One is on the corner of San Antonio and East Charleston, and the other is San Antonio and Middlefield.

Mr. Bobel: We were both right.

Council Member Schmid: They're both entries to commute routes.

Mr. Bobel: We'll check out both to see what the ownership is.

Mayor Burt: Checking it out, how would that impact our action tonight?

Mr. Bobel: I wouldn't recommend it impact your decision. We would just get back to you with that as information, so you would know.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Council Member Schmid identified my area of concern. Again, this is Section 18-370(e) of the County Ordinance. I don't agree with the 500-foot location requirement. I don't think it's appropriate. I heard the arguments in favor of it. I just don't think that's sufficient to impose that prohibition.

Mayor Burt: Can you tell us ...

Council Member Wolbach: It's on Page 5 of 13 of the County Ordinance, which is one of the attachments in the late packet we received.

Mayor Burt: Where on ...

Council Member Wolbach: It's in the middle of—where it says Page 5 of 13 at the top, it's in the middle, "(e)".

Mayor Burt: Thank you.

Council Member Wolbach: Sure. I'd also mention another location that's probably applicable, which is the 7/11 on Colorado and the Safeway right behind it. I'm not a fan of tobacco. I've never smoked a cigarette in my life. I've had a couple of cigars, I'll admit, and even smoked a hookah. People have a right to do things that harm themselves. Buying or selling tobacco isn't the same as using it or smoking it or smoking it in multifamily housing. I'm very much in favor of prohibiting smoking in multifamily

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housing and eliminating the ability of one person to harm another through secondhand smoke. Telling people you can't gain access to something that only will hurt you and you can't even buy it is not something I'm in favor of. Let me just make sure I'm clear about a couple of things.

Mr. Bobel: Could I just address that one point, just to make sure everybody's on the same page with respect to it? This 500-foot thing would kick in, in two ways. One, if a new facility came along that wanted to locate within 500 feet of somebody else. Secondly, if there was a change of ownership of one of the two that were there already. It doesn't affect people who continue to own a business within 500 feet of somebody else.

Council Member Wolbach: I understand. Yes, that's right. I fully appreciate that. Thank you for clarifying for everyone else. Let me be clear about a couple of things. If we were to adopt this, would the City then—sorry if I missed it. Is the City going to be issuing the permits or will the County be issuing all the permits?

Mr. Bobel: The County.

Council Member Wolbach: Is it possible for us to ask the County to not enforce the 500-foot requirement for permits issued within Palo Alto? Just skip that one line.

Mr. Bobel: The County was very firm—not just Nicole, not to blame it on her. The whole County structure was very firm on this. It would have to be the exact same Ordinance, and that's what we're agreeing to in the agreement, to have the same exact requirements. I don't mean Ordinance; I mean the agreement. In the agreement, we're committing to that.

Council Member Wolbach: I think that might sink Part Two for me.

Mayor Burt: Phil, can you or someone point out—I see "(e)," but I don't—I was trying to find the passage on the sale of the business trigger. "(f)." Got it. Let me just jump in here. You're saying if we change a word of this, we can't get the County to enforce it?

Mr. Bobel: It's not so much a word, but that's a requirement. The requirement is on change of ownership that the 500-foot thing would kick in or a new facility, the 500-foot thing would apply. Again, it's a policy issue for the County that it's part of, as Nicole said, their desire to restrict the number and the density of tobacco sales. I guess you either agree with that or you don't.

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Mayor Burt: We might agree with it in principal. We might also see that there are a couple of mechanisms to reduce it. One is attrition. We get gas stations that close up, and over time we have fewer gas stations. We even have fewer grocery retail outlets. That's an attrition, but that's different from a change in ownership restriction. I don't know how much it would reduce the resale value of a business. I think that's a separate subset of how we would long term go about reducing the number of tobacco sale sites. I'm sorry. Is it Nicole, is that right? If we struck "(f)(2)" from our local Ordinance, we didn't add anything to the Ordinance. It just meant that one aspect of what you would enforce would be excluded. Is there a big problem there?

Mr. Bobel: Rather than put poor little Nicole on the spot, let me remind you you're not actually adopting our Ordinance tonight. You're directing us to go back and—you could direct us to in the process of drafting our own Ordinance work with the attorneys at the County—Nicole isn't in that office—and see what we could work out.

Mayor Burt: Council Member DuBois.

Mr. Bobel: The other thing I would say on that same point is there's two parts to it. One is change of ownership and the other is a new facility. I think the new facility part of it is not going to happen. It's theoretical only. The change of ownership thing, at least it's possible that would occur. The new facility part of it really is not going to happen.

Mayor Burt: Right. Council Member DuBois.

Council Member DuBois: Just to give a little perspective. This came to Policy and Services two or three times over the last 2 years. I think I'm the only person that was in all those meetings over the 2 years. Just to summarize, I think we were attracted to the idea of the County enforcing this. Thank you for that. I think it was always a discussion to be had. This kind of detail never really came to Policy and Services. I don't think we ever really saw this Ordinance.

Mr. Bobel: We didn't talk about the 500-foot thing, no.

Council Member Dubois: Right. This is kind of a new thing that's popping up tonight. The other thing we're agreeing to is to agree to all future changes to this Ordinance. Right?

Mr. Bobel: Yes, it says that. That would be our intent. On the other hand, if we felt strongly and didn't adopt it, then the County would be faced with the decision of would they curtail the program in our area—frankly cutting

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off their nose to spite their face—or would we just mush forward. While it says that's our intent, there's no explicit sanction for us should we fail to do that.

Molly Stump, City Attorney: I would just add to that that the agreement that you're being asked to adopt tonight does allow the City to terminate the agreement and the County as well. If the County's program diverged significantly from the policy direction that the Council was comfortable with, then we would be able to ...

Council Member DuBois: Most likely we would not even consider updates to the County Ordinance. If we sign onto this program and we have enforcement going on, would we necessarily even see County amendments and consider ...

Ms. Stump: I'm sure our County partners would be willing to keep us updated of significant changes to the Ordinance. I don't know that any are contemplated. It's a fairly well-established program.

Mr. Bobel: Like I was saying earlier, they just made some changes. That's why we thought the timing was good. They don't have any up their sleeve at the moment. Should they, they would tell us. It would have to come back to you, and we could make the decision. As Molly said, we could make the decision not to make that change, and then the County could agree to discontinue the agreement or we could.

Council Member Dubois: We say it's well-established. There's some pretty significant recent changes for all kinds of things.

Mr. Bobel: I don't think of them as super significant. Do you want to comment?

Council Member DuBois: That's okay. I share the concern about the impact on selling a business. I had a question, though. Why does the City limit the selling of food in gas stations? It sounds like we limit pretty much what actually can be sold.

Mayor Burt: What (inaudible)?

Council Member DuBois: I think I read it in several letters, that they can only sell packaged snacks and not fresh food.

Mr. Bobel: That's not a City—that would be a County Health Department thing. There are some Health Department rules about what you can sell. It's not a City thing.

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Council Member DuBois: (crosstalk) we might be able to loosen that up. Again, Policy and Services did spend a lot of time talking about distance from schools. We spent an awful lot of time talking about the multiunit residences. I think we asked Staff to investigate whether filtering was even possible. They came back and said it really wasn't. We had a lot of members of the community that spoke to us about secondhand smoke effects. I think we were unanimous on that part of the Motion. I just wanted to point out that some of these other things are new.

Mayor Burt: I now see that we have some lights; people want to take another cut at it. Let's ...

Council Member Holman: (inaudible)

Mayor Burt: I thought you had. Either way, let me just say that if we do have any follow-up motions or anything, let's just be real focused and succinct. Council Member Holman.

Council Member Holman: Thank you. I was going to make a—maybe it's simpler just to make a substitution Motion which is to adopt "C," which was part of the Staff recommendation, and direct Staff to do outreach to the retailers and return to Council with options of a Palo Alto Ordinance or adoption of the County agreement.

Council Member Wolbach: I'll second that.

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

- A. Adopt an Ordinance amending Chapter 9.14 (Smoking and Tobacco Regulations) of the Palo Alto Municipal Code to ban smoking in units in multi-unit residences and common areas, and make other minor amendments to smoking restrictions (remove bingo games as places and workplaces exempt from the City's prohibition against smoking in enclosed places); and
- B. Direct Staff to conduct outreach to tobacco retailers and return to Council with options for a Palo Alto Ordinance or adoption of the Santa Clara County Ordinance.

Mayor Burt: Go ahead and speak to your Motion.

Council Member Holman: The reason is because things I mentioned earlier—just in the effort to be brief here. I raised some, to me, significant issues during the question portion of this. This other issue is resale-ability.



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Whether it's enforced or not, it's still on the books so I can't imagine it wouldn't have a significant impact on somebody who's trying to sell their business. That is interfering in certain private property right, which the City can do, but I have real concerns about the implications of that. I'll just stop there in the effort to be brief.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Thank you, Council Member Holman, for proposing this. This addresses my major concern. Ultimately, what we're faced with in the recommendation was two very, very different policy initiatives. One relating to the sale of tobacco and the other relating to the use of smoked tobacco. I think we should take them up separately. I was on Policy and Services last year and definitely did participate in some of the conversations about multifamily housing. I'm excited to pass that and move that forward. I think that's extremely important, but I think we need to do a little bit more work and think a little bit harder before we move forward with the other parts.

Mayor Burt: Council Member Filseth.

Council Member Filseth: (inaudible)

Mayor Burt: You're good. Vice Mayor Scharff.

Vice Mayor Scharff: I'm not going to support the substitute Motion. It's really important, frankly, that we deal with issues like flavored tobacco, which are the things that hook kids. These are marketing ploys basically to get more and more younger people. If you don't start smoking—I forget the age; you probably know, Nicole—by a certain age, you're really unlikely—do you know what it is?

Ms. Cox: Definitely before 26, when the brain stops developing. Typically it's around 21.

Vice Mayor Scharff: That's really what we need to do, focus on how we don't get young people hooked. What a tobacco Ordinance like this does is protect children from getting hooked, and young adults. I will say that at 21 to 26, you're obviously young adults. I think it's really important that we do this. Unless we want to spend the money going through and enforcing this, it's really great that we can partner with the County to have them do it. However, if the regular Motion comes back, I think I would like to move the addition that we do delete "(f)(2)" or have the Staff work to delete "(f)(2)" which is the change of ownership in business. That could have an impact,

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and I don't think that's really necessary in the enforcement. I think the County could probably accommodate us on something like that.

Mayor Burt: Council Member Filseth, you now want to speak.

Council Member Filseth: We're right to really ponder and look at all the ramifications and issues of the economics associated with this. The bottom line is the stuff kills people. There's going to be an impact if we stop selling it or reduce selling it. I think we ought to move forward. I don't think I'm going to support the substitute Motion.

Council Member Holman: Can I just clarify one thing about the Motion?

Mayor Burt: Yeah, go ahead.

Council Member Holman: The reason I said to have Staff do outreach to the retailers and return to Council with options—the things that Vice Mayor Scharff mentioned are the kinds of things I would expect to come back in an Ordinance to cover Palo Alto, like the flavored tobaccos and those sorts of things. That was the intention of the Ordinance.

Mayor Burt: Council Member Schmid.

Council Member Schmid: We've been talking about a fairly narrow issue of small business changing ownership. I wonder if it could be taken care of by a request to the County to make an amendment to "(f)(2)" to just ...

Mayor Burt: Council Member Schmid, that's what Vice Mayor Scharff said he would be doing to the primary Motion if the substitute fails.

Council Member Schmid: I would like to ask the County rep whether ...

Mayor Burt: I had asked that same kind of question earlier. Our Staff had said that they would be able to come back with ...

Mr. Bobel: We would work with the County. I think it's unfair to Nicole, who's not in their Attorney's Office, to expect her to respond one way or the other.

Ms. Cox: There are multiple departments that are part of the process, so I would need to re-engage our team to have that conversation.

James Keene, City Manager: We'd work with the County. If it could be done, we'll come back and tell you it could be done. If it can't be done, we would come back and let you know that.

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Mr. Bobel: The only other thing about Council Member Holman's request, that I have to point out, is we don't have resources to ...

Mr. Keene: If you'll be patient, I was going to do that.

Mr. Bobel: Sorry.

Mr. Keene: You get the message. First of all, the Ordinance isn't even exactly clear—sorry to be like this—about what's the sequence of the outreach and figuring out what to do. Secondly from that, this has been a stretch to even respond on this initiative. As it is, the whole reason for going with the County is they do this. They have the capacity; they have the Ordinance. For us to go through this process, which could—this level of engagement could generate all sorts of different alternatives. There is a proven approach. Even if we were to develop something, it doesn't mean that the County, even if we had the capacity to that which we don't, would be able to enforce an Ordinance that we craft in our own way. We'd make this really complicated and not possible really.

Mayor Burt: I'm going to support the initial Motion with striking "(f)(2)." I think we heard that as a primary objection. I do want to make sure that there's some mechanism for us to be able to look at any unintended consequences or unfair consequences of the full County Ordinance. It's problematic that we're approving a County Ordinance that really wasn't fleshed out by the Policy and Services Committee after 2 years of work on this. There may be other minefields in here, but at least that "(f)(2)" we would be addressing.

Council Member Kniss: Pat, I want to add one thing.

Mayor Burt: Council Member Kniss, I've got your light. I just wanted to (crosstalk).

Council Member Kniss: This is in response to the substitute Motion. The County's job is health. It isn't our job at the City. It's wonderful to have the County coming forward. I know how carefully this was vetted and has been used now for a number of years. I understand the concern for local retailers and so forth. At the end of the day, we're talking about tobacco. What Council Member Filseth just said is true. Tobacco kills people, and it's not just a casual kind of thing that we're talking about. It is a dangerous drug. I hope we will go back to the original Motion.

Mayor Burt: Let's vote on the substitute Motion. That fails on a 6-2 vote with Council Members Wolbach and Holman voting yes.

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**SUBSTITUTE MOTION FAILED:** 2-6 Holman, Wolbach yes

Mayor Burt: Vice Mayor Scharff, you have an amendment to the initial Motion?

Vice Mayor Scharff: I do. I would direct Staff to work with the County to strike "(f)(2)" from the Ordinance.

Mayor Burt: The maker and seconder?

Council Member Kniss: That's fine.

Mayor Burt: Who was the other?

Vice Mayor Scharff: I was the seconder.

Council Member Kniss: I was the maker; he was the seconder.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "direct Staff to work with Santa Clara County to remove Santa Clara County Code of Ordinances, Chapter XXIII, Section A 18-370, Subsection (f) 2 from the Palo Alto Ordinance." (New Part C)

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: As a point of process, I'd like to ask the Mayor and/or the maker and seconder if it would be possible to vote separately on "A" and "B" and then on "C"?

Mayor Burt: We can divide it.

Council Member Wolbach: Thank you.

**MOTION AS AMENDED RESTATED:** Council Member Kniss moved, seconded by Vice Mayor Scharff to:

- A. Approve an Agreement with the County of Santa Clara relating to the administration and enforcement of a Tobacco Retail Permit Program in the City of Palo Alto; and
- B. Direct Staff to draft an Ordinance amending Chapter 9.14 Smoking and Tobacco Regulations) of the Palo Alto Municipal Code to establish a Tobacco Retail Permit Program; and

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- C. Direct Staff to work with Santa Clara County to remove Santa Clara County Code of Ordinances, Chapter XXIII, Section A 18-370, Subsection (f) 2 from the Palo Alto Ordinance; and
- D. Adopt an Ordinance amending Chapter 9.14 (Smoking and Tobacco Regulations) of the Palo Alto Municipal Code to ban smoking in units in multi-unit residences and common areas, and make other minor amendments to smoking restrictions (remove bingo games as places and workplaces exempt from the City's prohibition against smoking in enclosed places).

## **MOTION SEPARATED FOR THE PURPOSE OF VOTING**

Mayor Burt: Let's now vote on "A" and "B."

Council Member Wolbach: I guess "D" would probably go with those.

Mayor Burt: Sorry. Is there a "D"? We're just voting—"D" goes with "A" and "B," you're saying?

Vice Mayor Scharff: "D" goes with "C."

Mayor Burt: "D" goes with "C."

Vice Mayor Scharff: No, it goes with "A" and "B."

Council Member Kniss: With "A" and "B."

Mayor Burt: I'm sorry. We're now going to vote on "A," "B" and "D" of the Motion.

Council Member Wolbach: Actually it just changed. Now it's "A," "B" and "C."

Mayor Burt: We're now going to vote on the new "A," "B" and "C." That passes on a 6-2 vote with Council Members Wolbach and Holman voting no.

**MOTION PARTS A-C PASSED:** 6-2 Holman, Wolbach no

Mayor Burt: Now, let's vote on Section D of the Motion. Council Member Holman, are you voting?

Council Member Holman: I'm sorry.

Mayor Burt: That passes unanimously on an 8-0 vote. Thank you all very much.

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**MOTION PART D PASSED: 8-0**

Mr. Keene: Mr. Mayor?

Mayor Burt: Yes.

Mr. Keene: A quick question. It is 10:30 P.M. now. We still have Item Number 10, East Palo Alto water Colleagues' Memo. We had some discussion about continuing the Closed Session tonight to the 12th. Right now your agenda looks better on the 12th than it does right now. I thought there was some sense that if we got done by 10:00 P.M. or 10:30 P.M., we'd look at tonight. Otherwise, carry it over to the 12th.

Mayor Burt: Let's go ahead and carry over Item 1A to the 12th.

Mr. Keene: I'll let the Fire Chief and the Human Resources (HR) Director know so they can go home.

Mayor Burt: Thank you.

Agenda Item Number 1A - CONFERENCE WITH CITY ATTORNEY ... continued to December 12, 2016.

10. Colleagues' Memo Regarding East Palo Alto Water Shortage.

Mayor Burt: Now we will go to Item Number 10, which is a Colleagues' Memo addressing the East Palo Alto water shortage. I assume all of you have had an opportunity to read the memo. At a high level, we've been aware for at least during this year that East Palo Alto is very constrained by a water supply allocation that was given to them more than 20 years ago. It basically is an allocation that severely restricts their ability to add housing and even commercial development within a reasonable amount. They have a fraction of the allocation per capita that other cities including Palo Alto have within the Hetch Hetchy water system. The makers of the Colleagues' Memo and myself have tried to lay out both the significance of this for our neighboring city, the fairness of a reallocation for their wellbeing. Frankly their wellbeing favorably affects our community. The pretty nominal impact on Palo Alto of a reallocation in the neighborhood of a half million Gallons per Day (GPD), gallons per day. On that note and at this late hour, we would be happy to respond to any questions from colleagues and then hear from members of the public. The direction of the Memo is to refer this to the Policy and Services Committee.

Vice Mayor Scharff: There's two things.

Mayor Burt: I'm sorry?

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Vice Mayor Scharff: It's either do a Study Session or direct it to a Committee.

Mayor Burt: That's right. The Council needs to make a determination whether they would like to refer it to Policy and Services or a future Study Session of the Council as a whole. That would be a determination. At this time, we're open to questions, and then we'll hear from members of the public. Council Member Kniss, do you have a question?

Council Member Kniss: A question regarding the water. I think I sent you a message this morning, Pat. Is there anything in the arrangement that we have with the Public Utilities Commission (PUC) or with Hetch Hetchy and so forth that would preclude us from doing this?

Mayor Burt: No.

Council Member Kniss: Question answered.

James Keene, City Manager: We have some process we have to work through with those bodies, but it's our determination that there shouldn't be impediments.

Council Member Kniss: We can give our water away or sell it.

Mayor Burt: Yes.

Mr. Keene: As the Colleagues' Memo proposes it, that is allowable under the agreements that we have. We have to go through some process, though, to do it.

Mayor Burt: Thank you. Let's proceed to speakers. I also see Mayor Donna Rutherford here to speak. You're welcome to speak at the outset or whenever you like. Welcome, Mayor Rutherford.

Donna Rutherford, City of East Palo Alto Mayor: Good evening. I had to be here personally. Thank you for the introduction. I appreciate the fact that Mayor Burt—first, let me start off by saying Honorable Mayor Burt and Vice Mayor Scharff, thank you for having me here this evening. I wanted to personally be here to thank the Council for their deliberations on this very important issue that East Palo Alto is having. Certainly, as the Mayor said, we do receive the smallest allotment of water on the Peninsula, and we've approached San Francisco PUC in regards to giving us an increase. This has probably never happened before. Who would have thought that we would be in this position, but we are. I think in our outreach to other communities to look at their excess amount of water that they have, if there's any way

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that we could purchase, because we know that water is a hot commodity. We're willing to sit down and do some more discussions around it. I won't say very much other than thank you very much for this start in this very important discussion. I'm here as a resident first and as the Mayor second. Thank you.

Mayor Burt: Thank you. Our next speaker is Peter Drekmeier, to be followed by Tess Byler. Welcome. Welcome, former Mayor Drekmeier.

Peter Drekmeier: Thank you, Mr. Mayor and Council Members. Is there a way to show overheads now? We got rid of that. I feel guilty keeping you all here an extra three minutes. Peter Drekmeier, Fulton Street, Palo Alto. I also work for the Tuolumne River Trust, so I'm doing a lot of work with water. I grew up in Midtown Palo Alto. One of my best friends commuted to our school from East Palo Alto. It was almost kind of strange for me that East Palo Alto and Palo Alto weren't the same City. In fact, they were in a different county, and we knew that because he had access to "Now & Later's", that delicious candy that wasn't available in Santa Clara County at the time, so he was very popular. My ZIP Code was 94303, and I remember being very disappointed 10 years or so ago that a lot of people in the 94303 were upset that they were lumped in with East Palo Alto, which is also 94303, because it made their insurance costs higher, because it was a less advantaged community. Why are we the privileged complaining? We should be fighting to make sure that it's equitable across the city and county lines. I think the biggest injustice, one of them, to East Palo Alto was when the allocation of water was determined in the mid-'80s. East Palo Alto was just recently incorporated and represented by the County and really got the short end of the stick, two million gallons a day for a community that's almost half the size of Palo Alto. We got 17 million gallons per day. This is wonderful. I really want to thank Mayor Burt and Council Members DuBois and Filseth and Holman for bringing this forward. I'll tell you the community really supports this. I have not heard anyone say this is a bad idea, and I've been talking to a lot of people about this for many years. What I wanted to show you—I'm sure you can't all see this. It's really phenomenal what we've done to conserve water in the SFPUC service territory, San Francisco and 26 communities like Palo Alto and East Palo Alto, 2.6 million people. We've reduced our water use 30 percent in 10 years. It'll rebound a little bit, but I think people are really aware that it's a finite resource. There's a cap of 265 self-imposed by the SFPUC. Even before the drought kicked in, we were at 225. Last year we were at 180, so that's going to rebound. Bay Area Water Supply Conservation Agency (BAWSCA), which we're a member of, revisited demand projections for 2040. BAWSCA has a cap of 184 Millions of Gallons per Day (MGD), million gallons per day. The projections for 2040 are 168. We're in really good shape. The last thing I wanted to show you is that—I'm



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sure you can see this. This shows current use and allocation and demand projections. Palo Alto, we're looking at 10 MGD 2040, and East Palo Alto's looking at 3.5. This is a wonderful thing we can do. It's the right thing. Thank you for, I hope, taking the next step. I'll leave this just in case there's an opportunity for you to see them.

Mayor Burt: Thank you. Our next speaker is Tess Byler, to be followed by Bill Ross.

Tess Byler: Good evening. My name's Tess Byler. I'm a California hydrogeologist. I've been talking with the City of East Palo Alto for at least 3 years now about the possibility of moving forward with such an action. I just want to say that even though all of my friends are not hydrogeologists, we live in Palo Alto. We all support this action. We think it's the right thing to do. We hope that people will move forward with it. Thank you.

Mayor Burt: Thank you. Bill Ross to be followed by Sean Charpentier.

Bill Ross: Good evening. I'm a resident and ratepayer. If the last 5 1/2 years has taught people like me anything, it's that a water reallocation agreement is extremely complex. Assuming that the intent of the Colleagues' Memo is to permanently transfer a specific amount of the City's share of water to the City of East Palo Alto to allow the removal of the moratorium on commercial development and particularly on affordable housing, that is a project which is not otherwise exempt under CEQA. It needs to be assessed properly. What that is, I don't know. If the goal is to link this to affordable housing, I think that is going to be an agreement that has to be reviewed, and I would recommend, by outside counsel. The well-established rule is one legislative body can't bind the (inaudible) discretion of another legislative body. I assume what you're seeking is some commitment of affordable housing. I think history has shown that that's been difficult to achieve in East Palo Alto because of an initiative rent control measure. I would historically make reference to the fact that one of the largest losses of the Public Employees Retirements System (PERS) for a real estate investment occurred in East Palo Alto. In any event, I think that agreement has to be in a way that it's not assailable. I would also think that it has to be related back to the Proposition 218 rate making proceeding that you went through, because there wasn't any indication in that rate making proceeding of a permanent transfer of water. Finally, when you say permanent, I think what you're talking about is 30-40 years. Spot purchases right now, the going rate is about \$600 per acre foot, regardless of whether it's spot or contract. That has to be integrated in to preserve the structure of the rate-making capacity that you went through here. I hope you understand that these references to process are something that would

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reinforce what I think the intent of the Colleagues' Memo is, to make an intra-county, inter-city transfer of water legally sufficient. Thank you.

Mayor Burt: Thank you. Our next speaker is Sean Charpentier, followed by Carol Lamont.

Sean Charpentier, City of East Palo Alto Assistant City Manager: Good evening. My name is Sean Charpentier; I'm the Assistant City Manager in East Palo Alto. I'm here tonight to thank you for the Colleagues' Memo and mention that we look forward to working with the City of Palo Alto to resolve this issue. We appreciate your interest in it. Just as a little bit of background. The City of East Palo Alto in the last 10 years has consumed an average of 95 percent of its SFPUC allocation, and in some years has exceeded it. As a result of that, the City Council adopted a moratorium on new or expanded water connections in July of this year. That moratorium does have an impact on us. It is precluding us from proceeding with one affordable housing project, a private school project, and two commercial development projects. It is having a significant impact on us at every level. We appreciate this and look forward to working with the City of Palo Alto.

Mayor Burt: Thank you. Our final speaker is Carol Lamont. Welcome.

Carol Lamont: Hello, Mayor and City Council Members. I'm going to read tonight, because it's a little bit late and I'm tired. I'm speaking to you tonight as a long-term resident of Palo Alto and on behalf of the Housing Leadership Council of San Mateo County on whose Board I serve. The HLC is the only nonprofit organization that is dedicated solely to the production and preservation of quality affordable homes in San Mateo County. Tonight, we urge the City Council to approve the transfer of a small portion of Palo Alto's abundant water allocation to East Palo Alto as soon as possible. I've a long history of working to expand the supply of affordable homes, including in East Palo Alto, where I served as Co-Chair of the Regional Council's East Palo Alto Task Force to bring Federal funding and expertise to this community, which was recognized by all Federal agencies in the region as one of the two poorest communities in the Bay Area. I also worked in philanthropy for years, investing in solutions to housing needs. I worked for the City of East Palo Alto to help stabilize and prevent the displacement of residents. In 1998, when I first came to work in East Palo Alto as a community builder for Department of Housing and Urban Development (HUD) during Bill Clinton's tenure, I came to see the remarkable determination and resilience of the community. I also came to recognize the many hardships imposed on this community by surrounding cities. On my first day as a community builder in East Palo Alto, a resident gave me a tour. The first thing he showed me was how the creek that separates San Mateo

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and Santa Clara County had been rerouted to expand the land within Palo Alto's borders to accommodate the golf course and expand land for office and industrial use, that significantly expanded Palo Alto's tax base while shrinking the land and opportunity for what was in unincorporated East Palo Alto. Throughout the Bay Area, people are struggling to afford a home, but the situation is particularly acute in the Peninsula, and it is growing worse. In the last 3 years, for every 26 jobs that have been created, only one home has been built. This huge disparity has impacts throughout and beyond our sub-region. Local workers who are unable to find options in our communities are forced to commute long distances, worsening commutes. The housing crisis is a preventable, human tragedy that is caused by cities like Palo Alto that are developing more jobs than housing units. East Palo Alto has 0.23 jobs per employed resident, while Palo Alto has 3.02 jobs per employed resident. Palo Alto's draft General Plan purposely and willfully plans for a continuation of the severe jobs/housing imbalance. Almost 40 percent of East Palo Alto's homes are made affordable to residents via rent control or housing assistance for both rental and ownership housing. East Palo Alto has approximately 22 percent of the emergency shelter beds in San Mateo County, but only 3.2 percent of the population. The housing in East Palo Alto essentially subsidizes all the jobs in Silicon Valley. Still, East Palo Alto's goal is to accommodate more affordable homes and is seeking a modest transfer of water allocation from Palo Alto to accomplish this and to stabilize the community's future. Typically what is needed to build affordable homes is money, land and political approvals. In East Palo Alto, the biggest need to meet its goal for housing is more water. East Palo Alto provides housing for many Palo Alto and Stanford employees, and it bears much of the traffic burden from commuters traveling from the East Bay to their jobs in Palo Alto. Transferring a small percentage of the water allocation to enable East Palo Alto to build much needed affordable homes is an important way to mitigate the impact Palo Alto's job growth has, while helping this neighboring, lower-income community build a better future. Thank you.

Mayor Burt: Thank you. We'll now return to the Council. Council Member Schmid.

Council Member Schmid: I enthusiastically support the recommendation to go to the Policy and Services Committee with this and take a look at it. I just have a question about what we are transferring from. Palo Alto has three different numbers that it's using with the SFPUC. It has its individual supply guarantee of 19.1 thousand acre feet per year, that is permanent in nature. In 2010, they agreed to an interim supply allocation of 16.4 acre feet under the improvements to Hetch Hetchy. That will expire in 2018. In

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2013-2014, they came up with a two-tiered drought allocation, which granted Palo Alto 11.4 acre feet per year.

Mayor Burt: Let's let Staff—at this hour; let's just get to answering the question. Wait. We'll get the clarification.

James Keene, City Manager: We'll see if we can't answer the question or should, since we are just referring it to another ...

Council Member Schmid: I think the question is something for the Policy and Services to look at. But the chief ...

Mayor Burt: No, I think we can ...

Council Member Schmid: The key question ...

Ed Shikada, Assistant City Manager/Utilities General Manager: It's very basic. It's a question of the permanent individual supply guarantee.

Mayor Burt: That's the proposal before us.

Council Member Schmid: From the 19.1 acre feet?

Mr. Shikada: That is correct. I'm not sure about the acre feet total. That said, it is the provision of the individual supply guarantee that is enabled under our agreement with SFPUC, a permanent transfer.

Council Member Schmid: Yeah. That's a no-brainer.

Mr. Keene: Thanks.

Mayor Burt: We were able to clarify that. Thank you. Council Member DuBois.

Council Member DuBois: Just real quick. I think this is the right thing to do. We got a lot of letters in favor of the concept. The Memo's really just asking for discussion without prescribing a solution. One thing we might want to discuss with East Palo Alto is maybe the idea of less groundwater pumping in exchange for some of this water allocation. We share an aquifer. We're concerned about sea level rise and saltwater intrusion. Another point I wanted to make is we talk about jobs/housing balance a lot. It really is a regional measure, and we're surrounded by a lot of housing-rich communities. Enabling more housing to be built in East Palo Alto makes sense for all of us, I think. The last point is there are other cities that have excess allocations. Hopefully cities like Mountain View and others will follow suit, and we won't be the only water transfer for East Palo Alto.

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Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: I also enthusiastically support this. I'm a little concerned about the timing. I heard that East Palo Alto has a moratorium. I think they need us to move fairly quickly; that's not something we're not known for. I wanted us to think through a little bit the process. It's fine if we send it to one of the Committees, but it'd be nice if we came back to Council fairly quickly after that. I don't want it to languish. I've been thinking a little bit. Typically something like this actually wouldn't go to Policy and Services. This is more of a Utilities issue. All Utilities issues go to Finance. We obviously could send it to Policy and Services. In terms of understanding water and understanding all of those issues, those always come to Finance. I think that's something we should think about. The other thing we could think about—the other thing that's really incumbent upon Staff is I assume there's a lot of complicated issues, both legal and technical, in doing this. The real trick to this is being able to get the Staff work all put together and the questions answered and then getting to Policy and Services and then getting to Council. I guess I wanted to get a sense from Staff whether or not that's the best route or is the best route, instead of going to a Committee, to come to Council either as a Study Session or possibly for action for some directions. I assume it could be a two-step process. Not all the questions will be answered. I don't know. I'm looking at what's the most efficient process that Staff might want to use on this.

Mr. Keene: Can I jump in, give it a try? I think the technical and legal issues we have to work through are, in one sense, uncomplicated in that we're just going to have to work through those. The variable is any additional policy considerations that the Council needs to weigh in on. The issue, for example, of are there some potential assurances as it relates to not having to use groundwater or as much because of this supply, are there other goals that you would like to be able to talk about, those sorts of things. I don't see any of those things really having a bearing on the mechanics of how we have to craft an agreement. It's more to get the direction so that East Palo Alto would know what the terms would be and we would roughly know what the terms would be. I think we could do the analytical work on the technical and legal issues in parallel with those discussions. In many respects, I would assume that if the Council gives us a directive here we would start doing that work now. Do you know what I mean? As Staff, even beforehand and be prepared for the policy discussion that you would want to have. The only other thing I would throw out there—I don't know if there's an issue with the UAC. After the Council has settled on anything, whether you think there's a need for it or whether the urgency potentially of the time is that we want to keep this just at the Council. You may want to clarify that.

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Vice Mayor Scharff: I'm gathering that Staff has no thoughts as to whether or not they'd rather us send it to a Committee and then come back to Council or they'd rather have a Study Session or if they'd rather have basically a Study Session with some action on some limited issues or what you think would be the most ...

Mr. Keene: I think the Council would in a better position to tell us what you would think would be the shortest route.

Vice Mayor Scharff: Thanks.

Mayor Burt: Council Member Holman.

Council Member Holman: Obviously I'm in support of this and glad that this can happen. Some of us were—I think a lot of people have been interested in this for a good long while. Last year there seemed to be roadblocks to doing this. Not wanting, by any means, to dictate to somebody else what they can do, I think it would be helpful, because it is an agreement and an arrangement with another community, to know what the priorities are. I know there's been this affordable housing project ready to go, just haven't had the water. Council Member DuBois mentioned groundwater pumping and limiting that. It would be interesting to know also what kind of development you are looking at in terms of commercial, what kind of commercial, retail versus general office or whatever. It'd be just interesting to know and helpful to know as this becomes a more public dialog what the priorities are. Happy to support this.

Mayor Burt: Council Member Schmid, do you have a second brief thing?

Council Member Schmid: Yeah. I just wanted to make the clarification that the two-tier drought allocation of 11.4 thousand acre feet is what the SFPUC can provide based on the ISG. You have to provide not just RISG but what the SFPUC can provide based upon that number.

Mr. Keene: This thing gets sliced and diced in a lot of different ways. There will be new agreements that are going to be coming up as it relates to some of the drought conditions and a lot of unknowns. We'll be in a position to talk through all of those at the Committee or whatever level with the Council.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: I'll also be looking forward to supporting this. I would say that, from my own perspective, I don't think it's appropriate to place any conditions on the water allocation. There's a clear disparity, and

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it's frankly an injustice. I think we need to do our part. If there's an opportunity to have other cities join us in that without preconditions or strings attached so that East Palo Alto can have all the same opportunities that we do, I think that's appropriate.

Mayor Burt: Council Member Filseth.

Council Member Filseth: I just basically wanted to echo that. I think we ought to resist the temptation to try to micro-engineer this too much. The bottom line is we've got it and we're not using it. They need it, so we should just do this.

Mayor Burt: I'll just add a couple of additional comments. East Palo Alto is now a partner in our joint recycled water committee through the Santa Clara Valley Water District, because East Palo Alto is one of our partner agencies in our Water Quality Control Plant. Within that, that study is one where we're looking more deeply at our groundwater aquifer. I think that the entire notion of understanding our aquifer and collaboration on that is something that we're all working together on. I also want to emphasize something that's laid out in the Memo for the benefit of the community's understanding. When we had our drought restrictions, they weren't because SFPUC and the Hetch Hetchy system lacked water. It was a Statewide mandate by the Governor that affected all jurisdictions and water agencies in the state. It so happens that the Hetch Hetchy system—part of the reason that we are in as good a shape as we are in a drought is that almost 20 years ago Hetch Hetchy, after the previous drought, stopped pumping water for purposes of generating cheap hydro during the drought. As a result, the water storage capacity for drinking water and other potable water usage for all of us in the Hetch Hetchy system improved. That's why Hetch Hetchy withstood this 500-year drought in better shape than almost any other water system in the state. We're now back up at a fairly high portion of its total capacity. I think that's one area of concern that the community might have without understanding that it wasn't through our regional agency that the drought restriction occurred, and it would be a very nominal impact on us from the drought. I concur with what a number of speakers have said and my colleagues have said. A lot of our community doesn't know the long history of our neighbor and our colleagues in East Palo Alto, where there have been a number of unfair and unjust zoning and other actions over many decades. This is a modest way in which we can help correct one of those. I want to lend my support to the initiative and thank my colleagues for their support. I think we can vote on the board.

Mr. Keene: Is there a Motion, Mr. Mayor?

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Mayor Burt: I'm sorry. We don't have the Motion yet.

Vice Mayor Scharff: I'll make a Motion.

Mayor Burt: Vice Mayor Scharff.

Vice Mayor Scharff: I'll move that we support this Colleagues' Memo and refer it to Finance.

Council Member Kniss: Second.

Mayor Burt: I'll second that. Second by Council Member Kniss. Would you like to speak to your Motion?

**MOTION:** Vice Mayor Scharff moved, seconded by Council Member Kniss to refer to the Finance Committee, a discussion of how the City of Palo Alto may help support East Palo Alto through a transfer or sale of a small portion of its Individual Supply Guarantee.

Vice Mayor Scharff: Just thank you to everyone for bringing this forward and for the unanimous support. I also haven't seen anyone oppose it. It's the right thing to do. I'm really glad we're getting the opportunity to move forward on this.

Mayor Burt: Council Member Kniss?

Council Member Kniss: Amen.

Mayor Burt: Now we can vote.

Mr. Keene: Mr. Mayor, just a quick comment. So that it's clear out there, I just want to let the Council know that for several months, we've been working closely at the Staff level, myself with the City Manager and the City Manager's staff in East Palo Alto. We're happy to see you take your action on this. Thanks.

Mayor Burt: Now, let's vote. That passes unanimously on an 8-0 vote. Thank you all for joining us. We look forward to collaborating on this.

**MOTION PASSED: 8-0**

## Inter-Governmental Legislative Affairs

Mayor Burt: We now have our wrap-up items of Intergovernmental Legislative Affairs. I'm not aware of any items there.



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## Council Member Questions, Comments and Announcements

Mayor Burt: Council Member Comments, Questions and Announcements.  
Council Member Holman.

Council Member Holman: Just a couple. A number of us, Council Member DuBois, Mayor Burt, I think Council Member Wolbach came as well to the fifth annual Posada at Buena Vista Mobile Home Park Saturday evening. It was very well attended and transformative, as it is each year of the park. Just great dancing, food, camaraderie, just a great event. Also this Thursday from 4:00 P.M. to 6:00 P.M. there is a tour of the Squire House on University Avenue. You must reserve a ticket. It is a simple, simple email address; it's squirehousepaloalto@gmail.com. This is a rare opportunity and may be the last one.

Council Member Kniss: Why is it open?

Council Member Holman: They're required to have an open house supposedly annually, but it hasn't been happening because of the Mills Act. Squirehousepaloalto@gmail.com. From 4:00 P.M. to 6:00 P.M., again it's December 8, 4:00 P.M.-6:00 P.M..

Mayor Burt: Council Member Kniss.

Council Member Kniss: Quickly, there is currently a display in the Rinconada Library, the old Main Library. It is a display called *A Day in the Life of Recovery*, and it tells the stories of real people who have been diagnosed with a mental illness or a substance use disorder and so forth. This is the result of a day-long program that was held by Momentum, who is headed up by David Mineta. The display looks like this if you were to see it. I have been working with Beth and I will also work with the Mayor to see if we could find some day to have a small reception there so that this can be acknowledged. It's very impressive. It is already hanging at the Library, so you can go by and take a look at it.

Mayor Burt: Thank you. On that note, the meeting's adjourned.

James Keene, City Manager: Mr. Mayor, one last thing, just a reminder. This Wednesday, the 7th, the Council Town Hall will be held at College Terrace neighborhood at the Escondido school from 7:00 P.M. to 9:00 P.M. Thanks.

Mayor Burt: Thanks.

Adjournment: The meeting was adjourned at 11:08 P.M.