



# CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting  
March 28, 2016

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:03 P.M.

Present: Berman, Burt, DuBois, Filseth, Kniss, Schmid, Wolbach arrived at 6:07 P.M.

Absent: Holman, Scharff

## Closed Session

### 1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS.

This Agenda Item was removed and is continued to a date uncertain.

Mayor Burt: Our first item that was on the Agenda was a conference with real property negotiators, and this item has been continued to a date uncertain.

## Agenda Changes, Additions and Deletions

Mayor Burt: We have no Agenda Changes, Additions and Deletions other than that change.

## City Manager Comments

Mayor Burt: We will now move on to our City Manager Comments. Mr. Keene.

James Keene, City Manager: Thank you, Mr. Mayor and members of Council. A number of things to report on tonight. I think it'll be interesting. Over the next month or so, there will be a number of items related to the Council's Bike and Pedestrian Plan and different projects that'll be coming up. In that spirit, I did want to share with the Council and the community that, as part of our City's efforts to improve the traffic signal coordination and timing, temporary traffic count cameras will be installed along Embarcadero Road, Middlefield Road, San Antonio Road and several other standalone intersections this week. These cameras will collect data on the number of bicyclists, motor vehicles and pedestrians passing through each

# TRANSCRIPT

intersection including information about those who are going straight or turning left or right. These counts will be input into the City's synchro traffic model which will then be used to develop very detailed day of week and time of day traffic signal phasing and coordination plans for these three corridors, Embarcadero Road, Middlefield Road, San Antonio Road. Counts have already been collected for Downtown streets which we advised the Council on earlier. Those streets will also be retimed this year. Once again, the video captured by these cameras is automatically processed into a binary count data format and subsequently deleted immediately as a result. There's no facial or license plate recognition. An upcoming community meeting on four proposed bicycle boulevards will be presented at a public meeting tomorrow, March 29th, from 6:30 to 8:30 p.m. in the multipurpose room of the Ohlone Elementary School located at 950 Amarillo Avenue. Bicycle boulevards are local streets prioritized for travel by bicycle. They typically include special signing and marking and traffic calming measures that discourage traffic and encourage lower travel speeds. The Amarillo Avenue/Moreno Avenue project, the Bryant Street update, the Lewis Road/Montrose Avenue and finally the Ross Road bicycle boulevard projects will all be discussed at this meeting tomorrow night. Approval of concept plans is the first step in the design process for each project to move forward. These projects are currently scheduled for the City Council's review in April. Community outreach and participation have been instrumental, as the Council well knows, in shaping the locations and types of improvements for each of the bike projects that we do in the City and would be the same for these four. More details can be found at the City's website at [cityofpaloalto.org/bike](http://cityofpaloalto.org/bike). Additionally, the City is hosting a demonstration two-way cycle track on Park Boulevard between Grant Avenue and California Avenue on Sunday, April 10th, from 9:00 a.m. to 1:00 p.m. in conjunction with the California Avenue farmers market on that date, April 10th. This living preview will give Palo Alto bicycle riders a chance to experience a cycle track and provide feedback on the experience. We invite you to stop by and seize the opportunity to influence the future of cycling on Park Boulevard.

Just an update on this affordable housing news report correction. You may have seen erroneous news reports after last week's Council meeting and discussion on housing. A local TV station misreported that the Council had approved an affordable housing program. As you know, you did not. You asked Staff to evaluate the feasibility of a number of options for a range of complex issues related to the housing challenges in our City, including such items as micro units Downtown, possibly moving some of the planned housing site locations, and there was a discussion related to looking at options for supporting the potential for teachers and emergency responders, employees in the City who would typically be in a more moderate income bracket, but for whom the ability to attract and retain and keep some of those folks in town is pretty limited. Of course, given the kind of size of the

# TRANSCRIPT

units that we would have, we'd pretty much be talking about, I think, small units that would really attract sort of entry-level teachers and those sorts of things. The station wrongly aired that families making up to \$250,000 a year would be eligible for this approved, affordable housing program subsidized by the City. Unfortunately, a number of other media outlets have picked up this incorrect information. The City does have a below market rate purchase and rental housing program, which we've been operating since 1974. The purchase program is aimed at households earning between 80 and 120 percent of the area median income. In addition to meeting the eligibility requirements, there's a current waiting list of approximately 450 applicants for that program. We also have a low income program, especially low income program, for the below market rental program which has incentivized the building of rental programs which can subsidize the potential for housing for folks with an income as low as \$42,000 a year for a family of four. Those are the nature of the existing programs that the City has. We asked the station to correct the story both online and on the air and have also posted a story to the City's homepage on our website and our social media channels with the correct information and links to income eligibility ranges. We continue to monitor media reports and resident comments and questions. I would just close again on this particular report. While the Council directed Staff to look at six different initiatives related to housing, during our discussion I made it clear that most likely the first thing we would be doing would be coming back to the Council and outlining really what it would take for us to even be able to undertake a deep-dive look at these. We are so far from any approval from the Council on these items. That's quite unfortunate that it was reported that way. A couple of things. Dewatering issue. With the end of the rainy season approaching, we are entering the April through October timeframe when dewatering for constructions of basements is allowed under the City's Ordinance. As we discussed with the Council in February, several important changes are being implemented on a pilot basis for the construction season this year. All dewatering sites will be required to provide pressurized fill stations to allow the use of the water, to meter also the flow of water pumped and used, and hire a water truck at least one day per week to increase the amount of water that's actually used in other applications. In addition, dewatering sites that receive their permit conditions of approval after the Council's February action are being required to complete a study identifying any likely effects of the dewatering. At this time, there is one site that has been issued a dewatering permit and is likely to begin dewatering on or soon after April 1st, this Friday, which is the date when the season could potentially begin. We expect we will receive additional actions, and we'll keep the public notified through the City's website. Yesterday morning at 3:58, actually on Easter morning, a Palo Alto police officer on patrol contacted the City's 24-hour emergency communications center to report a fire in a corner

# TRANSCRIPT

office on the fourth floor of 285 Hamilton. That's the building right across the street, that on the first two floors houses the City's Development Center. The fourth and fifth floors are currently being renovated for a new tenant. The Palo Alto Fire Department arrived on the scene in under 6 minutes. After a quick search of the building and fast action by crews, the fire was extinguished with a small amount of water, limiting damage to the building. Smoke damage accounts for the majority of the estimated 50,000 foot loss. Thanks to an officer's alertness and the quick response from firefighters saved millions of dollars potentially. Obviously, in our case, it's allowed our Development Center to remain unaffected and no impacts to the public. We've mentioned this a couple of times before, and I'm getting, as I'm sure you are, a lot of emails from folks who work out on East Bayshore in particular. Again, started Monday, April 4th, Caltrans will be putting in place one-way traffic on East Bayshore Road that will allow crews to work on the replacement of the East Bayshore Road bridge. We expect there will be significant delays in the area during construction and are posting all updated information to our website, the [cityofpaloalto.org/US101](http://cityofpaloalto.org/US101) Again, this is a project being conducted by the State through its Caltrans Transportation Department. For the most part, the best we can do is just keep the public notified as much as possible on that. That's all I have to report. Thank you.

Mayor Burt: Thank you.

## Oral Communications

Mayor Burt: Our next item is Oral Communications, and we have one speaker, Jim McFall. Welcome. You have up to three minutes to speak. As I think you're aware, the Council is not permitted to discuss items that are not on the Agenda.

Jim McFall: Yes. Thank you. Jim McFall. I'm here this evening along with my neighbor, Christine Shambora. We both live in Southgate, adjacent to Palo Alto High School. We are here to talk about—I'm certain one of your favorite topics—residential parking. We are the co-chairs of the Southgate Parking Steering Committee, pun intended, and wanted to provide you with a brief update on parking, traffic and safety issues in our neck of the woods. We've submitted a letter which you should have at places this evening, which I'll briefly summarize. Southgate is a small neighborhood with narrow streets, very narrow streets. So narrow, with the exception of one street, that if cars are parked on both sides of the street, two cars can't pass each other. It's so narrow that a bike and car can't pass each other. Over the past several years, we've experienced a steep increase in the amount of daytime parking in Southgate. Several of the blocks are completely parked up during the day, which means that with cars on both of the streets, the

# TRANSCRIPT

roads become one-lane streets. This raises significant safety concerns in general. In addition, the Park Boulevard/Stanford Avenue bike boulevard runs through the center of Southgate, and there are large numbers of cyclists, including many Paly students, that traverse the neighborhood. I'd invite you to stop by any time between 8:00 a.m. and 3:00 p.m. on weekdays to experience the challenges. The congestion creates hazards for cyclists, pedestrians as well as impeding access for emergency vehicles. I recently spoke with a Palo Alto fire captain who told me the story of an emergency call he was on in Southgate. They were unable to get to the house in the neighborhood due to the number of parked cars. They actually had to literally run down the street to get to the victim. In addition, parked cars are commonly blocking other service vehicles such as street sweepers, garbage trucks and delivery trucks. We approached the City about these issues over a year ago and have been working closely with Transportation Staff to take the proper steps to seek relief via the City's Residential Parking Permit (RPP) process. We have reached out to our neighbors, held a neighborhood meeting attended by Transportation Staff and found consensus to submit an application to enter the RPP process with 95 percent supportive responding neighbors. Over a month ago, we did submit the application to the City. We look forward to working closely with Staff and with you via the RPP process to address the parking and safety issues we currently experience. Thank you.

Mayor Burt: Thank you. That concludes our Oral Communications.

## Minutes Approval

2. Approval of Action Minutes for the March 14, 2016 Council Meeting.

Mayor Burt: Our next item is approval of Minutes. We have Minutes from March 14th, 2016. Is there a Motion to approve?

Council Member Wolbach: So moved.

Council Member Berman: Second.

**MOTION:** Council Member Wolbach moved, seconded by Council Member Berman to approve the Action Minutes for the March 14, 2016 Council Meeting.

Mayor Burt: Motion by Council Member Wolbach, second by Council Member Berman. I see no discussion. Please vote on the board. That passes on a 7-0 vote with Council Members Holman and Vice Mayor Scharff absent.

**MOTION PASSED:** 7-0 Holman, Scharff absent

# TRANSCRIPT

## Consent Calendar

Mayor Burt: We will now move on to the Consent Calendar.

Council Member Kniss: (inaudible) purposely moved the board.

Council Member Berman: You can't see it.

Council Member Kniss: You can't see it as well?

Mayor Burt: I have no idea. We have the Consent Calendar. Do we have a Motion to approve?

Council Member Berman: So moved.

Council Member DuBois: Second.

Council Member Kniss: Second.

**MOTION:** Council Member Berman moved, seconded by Council Member DuBois to approve Agenda Item Numbers 3-5.

3. Approval of Amendment Number Two to Contract Number C14151917 With Alta Planning + Design, Inc. to Extend the Term of the Contract for Planning, Community Outreach, Conceptual Design, Preliminary Environmental Assessment for Bicycle Boulevard Projects to March 8, 2017.
4. Approval of Amendment Number One to Contract Number C14150007 With Alta Planning + Design, Inc. to Extend the Term of the Contract for the Feasibility Study and Preliminary Environmental Analysis for the Midtown Connector Project to September 9, 2016.
5. Approval of Amendment Number Two to Contract Number C14153335 With Fehr and Peers to Extend the Term of the Contract for Planning, Community Outreach, Conceptual Design, Preliminary Environmental Assessment for Bicycle Boulevard Projects to March 8, 2017.

Mayor Burt: Motion by Council Member Berman, seconded by Council Member DuBois. I see no other discussion. Please vote on the board. That also passes on a 7-0 vote with Vice Mayor Scharff and Council Member Holman absent.

**MOTION PASSED:** 7-0 Holman, Scharff absent

# TRANSCRIPT

## Action Items

6. PUBLIC HEARING: Approval of a Lease Agreement With the Palo Alto Lawn Bowls Club, Inc. for City-Owned Property Located at 474 Embarcadero Road for a Period of Up to 10 Years.

Mayor Burt: We will now move on to our first Action Item which is approval of a lease agreement with the Palo Alto Lawn Bowls Club for a City-owned property located at 474 Embarcadero Road for a period of up to 10 years. Welcome.

Hamid Ghaemmaghani, Real Property Manager: Good evening, Mayor Burt and City Council. Hamid Ghaemmaghani, Manager of Real Property. Staff recommends Council authorize the City Manager to execute a four year lease agreement with two three-term extension to the Palo Alto Lawn Bowl Club lease. The club has been part of Palo Alto for over 80 years and would like to continue its relationship with the City. Staff has followed City Policy and Procedure 1-11(A)(c) for leasing City-owned property by advertising the proposed lease in the *Palo Alto Weekly* in January and February 2016. As of today, we haven't received any comments from the public regarding the proposed lease. Staff is available to answer your questions. Thank you very much.

Mayor Burt: Thank you. Are there any questions that Colleagues have? Council Member Schmid.

Council Member Schmid: The lawn bowling area is a nice part of town. It enhances life for everyone in the community to have that at the center. One thing I did not find in any of the documentation is how many people are active members and using the club? Do we have any idea?

Mr. Ghaemmaghani: I don't have that information. Is there ... There's a gentleman from the Lawn Bowl Club that can answer that question.

Mayor Burt: Please introduce yourself and go right ahead.

John Hickson, Palo Alto Lawn Bowls: Good evening. My name's John Hickson. I'm the past president and the head coach at the club. I've been a member for 20 years. It's my second home. Twenty years or more ago, the club was losing members. Since then we've been very active, and we've increased membership today by 60 percent. We're around about 130 members. It's like most things; people come and people go. We're always having to recruit, but we're holding pretty well around 130. We are, if not the, certainly one of the largest clubs now in the Bay Area.

# TRANSCRIPT

Council Member Schmid: Could I ask a follow-up question? I guess I'm a longtime resident of the City, and I've driven by, walked by a number of times but never been in. My family has not. Are there programs to reach out to seniors, to maybe teens to see if you can build a wider interest and participation in the club?

Mr. Hickson: Yes. We run two sessions of 5 weeks on a Wednesday evening in the spring and in the summer, which is advertised through the Enjoy! Magazine. We do other advertising and promotions, try and get as many articles. We have a website which is quite well read and has just been updated. Our gates are always open. We have an open day on Sundays for anybody to walk in and get coaching if they like, where there's no pressure. We coach for free. If they want to come back, that's great. If they don't, they still had some fun.

Council Member Schmid: That's very helpful. Thank you very much.

Mayor Burt: I have one follow-up question while you're at the podium. Do you also engage with Avenidas and use them to help promote your activities?

Mr. Hickson: We have tried that in the past with leaflets, but it hasn't actually produced a great response. We just try and do our outreach through our own members and our advertising on the gates and so on. We actually, if I may just mention it, spent quite a lot as a club with a huge group of volunteers in maintaining the property, both the building itself and the whole area. It's really in a first-class state, and we're proud of that. We think it's a wonderful place. When people come in, they seem to enjoy the atmosphere. We get many comments about how they enjoy it. Some just come in and sit, just to enjoy the quietness.

Mayor Burt: I don't know whether you've pursued it. Perhaps Avenidas would be receptive to having you linked on their website.

Mr. Hickson: That's a good thought. We'll certainly follow it up.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I guess recently at Policy and Services, we were discussing the Colleagues Memo about neighborhood groups being able to meet in facilities. Would this clubhouse be one of the facilities available?

Lalo Perez, Chief Financial Officer and Administrative Services Director: Lalo Perez, Chief Financial Officer. As long as it's not in use by the club, there's a



# TRANSCRIPT

provision in the agreement that it is available to the community. There are some functions that are fee-based, and the City would receive those fees.

Council Member DuBois: Do we have any idea what the fee would be?

Mr. Perez: It's minimal. We'll email it out to you.

Council Member DuBois: It'd be on the lower range of like the community centers?

Mr. Perez: Yeah. It's a small room, too; it's not a very large meeting room itself.

Council Member DuBois: If it's okay, I'd like to go ahead and move the Staff Motion.

Council Member Kniss: Second.

**MOTION:** Council Member DuBois moved, seconded by Council Member Kniss to authorize the City Manager or his designee to execute a four-year lease agreement between the Palo Alto Lawn Bowls Club, Inc. and the City of Palo Alto for the Palo Alto Lawn Bowl facility at 474 Embarcadero Road with two, three-year extension terms for a total not to exceed term of ten years.

Mayor Burt: Did you wish to speak to it?

Council Member DuBois: No.

Mayor Burt: Council Member Kniss, did you want to ...

Council Member Kniss: (inaudible).

Mayor Burt: Council Member Berman.

Council Member Berman: The one quick suggestion I was going to make is also if you're not already, you look at marketing on Nextdoor.com which is a website that a lot of the neighborhoods use, that I know a lot of folks look at every day, the posts that come up. It's a couple years old, but a good kind of source for that.

Mr. Hickson: Thank you. May I just add one thing? As the head coach, if any of you'd like to come down and see us in operation, we would be happy to give you some instruction.

Council Member Berman: Do you have to wear whites?

# TRANSCRIPT

Mr. Hickson: No.

Council Member Berman: No whites.

Mr. Hickson: That's all finished.

Public Hearing opened and closed without public comment at 6:26 P.M.

Mayor Burt: Thank you. At this time, I'd like to close the public hearing, and we'll return to the Council for the vote. I'll just add that my mother-in-law has been a longtime lawn bowler. She was active through '96. She has an injury, and one of her big motivators for recovering from her injury is to get back to lawn bowling. I don't see any further lights. In that case, we'll vote on the board. That passes unanimously with Vice Mayor Scharff and Council Member Holman absent. Thank you.

**MOTION PASSED:** 7-0 Holman, Scharff absent

Mayor Burt: Thank you for maintaining our facilities and contributing to a community asset.

7. Resolution 9579 Entitled, "Resolution of the Council of the City of Palo Alto Increasing and Adjusting Department of Planning & Community Environment User Fees Based on a Cost of Services Study and Recommendations of the Finance Committee."

Mayor Burt: Our next item is a Public Hearing that is a review and adoption of a Resolution increasing and adjusting the Department of Planning and Community Environment user fees based on a Cost of Services Study and recommendations of the Finance Committee. Welcome.

Sherry Nikzat, Senior Management Analyst: Mayor Burt and members of the City Council, my name is Sherry Nikzat. I'm the Senior Management Analyst in the Planning and Community Environment Department. Tonight we're bringing you the unanimous recommendation of the Finance Committee to adopt fee increases and adjustments. Although it was a unanimous recommendation, a public hearing is required to adopt the fee changes. In 2013, the City undertook a comprehensive Cost of Services Study. Due to the complexity of the planning and development fees and the fact that the Department was splitting into both the Planning and Development Services Department, the fees were not included in that study at that time. The objectives for this study. The fees for services or user fees are charged when providing a service from which one or more individuals benefit. A key objective of the study was to determine the cost of providing these services. Another objective was to analyze fees consistent with the City's adopted cost

# TRANSCRIPT

recovery policy. Council adopted a cost recovery policy last year, and you established high, medium and low priority areas for cost recovery. Based on that policy, planning activities generally fall within the group recommended for a high level of cost recovery. It's been at least five years since the last study was done to look at our user fees. The Department has now brought in a consultant to review our current fees and analyze the cost of providing planning services. The study identified the cost of providing services, but it's up to the Council to determine if they wish to set fees at full cost recovery or something less. Fees cannot be set to exceed the cost of providing service, and one fee cannot be increased beyond the cost of providing the service to make up for lowering a fee in another area. Whether or not Council decides to choose full cost recovery is certainly left to your discretion. The City also looked at the Department's fee structure with an eye to recommend types of fees consistent with current workload and to make them simpler where possible. Once costs were determined, Staff's objective was to recommend any fee changes and suggest implementation approaches. The methodology of the study identified the amount of time it takes for Staff to perform direct tasks. For Staff time, productive time was computed for each position, removing hours for sick leave, vacation, training and the like. The study also identified operational costs, like the cost of our on-call consultants, and indirect costs, such as the cost of managers and support Staff, as well as Citywide overhead, like the cost of other City internal departments to help support the activities of the Department. This resulted in suggested fee updates and updated hourly Staff rates. Fees for services in the Planning Department are structured in two ways: flat fees and deposit-based fees. Flat fees cover the cost of providing the services for those activities for which an average amount of processing time and effort can be reasonably determined. Deposit-based fees are taken in when Staff time is expected to vary widely as it does with some of the more complex activities. A deposit amount listed in the Muni Fee Schedule is collected at the start of the activity. Costs to deliver the services are drawn against the deposit. Staff is bringing forward the Finance Committee's recommendation to right-size both flat fees and deposit-based fees and update the hourly Staff rates applied to deposits. Staff is also recommending modifying the structure of some fees to streamline them and to be consistent with the way services are delivered. In other words, flat fee and deposit-based fees. For fees that are increasing, the Finance Committee has recommended the adjustment of deposit-based fees and Staff hourly rates be effective with Fiscal Year '17, that would be July 2016. Flat fees would be phased in over two years due to the magnitude of the fee changes. The first phase of the flat-fee adjustments would be effective with Fiscal Year '17, adding half of the suggested increase. The second phase would be effective Fiscal Year '18, bringing those fees into full cost recovery. Exceptions to the phasing are fees like wireless fees and fees that are not decreasing. I think you'll see them

# TRANSCRIPT

marked with a little "x" or a little cross on your attachment. Staff is requesting that Council approve the Ordinance for fee changes. There is a 60-day waiting period required for development fees once you've adopted them, before they become effective. Since we're recommending that these fees become effective Fiscal Year '17 or July 2016, we will be meeting that 60-day requirement. Our consultant, Dan Edds, is here with us tonight. Staff and the consultant will be happy to address any questions you may have.

Mayor Burt: Thank you. Colleagues, before we go into any Motions or hearing from the public, do you have technical questions of Staff?

Hillary Gitelman, Planning and Community Environment Director: Mayor Burt, if I can just interject?

Mayor Burt: Yes.

Ms. Gitelman: We're asking tonight that you conduct a Public Hearing. If you could go through that formality in the course of your discussion this evening, that would be great.

Mayor Burt: I will open this as a Public Hearing.

Public Hearing opened at 6:34 P.M.

Council Member DuBois: (inaudible) technical questions.

Mayor Burt: Just a second. Council Member DuBois.

Council Member DuBois: I understand we can't charge more than the cost of services. I'm wondering if we can recover past General Fund subsidies on a particular fee. If we've been subsidizing it, are we allowed to decide to charge more to recover those past subsidies?

Ms. Gitelman: While my esteemed legal colleague gives that some thought—Hillary Gitelman, the Planning Director—let me just say that the idea is that you're allowed to recover the costs associated with that application, that activity. Someone who's applying for an Architectural Review Board (ARB) review would pay for the direct and indirect costs associated with that activity. We believe that they are also required to pay a portion of what's required to maintain the Comprehensive Plan, since that's a related activity. I think we could increase that surcharge, because we only pay a fraction of what it takes to actually update the Comp Plan. You can't really go backward in time. It would be going forward. I don't know if, Terrence, you want to add anything.

# TRANSCRIPT

Council Member DuBois: A similar question about—I think the answer's going to be no. Can you (inaudible) to increasing fees for projects that come back four or five times or are we just handling that by an hourly fee?

Ms. Gitelman: We're trying to handle those with hourly fees. We're trying to capture the types of applications that have that proclivity. Hopefully we're charging deposit-based fees for those.

Council Member DuBois: I appreciate you kind of adjusting the annual hours. It doesn't appear that that includes Staff time to work on other City projects. Are these people that are being allocated for your 100 percent for outside projects?

Ms. Gitelman: If I understand what you're asking, Council Member DuBois, what we started with was only that amount of time that was used for processing applications. There's a lot of Staff time in the department, both the people we looked at and other people in the department who are doing things that are not directly related to processing applications. Those things weren't considered here. Did I understand your question?

Council Member DuBois: Yeah, but we dropped the effective annual hours, I guess, from—I don't remember—2,000 to 1,600 or something, including sick time and other things. I was wondering if it should actually be dropped more because those people also have other projects. The effective time available is less.

Ms. Gitelman: I think we would have taken the other projects kind of off the table before we did this calculation. Although, I should say we're kind of—we're trying to be conservative meaning high in the case of productive hours. There have been some fee studies in the City that have been done with a much lower number, I believe. We were somewhere between 1,400 and 1,600 hours.

Ms. Nikzat: I think we were between 1,300 and 1,600, as I recall.

Council Member DuBois: We don't really have an idea of what happens when projects request more time than is available. We don't ever run out of Staff time.

Ms. Nikzat: That we do charge. If it takes more time and it's a deposit-based fee, we will charge those hours against that deposit. If additional funding is needed, we ask for additional funding from the applicant.

# TRANSCRIPT

Council Member DuBois: I'm kind of relating it back to our staffing resource. I guess we would have to hire a consultant or something if we run out of people basically.

Jonathan Lait, Planning and Community Environment Assistant Director: We have an army of consultants actually, that we use to help process these applications. I think a small army; six, I think, consultants right now are contracted with us.

Council Member DuBois: My last question is what are the wireless fees? I didn't really understand what those were.

Mr. Lait: Jonathan Lait, Assistant Director of PCE. This is in response to a recent Federal Communications Commission (FCC) ruling about how to regulate these types of wireless communication facilities. We used to process it one way, and now we have it reflect the level of work effort that is required for Tier 1, Tier 2 and Tier 3. Tier 1s are pretty straightforward, so they have the less fee. It goes up to Tier 3, which requires hearings.

Council Member DuBois: Are these cellular towers?

Mr. Lait: Yes. Wireless communications are cell phone towers. Thank you.

Council Member DuBois: Thank you.

Mayor Burt: Council Member Filseth. Okay. I have a few questions. On Page 6 of the Staff Report, they talk about a payroll or an inflation adjustment. It says hourly billing rates which are charged against deposits are recommended to be increased an average of 57 percent to better capture direct and indirect costs. I guess my question was we fell behind over the years in part perhaps because we've reconsidered how to allocate and in part because we hadn't stayed current with inflationary costs. Is that correct?

Ms. Gitelman: Thank you for that question, Mayor Burt. I think as a regular course in the budget process, Administrative Services Department (ASD) does do some kind of cost of living update to the Fee Schedule. A little bit has been done, but you're right. We've fallen behind. Sherry said that it's been more than five years. It could have been more than 10 years. We really didn't find evidence of when the fees were last looked at in a comprehensive way. We're quite a bit behind.

Mayor Burt: What would prevent us from being behind as we go forward in future years if we've had this pattern? What I'm leaning toward is should we build in an automatic inflation adjuster that wouldn't be probably most

# TRANSCRIPT

appropriately a Consumer Price Index (CPI), but instead it seems to track to our costs of labor. Should that be built into this Ordinance?

Ms. Gitelman: Thank you for the question. We didn't consider whether to do that. We were thinking that we would continue to rely on this regular budget process where ASD will bring forward an adjustment to the fees as part of that process each year. We could, of course, look at that if the Council is interested in actually building something into this Fee Schedule different from what might be in the other Fee Schedules.

Mayor Burt: It just seems that that process hasn't worked well enough. I'm not sure what would be different about it going forward. On Page 7, there is a reference to an appeal fee where the applicant would pay to recover the full cost of appeals. The Council had had discussions on wanting to not create appeal amounts that were overly expensive and onerous on appellants. On the flip side of that, this doesn't clarify that, say, if there was an appeal and it failed, the applicant would still have to pay the full cost of that appeal?

Ms. Gitelman: That's what we're proposing. As Sherry indicated, this is a policy matter, if the Council would like to not charge that additional fee or would like to charge less.

Mayor Burt: I'm just trying to first understand the rationale for it. What's the fairness rationale for an applicant having to pay for an appeal that they prevailed on?

Ms. Gitelman: From the City's perspective, the City is still spending time processing that appeal, bringing it to hearing, Staff Reports, all the analysis it takes whether or not the appeal is upheld or denied. In an effort to recover our costs, we're recommending that we charge the applicant for that. If the Council doesn't want to charge the applicant for appeals that are denied, then the General Fund would continue to support that activity.

Mayor Burt: On Page 7, there's a question that the Finance Committee asked. They requested an estimate of the impact of fee increases on residential and nonresidential development. On the following page, I took that to mean, for instance on residential development, it would be a question of how much would a homeowner who went through an Individual Review (IR) review process bear an additional cost. What we got was essentially what appears to be an aggregate income to the City from these additional fees and not any explanation as to the cost to a homeowner.

Ms. Nikzat: Thank you, Mayor Burt. We took a look at that. In looking at— as you recall, in those fees, since we're looking specifically at IR fees, I think

# TRANSCRIPT

if you remember reading the Staff Report, it's very difficult in other kinds of developments to figure out how much is residential. We looked at IRs since those are all residential. When we look at the IR expansion—again, since these are flat fees, they would have this two-phase process. If you look at an IR expansion, for instance, in—when I considered the fee for the expansion itself and I'm assuming your question also asks all the fees that would be charged to that person, like noticing fees and so on. The increase for expansion would be 62 percent to the applicant in 2017 and a total of 110 percent in Fiscal Year '18.

Mayor Burt: Those are percentages. What does that mean in dollars for now?

Ms. Nikzat: It's \$1,924 in 2017 and \$3,430 in 2018 against the original. It's not one increase and then—I've done the first one, and then the accumulation for Fiscal Year '18.

Ms. Gitelman: These are shown in Attachment A. If you look at Attachment A, the section related to Individual Review fees, you'll see they're flat fees that are proposed to go up in two tranches. An applicant that would currently be paying \$4,166, in the next fiscal year would be paying \$5,679 and the following year \$7,046 plus the noticing ...

Ms. Nikzat: And the preliminary review with an architect, which goes up from 112 to 245 in 2017.

Mayor Burt: Thank you. On the nonresidential, on Page 8, the first full paragraph seems like it may be responding to that. It says Staff has provided a draft of proposed fee and hourly rates changes to members of the Development Customer Advisory Group for their input. Prior in the report, there was a reference to—I think it's on Page 3, the second paragraph—Development Services is examining all their fees under a separate study. Are these referring to fees that are being reviewed by the Development Customer Advisory Group but are not under the purview of the Development Services Department?

Ms. Gitelman: Thank you for the question. The matter before you this evening is only the fees that are charged by Planning and Community Environment. We transmitted the materials to the Development Customer Advisory Group (DCAG) for their input, because it's a group of stakeholders that we thought might be interested in this. We are not proposing to increase or change any of the fees charged by the Development Services Department. They're doing their own fee study currently.



# TRANSCRIPT

Mayor Burt: The Finance Committee question, the second half of it, having to do with requesting an estimate on nonresidential development. Is the answer that we don't have that because that's going to come through Development Services Department or that some amount of fees on nonresidential we actually do have that are outside the Development Services?

Ms. Gitelman: Absolutely. We charge planning fees to both residential and nonresidential and a lot of mixed use projects. Sherry tried in the report, in that section that you referenced, to estimate based on our last couple years of experience how much would be charged to residential projects versus nonresidential. The estimate was 20-25 percent to residential. It's not perfect because we didn't go into every mixed use project and separate residential from nonresidential, but it's a good ballpark. It's also going to change as the composition of the applications we process change. If we get more residential applications and less nonresidential, the balance will change.

Mayor Burt: In this paragraph, the first full paragraph on Page 8, where it refers to first that we're asking the Development Customer Advisory Group for their input, but then tonight we're acting on this and we haven't seen that input. It refers to a \$1 million increase—it says the estimated revenue increase is \$1 million, \$0.6 million in Fiscal Year 2017 and the full \$1 million. I guess it means that it's \$1 million annually. Is it saying that in this fiscal year, it would only be a fractional year and that's why it's \$0.6? What is being said in that paragraph? Is that referring to nonresidential or residential? I reread it several times, and I just couldn't decipher what it was trying to say.

Ms. Nikzat: Thank you, Mayor Burt. I'm very sorry for the confusion. The \$1 million is the total amount. That means residential and nonresidential in Fiscal Year '18. The reason it says \$0.6 in Fiscal Year '17 is because we are phasing it, so that the flat fees will not go up until Fiscal Year—they're going up half of the way and then the rest of the way in Fiscal Year '18. That's the difference. At the end of the day, when all Fiscal Year '18, barring any CPI adjustments or anything, when we've got all the fees right-sized, it would be \$1 million.

Mayor Burt: Then the portion of that that's to the nonresidential, we have in the prior paragraph, we talk about this \$120,000 to \$133,000 for the IR review. There may be other residential-related fees. It sounds like you're saying the bulk of that \$1 million is nonresidential.

Ms. Nikzat: Based on that estimation, that's correct.

# TRANSCRIPT

Mayor Burt: Thanks. Council Member Kniss.

Council Member Kniss: I think this is something we almost always ask. I noticed the look on your face when you mentioned it's been a long time coming. Any comments on why it's been a long time coming? We've been back in good times for about four years, right? We were being kind to the community?

Ms. Gitelman: I can't tell you exactly why. I can tell you it's not an insubstantial amount of time to do this. There was a lot of Staff effort and consultant effort involved in figuring out just how much it cost to do everything we do when it comes to application processing. It's not something that you're going to do every year or every two years. It really is something to do infrequently.

Council Member Kniss: I think the Finance Committee was kind. I probably would have gone right away to full cost recovery. Believe it or not. The other thing is did you talk to other communities? What are our neighbors doing with ...

Ms. Nikzat: We did talk to some that ...

Council Member Kniss: ... partial versus full cost recovery?

Ms. Nikzat: It kind of depends on the community. A lot of communities have not done a fee study in a very long time.

Council Member Kniss: Just take Mountain View and Menlo Park. They're our immediate neighbors.

Ms. Nikzat: I'm trying to remember. I did speak with them. I believe when it came to Mountain View specifically, they haven't done one in quite a while. I know Beverly Hills had done one, and I think we've cited them in here. They haven't even adopted their fee study completely. They have adopted their hourly rates. Those they're charging—you'll see they're substantially higher than ours, but they have not put their fee study in place. Most of the people I talked to when we were trying to do comparison rates said exactly the same thing. "Oh my gosh. We really need to do this. It's been a long time."

Council Member Kniss: That's helpful to know. We're being watched a lot especially when we've been discussing transportation issues and so forth. Every community right now is comparing itself to other communities. They want to know what we're doing and how we're doing it. I would be surprised if after tonight you don't hear from the other communities within the next

# TRANSCRIPT

couple of days about how you did it and what you anticipate your revenue will be. This is clearly the direction we've been heading in. As I said to Eric, he said they were being kind, and I guess that's the fair way to go. It'll be nice to get full cost recovery.

Mayor Burt: We have one member of the public who wishes to speak, perhaps more. First speaker is Judith Wasserman. Welcome. Our next speaker is Herb Borock.

Judith Wasserman: Good evening, Council Members and Mayor Burt. Congratulations, a little late. I would like to protest these fees, especially the residential fee increases. There's nobody making money—none of the applicants are making money out of these projects. These are homeowner projects. The owners are already bleeding, hemorrhaging money. Adding more fees to it is only going to make it harder for everybody who is left in town, who are trying to make their housing costs work. I would respectfully ask the department to look at their efficiencies before they raise their fees. It's not at all clear to me that we're going to be getting improved service for more pay. I think there's too much focus on process which takes a long time, and not enough focus on the product. Thank you very.

Mayor Burt: Thank you. Our final speaker is Herb Borock. Welcome.

Herb Borock: Mayor Burt and Council Members, I want to speak about the appeal fee. Appeals are usually filed by citizens. It's a fee charged to the appellant, not always to the applicant. It's only if the applicant is making an appeal that the applicant is charged. Under the current procedures, someone who files an appeal and pays a fee isn't even guaranteed an appeal hearing. Under your current procedures, it's placed on the Consent Calendar, and you have to decide whether or not to schedule an appeal. I don't know how things work now, but it would seem that someone who pays an appeal fee and doesn't get an appeal hearing should have the fee returned. You should only have an appeal fee that pays for the appeal hearing if you get one. Second, when everyone who filed an appeal got a public hearing, originally there was no separate fee for the attorney. That was changed about 10 years ago. Now, it looks like that fee has been eliminated, but instead at least the same amount of money or more has been added to the planning fee. It's essentially the same thing, but it's being included as a cost. Considering the number of appeals that in the past it was considered part of the normal work that one expects from the City Attorney to pay for out of the City Attorney's budget to do the work on an appeal. If the work's already been done and the attorney's work supports the actions that have already been taken, that are being appealed, it doesn't seem that there's that much extra to be done. I would want you to clarify

# TRANSCRIPT

what happens now when you decide not to hear an appeal and just approve something when it's on the Consent Calendar. Do people get their money back? Will they get it all back or some of it? In any case, I believe they should get it all back if you're not going to give an appellant a proper public hearing on the appeal. Thank you.

Public Hearing closed at 6:55 P.M.

Mayor Burt: Thank you. That actually prompts me to ask a question I neglected to ask which is whether this fee for appeals is only an appeal that an applicant filed or is it a fee to the applicant for any appeals made by others on their projects.

Mr. Lait: Yes, I guess is the answer to that question. The Appellant would be subject to the lower fee. The Applicant would pick up the balance. If the Applicant is the Applicant and the Appellant, they're picking up the difference in cost. If it is a commercial project, a homeowner appeals it, the homeowner pays the lower fee. The commercial developer in this example picks up the balance of Staff time getting that item ready for hearing.

Mayor Burt: I think there may be a couple parts of this. One, an applicant can be denied a project and then choose to appeal. Correct?

Mr. Lait: Yes.

Mayor Burt: That's one circumstance where I'm assuming that clearly the applicant would pay for that fee.

Mr. Lait: Yes.

Mayor Burt: Were you also saying that if there is a cost that's a totality of—say it's \$1,000. An Appellant, who's not the Applicant, appeals it and maybe our fee is \$300. Are you saying that the additional \$700 under this proposal would be paid by the applicant?

Mr. Lait: Yes

Mayor Burt: That would, under this proposal, occur regardless of whether the appeal was deemed to have merit or not after the appeal hearing.

Mr. Lait: Correct. The money goes toward the preparation of the Staff Report. Again, whether or not the appeal has merit is not realized until later.

Mayor Burt: Thanks.

# TRANSCRIPT

Ms. Gitelman: Mayor Burt, if I can interject something. In looking at Herb's question and your follow-up, I think we would like to clarify one of these rows in Attachment A. It's on Packet Page 97.

Mayor Burt: Which? Ninety-seven?

Ms. Gitelman: Yeah. This is where the appeal issue is handled. There's a row there under legal review fees that says request for hearing by the Planning and Transportation Commission (PTC). I think we'd like that to say appeal to the City Council or request for hearing. That's the \$280 fee that appellants would pay. Again, setting aside whether they get a public hearing or not, that's their appeal fee. The row right below that, appeal cost exceeding the appeals fee, that's what the applicant would pay. You'll see it's a deposit, and we charge time and materials so we ensure that we recover the costs.

Mayor Burt: One sec, just to follow up. As I'm thinking this through, if we went through a process and either our Staff, depending on whether it's a ministerial approval or a Board or Commission approval, and there was an appeal made, say, by a member of the public, it would mean that, at that point in time, our Staff believed that they followed procedures correctly or our Board or Commission had followed them correctly. Two outcomes could happen. One is that the appeal was approved and overturned whatever determination was made by Staff or the Board or Commission. In that case, the Council would have determined that we made errors. We, either at a Staff level or at a Board or Commission level, approved something that we should not have. Reasonable disagreement, but still that's basically the process that would occur. I'm trying to think in my mind, if that occurs, why in that case should the appellant bear a cost if they were determined to be right and we were wrong. On the other hand, if it's the Applicant who prevailed, why should the applicant bear a significant fee if they had followed everything correctly, and member of the public challenged, and it was determined that that appeal was wrong. I guess this is more of a policy question. I'm still kind of trying to hear from Staff the rationale for why it would be as it was proposed. I think that's something that I'd like to hear more from my Colleagues, their thoughts on. Council Member DuBois.

Council Member DuBois: I just really wanted to follow up. That next row on Page 97 says appeal to City Council , and the full cost is \$6,900. Are you saying the appeal to Council is apportionment of the \$280 or is that ...

Ms. Gitelman: Thank you for your patience. We're looking at this together, trying to piece back what we were thinking back in the day. Reading this,

# TRANSCRIPT

the appellant pays the \$280 fee, then the Applicant pays a deposit for \$3,000. Then they pay the legal fees that go with that.

Council Member DuBois: But then there's a separate flat fee on the next row below that which is not clear.

Ms. Gitelman: There are two rows that would apply to the Applicant, the deposit and the flat fee for legal review.

Council Member DuBois: Depending where it goes, the ARB or the Council, there's different fees. Right?

Ms. Gitelman: Pardon me?

Council Member DuBois: Depending where that appeal goes, it looks like there are different flat fees if it goes to ARB or PTC.

Ms. Gitelman: No, the next row relates to the legal review of an ARB application. It doesn't relate to appeals.

Council Member DuBois: I think we're probably aligned, and what we're trying to do is have some sense of fairness. If it's a spurious appeal, it seems like it could be resolved fairly quickly with not a lot of legal investment. I do think the idea of the Applicant paying makes a little bit of sense. If we believe that projects that are likely to be appealed are pushing the boundaries, I think, the applicant probably bears some responsibility in that they were pushing something to the edge that somebody appealed. I had questions on the Director hearing fee. Again, is that another form of appeal? Who pays for that? That's on Page 95.

Ms. Gitelman: It's the person who requests a hearing. We've seen them requested again by the applicant or by a neighbor.

Council Member DuBois: Wouldn't a potential process include a director's hearing and then an appeal to Council?

Mr. Lait: An IR, Individual Review, application is an example where the director makes a decision. An Applicant or adjacent neighbor requests this hearing. That's a hearing before a hearing officer, and then that decision is memorialized in a Staff Report and sent to the City Council. The Council, if you have the three votes, can pull it off and have a hearing on that matter. It considers the Director's hearing and also a report to Council and possible hearing.

# TRANSCRIPT

Council Member DuBois: This is a new fee and potentially, again, we could have neighbors appealing a project paying the full rate, \$2,300, for a director's hearing, and then they would pay \$280 to appeal ...

Mr. Lait: You wouldn't have to appeal. I'm sorry for interrupting you. You wouldn't have to appeal a director's hearing. That automatically goes to the City Council. When you get a request for hearing, we automatically transmit that to Council. You're not appealing a director's hearing. It's just the one fee.

Council Member DuBois: It just seems like we've added a new fee, potentially quite a hefty fee.

Mr. Lait: I'll say that we've had, I think, two in the last almost two years. We don't get them very often. It's a new fee to cover the cost. I mean, the whole premise for this is cost recovery, and so that's the effort there.

Council Member DuBois: While we're on that page, the neighborhood preservation zone exception. Sorry. A lot of discussion going on. The neighborhood preservation zone exception fee, what is that? Is that an Single Story Overlay (SSO)? Neighborhood preservation zone exceptions.

Mr. Lait: I don't know what that is, but it's not the SSO. SSO has no fee associated I think it.

Council Member DuBois: I know we waived the fees this year. Are SSOs included in a different table?

Ms. Gitelman: I think we actually changed the Municipal Code section. In our cleanup ordinance, we changed the section of the Code that talks about SSOs to say that they would be treated as City-initiated projects for which no fee would be charged.

Council Member DuBois: We don't really have preservation zones, do we?

Ms. Gitelman: In the time I've been in the City, we've never had this type of application. I apologize. I just don't know enough about the processing of that.

Council Member DuBois: As far as I know, we don't have a preservation zone Ordinance. Again, my concern is it would be similar to an SSO, that it would be City-initiated and not something we would want to charge a fee for if it was affecting a group of homes or a neighborhood.

Mr. Lait: I think we'd have to look at the Code and find out what this application was. I think it's a rarely used item. Before we made that kind of

# TRANSCRIPT

connection that there'd be no fee, I'd like to understand what that process was.

Council Member DuBois: Just a couple of comments, if we're doing a second round. The Planned Community (PC) zone change cost—I guess it's a deposit—seemed low given all the discussion that typically happens around a PC zone. My question is how often do we true up and ask for additional deposits if we're going through a process.

Mr. Lait: Where do you see that deposit on this one right now?

Council Member DuBois: I'm having trouble finding it.

Mr. Lait: Looks like it's on Packet Page 101, the planned community.

Council Member DuBois: Yes, planned community zone.

Mr. Lait: I mean, we could set that deposit to be what we believe is appropriate to charge.

Council Member DuBois: It may be the right number. My question is really how do you track it and when do you ask for more money or refund it.

Mr. Lait: We have a system where when people are doing their timecards, they charge hours to a particular project. Each Planner logs how much time they spend on a project; that gets billed to the deposit. When that deposit begins to get low, we ask the Applicant for an additional deposit to cover the anticipated work.

Council Member DuBois: It kind of happens in real time. The consultant report said something about the split between Planning, Community and Environment (PCE) and Development Services was adding challenges. I'm just curious if you guys had any comments or recommendations.

Ms. Gitelman: Thank you for the question. We saw that in the report, and it was a little extra-curricular, free advice on a question we didn't really ask. Our feeling is that the Office of Management and Budget (OMB) and Development Services and PCE have done this split. We're charging to the various departments the way we've kind of settled on it. There would be a different way to do it, as the author points out. I think it's up to us working in collaboration with OMB each year to make sure that what we're doing is still working, it's still recovering costs and efficiently accounting for the Staff that's allocated to each department. We're committed to do that. I know that Peter and OMB and all of us look at the budget carefully each year.



# TRANSCRIPT

Council Member DuBois: It seemed to be reasonable suggestions just to streamline and contract between departments. I thought the comparison with Beverly Hills was interesting, I think, particularly around exception processes, conditional use permits, variances. Beverly Hills was four to five times our proposed rates. I understood they included some enforcement and other things in those rates. I'd like to suggest to my Colleagues that that's not a bad model to follow. I think what we're trying to do is have people follow the standard routes as much as possible. Exceptions are costly, and we're trying to recognize how costly they are. Not really a question, but a comment.

Ms. Gitelman: Truthfully, we did some soul searching about whether we could charge out the cost of running our Code enforcement program and consulted with the City Attorney's Office. Our conclusion was that it was a safer course of action to do what we do, which is basically consider most of that a General Fund-supported activity. The Beverly Hills attorney made a different decision.

Council Member DuBois: Again, I think particularly around exceptions, we've had complaints about PC zone enforcement. You maybe don't put enforcement into everything but just major exceptions areas. The other thing I'd like my Colleagues to consider is the daycare center use permit. It's still being subsidized, but it's going up quite a bit. I think we're not going to have too many daycares, so I would actually consider subsidizing it further.

Mayor Burt: (inaudible)

Council Member DuBois: Sorry, I didn't have all of these indexed.

Mr. Lait: Packet Page 101.

Council Member DuBois: Thank you. The very top of 101. It's currently \$186; it would go to \$992.

Mayor Burt: Can Staff explain a little more on what that covers and when that's applied?

Ms. Gitelman: It's a use permit for a daycare facility. Most use permits are handled as is shown down below, in those two rows a little farther down. In the past—I don't know the history on this—the City elected to charge something less for a use permit when it was for the establishment of a daycare facility. It's always been handled as a separate fee.

# TRANSCRIPT

Mayor Burt: I think that providing daycare has been a City policy to help support for many decades. I think it's been embodied in our Comp Plan. I'm glad Council Member DuBois raised that, because it kind of points out that we haven't had identified in this proposal where fees may conflict with certain policies or values that are adopted as community values or policies. I don't know whether there are other places in here that I didn't catch, that might be similar in nature. That raises a concern for me.

Council Member DuBois: I'm almost done. That one, again, I fully support the idea of cost recovery. Like I said, I don't think we're going to get a thousand daycare center applications, so it's a relatively small amount of money. I would advocate keeping it at the low rate.

Ms. Gitelman: I'm sorry. I didn't understand the two comments. You're advocating that ...

Council Member DuBois: I would advocate keeping it even at the \$186.

Mayor Burt: That's not cost recovery. You said you would support cost recovery.

Council Member DuBois: In general. What I'm trying to say is I don't think we should have a lot of exceptions. This is one case where I would make an exception, and I don't think it would cost us very much. I'm not communicating very well. The other thing is—this is a little bit outside the bounds of tonight. I'd really like to see us start to account for full compensation costs, including what we call unfunded liabilities. The first step is really accounting for those. If we start to account for those, we could talk about recovering those as well. When it comes time to make a Motion, I have a couple of things I would include, but I'd like my Colleagues to comment first.

Mayor Burt: Council Member Kniss.

Council Member Kniss: Pretty close to time to make a Motion. I wanted just to review once more the appeal. I was doing a side conversation with Pat. If I want to put up a house, it's totally within the boundaries, I'm not getting close to the edge on this, but he doesn't like it. He appeals it. At that point, looking at your fees in here—this is back on 97. Jonathan, you addressed that, and you talked about the appeals here. How, again, does that work? Does Pat pay anything to have it appealed? He says, "I don't like your house. I'm going to appeal it. It doesn't fit in with the neighborhood."

Mr. Lait: If we're talking about an Individual Review, the adjacent neighbor can appeal the decision, I believe, without cause. It doesn't have to be a

# TRANSCRIPT

specific standard. Yeah, you could say, "I don't like the color of the house." That would go through the process.

Council Member Kniss: Who's paying what?

Mr. Lait: The person who is requesting the hearing—you build your house. The neighbor doesn't like the color of your house. The neighbor has to pay the fee for the director's hearing.

Council Member Kniss: The entire fee?

Mr. Lait: Yeah. That's the \$1,192, I believe, or something like that.

Council Member Kniss: Tell me where it is. I didn't see it. What page are you on?

Mayor Burt: (inaudible)

Council Member Kniss: I don't know. That's what I'm trying to find out.

Mr. Lait: That's right.

Council Member Kniss: In the middle where it says director's approval?

Mr. Lait: As the Mayor said, it's Packet Page 95, director's approval. It's the third row in that section. It's a new fee. For a Director hearing requested, it's \$1,186.

Council Member Kniss: What we need to know, so that it's on the record somewhere—this is your next door neighbor who doesn't like something about your house. You're saying they will pay for it? You've got two different fees. You've got the now fee and the 2018 fee. Who's paying \$2,300?

Mr. Lait: The person who is requesting ...

Council Member Kniss: The hearing.

Mr. Lait: ... the hearing.

Council Member Kniss: Pat's going to pay to have you hear about my house, correct?

Mr. Lait: Yes, in that scenario.

Council Member Kniss: That's what I needed to know. Thanks.

# TRANSCRIPT

Mayor Burt: Council Member Schmid.

Council Member Schmid: A follow-up on that. On packet Page 84, Page 2 of the Staff Report, it says planning fees—the fees we're talking about tonight—do not impact property maintenance. If you're not moving outside of the footprint of your house, you're doing a roof, a wall, a floor, a heating system, piping, windows, whatever, that is not affected by these fees. Is that right?

Ms. Gitelman: That's correct. We had this conversation at the Finance Committee meeting. We're not talking here about building permit review fees. If you file an application for a change to your house or remodel that doesn't need an IR or another planning entitlement, it will not be covered by any of these fee changes.

Council Member Schmid: Thank you.

Mayor Burt: Let's return for Motions.

Ms. Gitelman: Mayor Burt, I'm sorry to interject. We're still researching the question that Council Member Kniss raised and others have raised about appeals of IRs. Although we talk about these like they happen all the time, they happen twice a year or less. I believe that a neighbor can request a director's hearing, which is the fee that we talked about which is over \$1,000. I believe the same person can later request an appeal and would pay the \$200-something. We're still reviewing that, and we'll clarify it before you're finished.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Without wordsmithing my Motion, I'll lay it out there. I think we should clarify the appeal fees with a person bringing an appeal or requesting a director's hearing to pay \$280. I would like the neighborhood preservation zone to be considered a City function and not a fee, if it's what we think it is. I think we should continue to subsidize daycare use permits at the current fee level.

Mayor Burt: Do we have a second? I will second it.

**MOTION:** Council Member DuBois moved, seconded by Mayor Burt to adopt a Resolution approving the specified changes to the Planning and Community Environment fees based on the Cost of Services Study with the following changes:

A. Clarify appeal fees; and

# TRANSCRIPT

- B. The person requesting an Appeal or a Director's Hearing will pay \$280; and
- C. Neighborhood preservation zone should not have a fee; and
- D. The City should continue to subsidize childcare centers at the current rate.

Mayor Burt: Wish to speak to your Motion more?

Council Member DuBois: Yeah. First, I would ask Staff if the intention is clear.

Ms. Gitelman: The neighborhood preservation fee, if the Motion would just recommend omitting that. The Fee Schedule is ...

Council Member DuBois: I think that the wording could be shifted to similar to the SSO, that it's a City function.

Ms. Gitelman: Happy to do that or omit it. When we bring back the next Fee Schedule adjustment potentially with the budget, we can clarify what that is. I apologize. We just don't do any of them, so I don't really know what it involves.

Council Member DuBois: Just to speak to it a little bit. First of all, you've heard our intention that having some fee for filing an appeal or a director's hearing makes sense, but not wanting to have it be too egregious. If it's spurious, Staff can deal with it quickly and just say this is a spurious appeal. On the neighborhood preservation zone, the recent number of SSOs we got, I think several of those neighborhoods would have preferred more of a neighborhood preservation zone, but we don't make it easy to do. I think the City would be better off if we had a way to do that, to allow essentially second stories as long as they're in context with the neighborhood. I think we've spoken already on childcare.

Mayor Burt: I would like to add one amendment. Actually, I have two, but one first that is some form of inflation adjuster. Before doing that, let me ask the Staff. I think the more accurate one would be one tied to our General Fund wage scale increases. A simpler way would be to tie it to the CPI. Maybe tying to the CPI would be the better route.

Ms. Gitelman: Thank you, Mayor Burt, for that suggestion. We're happy to investigate how to do that. I'm just not sure we can do it on the fly this evening. I think we would want to talk to our colleagues in ASD, figure out what they would recommend, and then I think we would potentially have to

# TRANSCRIPT

re-notice and give everybody an idea of what we were doing before we move forward. Happy to take that direction, but I think it means we would defer adoption this evening, unless my colleagues disagree.

Mayor Burt: I would instead add to the Motion to request Staff to return with an alternative for an annual inflation adjustment to the Fee Schedule.

James Keene, City Manager: Do I understand that that would not be postponing the adoption tonight?

Mayor Burt: Correct. The time of the return, would this be at the annual budget or when would this occur?

Mr. Keene: I'm not sure whether that's it, but it certainly would be within this next year. The concept is you're going to adopt it now. By the time we'd be looking at an annual adjustment, we'd have to come back in advance of that. It would be around this time of year.

Mayor Burt: Then we'd just say in not more than a year for Staff to return.

Council Member DuBois: I would accept that.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "to request Staff return with an alternative for an annual inflation adjustment to the Fee Schedule."  
(New Part E)

Mayor Burt: The second one, based on your prior comments, I'm not sure that you're going to be receptive to it. I still have a problem with an Applicant having to cover the cost of an appeal if the applicant's position prevailed. You think in civil law this isn't done. Where somebody sues you, you win, and you have to pay their court costs. That's basically what we're talking about here. It just doesn't seem right to me. On the one hand, we could say anybody who's a developer ought to have to pay, but I just don't think that passes the fairness test. I would propose that if an appeal is denied, the fee structure not charge the Applicant for—we have two circumstances now. I have to think about it. One is when another party appeals. Let me try and see if I can state this clearly. If there is an appeal by a third party and that appeal fails, the Applicant would not be obligated to cover additional expenses of the appeal.

Council Member Kniss: Pat, would you clarify third party?

Mayor Burt: That's the Appellant. That's if the Appellant is not the Applicant. I'll have another one for if the Appellant is the Applicant.

# TRANSCRIPT

Council Member DuBois: You're not saying anybody (inaudible)?

Mayor Burt: Go ahead.

Council Member DuBois: You're not proposing that anybody covers those fees?

Mayor Burt: Yeah. If we're discounting it for the Appellant and saying they don't have to cover it. We had this discussion at a policy level, that we didn't want it to be onerous for an Appellant. We wanted to be able to appeal something. The City would have to absorb that difference if they successfully ...

Council Member Kniss: All right.

Mayor Burt: In this case, if the Appellant fails, then the City would absorb the difference. If the Appellant prevails, the Applicant would absorb the difference.

Council Member DuBois: I almost want to make it proportional to the voting on the Council. Because this happens not that often, I'll accept that Amendment.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "if an Appeal by a third party fails, the Applicant is not obligated to pay additional fees." (New Part F)

Mayor Burt: I think I need to add clarification. If an appeal by a third party fails, the applicant is not obligated to pay the additional fees. I guess, by implication, that means that if the appeal by the third party prevailed, the Applicant would still pay those fees.

Council Member DuBois: Right.

Mayor Burt: Then we have another circumstance, if the Applicant appeals. I would also propose that—this is the second one.

Council Member DuBois: If you're going where I think you're going, I'm not sure you need to say anything.

Mayor Burt: Perhaps. I was going to say if an Applicant appeals and prevails, then they would not pay the full cost recovery. It means basically we screwed up if they appealed and we said they were right. That's the other circumstance.

# TRANSCRIPT

Council Member DuBois: You said not the full. Are you implying that they pay ...

Mayor Burt: I got confused by the schedule. If an applicant has an appeal, how does that fee structure break down?

Ms. Gitelman: Currently the Applicant would pay the \$280 appeal fee, and then the Applicant would be on tap to pay all the remaining costs based on the amount of time.

Mayor Burt: What I'm intending to say here is if the Applicant appeals and prevails, they would only pay the \$280 fee.

Council Member DuBois: I still feel there's some value to a clean project, a project that's not pushing the boundary ...

Mayor Burt: That's pretty subjective in my mind. I understand your point.

Council Member DuBois: I think a by-the-book project is unlikely to be appealed. It takes less Staff time.

Mayor Burt: I guess basically, one, you're not accepting that Amendment.

Council Member DuBois: I'm trying to—I would say let's vote on that one separately.

Mayor Burt: I would need a second.

Council Member Berman: I'll second it.

**AMENDMENT:** Mayor Burt moved, seconded by Council Member Berman to add to the Motion, "if an Applicant appeals and prevails, the Applicant would not be obligated to pay additional fees." (New Part G)

Mayor Burt: I'll just briefly speak to it. Council Member DuBois made the point that projects that are subject to appeal, in this case, by an Applicant—he's arguing they're probably pushing the boundaries. That may or may not be the case. In the end, this body or whichever is the body that sees the appeal makes that determination. Getting close to a boundary is really not something that you are guilty of doing. It's whether whoever is the appropriate body determines did it go over the line or not go over the line. That's, I think, what really should predominate. Council Member Berman.

Council Member Berman: It's important to be consistent across situations regardless of who the Appellant is. This is just applying the same rules



# TRANSCRIPT

essentially regardless of whether it's a third-party appellant or if it's the applicant. I think that's appropriate. I'm going to support the Amendment.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I think the issue I'm having with this is I don't think the analogy of a courtroom and innocence and guilt is really right. I think it's really cost recovery and amount of ...

Mayor Burt: It's not innocence and guilt. I was referring to civil court.

Council Member DuBois: Sure. Still, I think what we're trying to do is base this on the amount of work and recovering costs. That's why I'm struggling with this one. I do feel projects that are on the bounds generate more work, and we should recover most costs from those. I'm somewhat torn, but that's where I'm coming down.

Mayor Burt: Does any—Council Member Schmid.

Council Member Schmid: I think the appeal in many cases is asking for a discretionary decision. There's some uncertainty about interpretation. I think in making the appeal you accept the fact that you want to pay for that interpretation. I would vote against the Amendment.

Mayor Burt: I see no more speakers. Let's vote on the Amendment alone. That passes on a 5-2 vote with Council Member Schmid and DuBois voting no and Council Member Holman absent as well as Vice Mayor Scharff.

**AMENDMENT PASSED:** 5-2 DuBois, Schmid no, Holman, Scharff absent

Mayor Burt: We can now return to the main Motion. Unless anyone has any questions, we can vote on the main Motion.

Ms. Gitelman: I'm sorry, Mayor Burt. I would like to be super, super clear about this appeal issue, because we have said some things this evening that have not been clear. Most of the appeals you see, I think I'm accurate in saying, relate to architectural reviews. I'm not talking about that; I'm talking about IRs, the single-family homes. If someone opposes a single-family home that's being proposed next to them, they can request a director's hearing. That's one fee in this Fee Schedule. It's not an insubstantial amount. It takes a while to prepare for those hearings. Currently, we haven't been recovering our costs. We are proposing to recover those costs with this fee. If that director's decision makes a tentative decision after that hearing, it can be appealed to the City Council. In that case, the neighbor would have to pay again this smaller fee, \$280.

# TRANSCRIPT

The Applicant would have to pay if the circumstances that you've articulated do not occur. If the appeal is upheld, the applicant would have to pay the City's costs. Is that clear?

Mayor Burt: (inaudible) under this Motion (inaudible)

Ms. Gitelman: Under this Motion.

Council Member DuBois: You said it was clear, but this Motion did not capture what I said. I think "B" should—I said the person requesting the appeal or a director's hearing would pay \$280.

Ms. Gitelman: The Council's Motion would make both the director's hearing and the appeal hearing something where the taxpayer is essentially subsidizing this activity unless it's a circumstance where it can be recouped by the Applicant.

Council Member DuBois: Correct.

Ms. Gitelman: Thank you.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Two questions. One about appeal fees, and I'm responding actually to that public comment from Mr. Borock that a second issue—looping back on something we discussed in the Finance Committee. I just want to make sure I'm very clear. On appeal fees, I just want to make sure. Did we address this question—I'm sorry if I missed it—on returning the fee if the Council decides not to hear the appeal? I'm sorry if I'm missing it.

Mayor Burt: That was a question. We did not address that.

Council Member Wolbach: I'd actually suggest that we add as a friendly amendment to the Motion if the Council chooses not to hear the appeal and it remains on the Consent Calendar, then the appeal fee is returned to the appellant.

Council Member DuBois: I'd accept that.

Mayor Burt: I will accept it.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "if the Council chooses not to hear an Appeal, the Appeal Fee is returned to the Appellant." (New Part H)

# TRANSCRIPT

Council Member Wolbach: Thank you. The second issue. This is something that we discussed in Finance Committee. You probably read it in the minutes. As Cara Silver of the Attorney's Office pointed out, our Housing Element warns us to be thoughtful, to avoid undue fees that could have the potential of either discouraging maintenance of housing stock—that's something that Council Member Schmid brought up in the Finance Committee—or also the creation of housing stock. Undue fees can discourage the creation of housing which is something, as we talked about it at length last week, we're worried about. The sense we got from Staff was that this probably won't be a problem. I was just going over the minutes and reviewing that meeting. I want to make sure I'm clear on how this process works. It sounds like the Housing Element that we have now—basically it said it's not a problem right now based on our existing fees. We haven't really studied yet whether the new fees might result in that problem. I want to be clear about what the process is moving forward. We pass this, we're increasing some fees, we might discover later, as we finish our new Comp Plan, that that does create a problem, creating a disincentive to maintain older housing or creating housing. It would come back, and we'd say we made a mistake and we'll try and fix it later. Is there a smoother and proactive process that I'm missing?

Ms. Gitelman: Thank you for that question. I don't think any of us think that the kinds of fee increases we're proposing here are going to be an impediment to preserving or constructing housing in Palo Alto. Fees constitute—I think we talked about this at the Finance Committee—such a minute percentage of the total cost of developing housing in our region. The other thing I would note. You don't see here that there is an exemption in the Fee Schedule that can be applied to affordable housing projects that are developed by nonprofit developers. A lot of the affordable housing development we've seen in Palo Alto over the years has been by nonprofits who are in the business of developing housing. We have the ability to give them a fee waiver under the terms of the Housing Element and a section of the Fee Schedule that you don't see tonight. In that sense, we can offer an incentive when a developer is proposing new, below market rate housing.

Council Member Wolbach: As we discussed at Finance Committee, that does not apply to a for-profit developer that decides to add a significant amount of Below Market Rate (BMR) housing to their property. Is there any way that we can—under the current process—that the City Manager or the Planning Director can provide those waivers for a portion of the fees in response to a developer offering a very substantial amount of BMR units within what is ostensibly a for-profit development?

# TRANSCRIPT

Ms. Gitelman: I think we could review the City's fee waiver policy in the future. Currently, it does require a certain number of findings, one of them being that the request is from a nonprofit. We could look at that in the future, but that section is really not before you this evening.

Council Member Wolbach: That answers my questions for this evening. Thank you.

Mayor Burt: We have a couple other comments. Let me just lay out something that has occurred to me, in part because of Council Member Wolbach's comments, in thinking through unintended consequences. One of the ones that has just occurred to me, that could occur as a result in part that the Amendments that I offered is that do we create a circumstance where the City would in some way have a motivation to deny an appeal, because we would collect funds if we did so and not collect them if we did not. Let me just put that out there for people to noodle on. Council Member Kniss.

Council Member Kniss: I think I'm understanding this. It would be a lot easier if you'd just use Pat and Liz, and then I'd know who was appealing what. If I go back to this, everything in here is about appeals other than "D" and "E." Am I right? Subsidizing childcare is different than appealing. An alternative for annual inflation adjustment to the Fee Schedule, why did that come in here? Is that yours, Tom or Pat?

Council Member Berman: Pat.

Mayor Burt: Which one?

Council Member Kniss: "E."

Mayor Burt: It's because we've fallen way out of whack over the years, in part because we didn't have an inflation adjuster.

Council Member Kniss: Got it. That's all I needed to hear. The rest of it, I'd be just delighted to vote on it.

Mayor Burt: Council Member DuBois.

Council Member DuBois: I just want to clarify "A" here. My intent here was—I think there was a lot of confusion on the terms of the fees. The intent between "A" and "B" is that somebody filing an appeal, whether to the Director or to the Council, would pay the \$280. The intent was not that they would pay that multiple times. Are you reading it that way now?

# TRANSCRIPT

Ms. Gitelman: I wasn't. So this is good clarification. We have currently two separate fees, because it's two different steps in the process. For an IR, someone would pay \$200 and something for the director's hearing. They might get their wish; they might get a director's tentative decision that they liked, or they might not get what they wished and have to appeal it again. In that case, we would expect them to pay an additional \$200 and whatever.

Council Member DuBois: My intent under "A" was to clarify that they would pay one fee, a fixed fee, about the \$280. It was really thinking broadly to apply to IR as well as commercial. If that needs to be clarified, let us know.

Ms. Gitelman: I think it would be good to clarify in "B" that the person requesting an appeal or a director's hearing will pay \$280 and shall not have to pay for both of those things.

Council Member DuBois: Is there any other confusion?

Mayor Burt: We have to see what those things are. Council Member DuBois, it certainly says for both steps. I guess we have to make clear in the Motion what we're referring to as both steps. I think that's outside the Motion.

Council Member Berman: (inaudible)

Council Member DuBois: I think it would just be ...

Council Member Kniss: Doesn't it say that (inaudible)?

Council Member Berman: No, that'd be the opposite (inaudible).

Council Member Kniss: (inaudible)

Council Member DuBois: Can we just say the person requesting an appeal and/or a director's hearing will pay a maximum \$280 fee in total?

Ms. Gitelman: Except in the case where it's an Applicant. If it's an applicant, presumably we're going to have the ability to charge more.

Council Member DuBois: Yes, right. I don't want to over wordsmith this. I feel like we're getting into that. I just wanted to make sure the intention was clear. Is there any other part of the process under "A"—it's a general question. I know you guys are chatting a lot amongst yourselves. There was, I think, some confusion about the appeal fee structure.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to replace in the Motion Part B, "or a Director's

# TRANSCRIPT

Hearing will pay \$280" with "and/or a Director's Hearing will pay a maximum fee of \$280, except in the case of an Appeal filed by an Applicant."

Ms. Gitelman: I think where we were confused, there are two rows that apply to the charges that would be charged to the Applicant. There's a legal fee and a deposit. We will consolidate those based on "A."

Mayor Burt: Does "A" need to be more clear as to what its intent is?

Ms. Gitelman: I think we know what the intent is. It's to ...

Mayor Burt: Tell me what you think the intent is, and why don't we put that language in there. To me, it's very general.

Ms. Gitelman: As I just indicated, I think that we discovered in reviewing this this evening, that there are two rows in the Fee Schedule that would be paid by the Applicant, a deposit of \$3,000 and then a legal fee that's a flat fee.

Mayor Burt: Would it be correct then to say clarify appeal fees would—what are we saying? Can you offer language there? Is Jonathan taking a crack at this?

Ms. Gitelman: You could say clarify the appeal fees to be paid by project Applicants to require a single deposit for purposes of cost recovery.

Mayor Burt: Does that seem right?

Council Member DuBois: Yeah. We're only talking about appeal fees, right? There would be other fees.

Ms. Gitelman: That's right.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add the Motion Part A, "to be paid by Project Applicants into one deposit for the purposes of Cost Recovery."

**MOTION RESTATED:** Council Member DuBois moved, seconded by Mayor Burt to adopt a Resolution approving the specified changes to the Planning and Community Environment fees based on the Cost of Services Study with the following changes:

- A. Clarify appeal fees to be paid by Project Applicants into one deposit for the purposes of Cost Recovery; and

# TRANSCRIPT

- B. The person requesting an Appeal and/or a Director's Hearing will pay a maximum fee of \$280, except in the case of an Appeal filed by an Applicant; and
- C. Neighborhood preservation zone should not have a fee; and
- D. The City should continue to subsidize childcare centers at the current rate; and
- E. To request Staff return with an alternative for an annual inflation adjustment to the Fee Schedule; and
- F. If an Appeal by a third party fails, the Applicant is not obligated to pay additional fees; and
- G. If an Applicant appeals and prevails, the Applicant would not be obligated to pay additional fees; and
- H. If the Council chooses not to hear an Appeal, the Appeal Fee is returned to the Appellant.

Mayor Burt: Thank you. That helps. I see no more lights. If there are none, we can—is the Motion as clear as it's going to get? Please vote on the board. That passes unanimously with Vice Mayor Scharff and Council Member Holman absent.

**MOTION AS AMENDED PASSED:** 7-0 Holman, Scharff absent

Mayor Burt: I want to check-in on whether we should change the sequence. We had this item tentatively scheduled for 8:30. It was one that we received a lot of comments from the public. Should we instead take Item Number 9 at this time?

Council Member Kniss: I would move so, if we can do it?

Council Member Berman: I'd second it, if it needs a Motion.

Mayor Burt: Mr. City Manager, did you catch that?

Mr. Keen: I did. I think it's a great idea. I just need to see if we can get the Staff on Item Number 9 down here, unless you would like me to handle it on my own.

Mayor Burt: How about if we take a five minute break?

Mr. Keene: That would be great.

# TRANSCRIPT

Council decided to hear Agenda Item Number 9 before Agenda Item Number 8.

Council took a break from 7:48 P.M. to 7:54 P.M.

At this time Council heard Agenda Item Number 9.

9. PUBLIC HEARING: Adoption of a Mitigated Negative Declaration and Approval of a Site and Design Review Application for a new Two-Story, 7,500 Square Foot, 50-Foot Tall Building Designed to Handle Sludge De-watering and Truck Load-outs, With Adjacent Stand-by Generator, and a new Outdoor Equipment Area Next to the Existing Incinerator, to be Placed Centrally on the Regional Water Quality Control Plant Site at 2501 Embarcadero Way (Continued From March 21, 2016).

Mayor Burt: We're actually now moving to an item that is continued from last week, which is adoption of a Mitigated Negative Declaration and approval of a site and design review application for a new two-story, 7,500 square foot, 50-foot tall building designed to handle sludge dewatering and truck load-outs with adjacent, standby generator and a new outdoor equipment area next to the existing incinerator, to be placed centrally on the Regional Water Quality Control Plant site at 2501 Embarcadero Way. Mr. Bobel, welcome.

Phil Bobel, Public Works Assistant Director: Thank you, Mayor. Phil Bobel, Public Works. I'll be joined shortly by Amy French of the Planning Department. We'll also have our Plant Manager, Jamie Allen, here and our consultant from CH2M HILL. I'm sure they'll be here for your questions. This was the timeline that we've been through, and I won't go through it. Suffice it to say we've been to the Architectural Review Board twice, once as a Study Session, once as an Action Item. We've been to the Planning and Transportation Commission who has forwarded it on to you. The main item for you tonight is really the approval of a Mitigated Negative Declaration associated with the sludge dewatering and off-haul facility at the sewage treatment plant. These were the issues that came up. The first issue is the height of the building. We went through the Federal Aviation Administration (FAA), and they determined that it would not have a significant impact on operations. That issue did come up at our Planning and Transportation Commission. You may want to hear more about it later. Issues came up around odor and noise. We believe we've responded to those points that were raised on the Mitigated Negative Declaration. Sludge storage, a question came up. Once we get this thing built, we phase out the incinerators, how much time would we have in the event of an emergency that we could store sludge? If we don't have the incinerators and something



# TRANSCRIPT

happened and we couldn't take the sludge offsite as planned, then how much time would we have? The answer is at full capacity, we'd have about two days. Immediately we'd have more like three days, because full capacity hasn't been reached. Just a brief reminder. The whole point of this project is to phase out our incinerators at the sewage treatment plant. This is Step 1, as we've identified it before to you in our organics facility plan. Step 1 is to be able to dewater the sludge and haul it somewhere else. That allows us to phase out the incinerator. Step 2 is to put in our own system as most sewage treatment plants do. Our current proposal is that that be a facility like most sewage treatment plants have, but we'll be reviewing all the technologies and decide whether anaerobic digestion as we're tentatively proposing is the final choice. That final choice isn't before you tonight. It's only the Mitigated Negative Declaration on this first step, the dewatering and off-haul facility. The fourth item is that the East Palo Alto Sanitary District was not advised immediately when we issued—they didn't get a copy of the Mitigated Negative Declaration. We feel very badly about that, but they've now had it for over a month. I've been at their board meeting, briefed them thoroughly. We'd actually briefed them several times before, and we don't believe they actually have any comments on the Mitigated Negative Declaration. We feel badly that we missed a step and didn't get it to them immediately on issuance. They have now had it for over a month. Landscaping, we'll show you some pictures of that. That issue came up with the Architectural Review Board. We made several proposals; they chose one, and you'll see that in a minute. Here's a shot of what it would look like from the highest point at Byxbee Park, our old landfill. The landfill height at its highest point is 65 feet, which is roughly the same height as our new building is 50 feet from ground surface; it's 60 feet from the mean sea level. It's roughly the same height as this hill at Byxbee Park. Here we are looking out from that hill at the sewage treatment plant. We've superimposed on the right hand what it will look like with the new building. We think it helps make the point that it's frankly not dramatically different, not significantly different even in California Environmental Quality Act (CEQA) terms, than the current situation. As you look at the building from the gate to the facility, as you would be walking or driving into the plant, the upper left-hand is what it would look like with the new building in place. You can see it's the largest building in the distance. I wanted to make sure you saw what that would look like as you drove into the sewage treatment plant. Again, that building is 50 feet tall, the right-hand portion of it that you're seeing. It's mostly concrete with some Cor-Ten steel. In the lower right-hand is another project that's going to be coming to you shortly for a construction contract approval. It's a canopy over our household hazardous waste facility which, as I think all of you know, is right in front on the right-hand side as you drive into the sewage treatment plant. That's our household hazardous waste facility. We didn't have enough—the money sort

# TRANSCRIPT

of ran out when we initially constructed this thing, so we didn't put the canopy in. It's been through the site and design process, Staff approval level, and we just wanted to show you how that would sort of look. It wouldn't be big enough; it'd be off to the right, so you wouldn't see it in that left-hand picture. We wanted you to know that it is coming, and it'll be a canopy. No new buildings, but just a canopy over part of the existing area. Just to put a finer point on the discussion we had with the Architectural Review Board. On the left, you see the building as we originally proposed it. They felt we'd missed an opportunity to do some more interesting things with the front of this. This is the west-facing elevation; that's what you'll see as you drive into the sewage treatment plant, which is that photo I just showed you on the last slide. What we originally proposed is on the left. Our reaction to the Architectural Review Board comments was to propose an additional window on the upper story of the building and a green wall system with kind of a wave to it, that you see there. They liked the additional window; they did not like the green screen. We have, at my own personal—I would have preferred the green screen. We can't afford to hang around and argue about this, so we're moving forward with their recommendation and no green screen. There's a picture of our incinerator, the thing that will be—there's two of them. We'll be eliminating them as soon as—we won't be knocking them down; that's a very expensive thing. We'll be discontinuing their service forever as soon as we get the new dewatering facility up and running. That brown square shows you—on our Long Range Facility Plan, you've seen this diagram before; it's been a while. The brown square is where we would put the new sludge handling facilities that replace the incinerator. Again, anaerobic digestion is what we're headed toward, but we'll be revisiting that, looking at all the latest technologies such as gasification which we've talked about before. We'll be looking back at that again. That's Step 2. Tonight is just Step 1, the dewatering and off-haul facility. Now you see in the sort of middle, upper, the yellowish, that's our new sludge dewatering building. It's a much smaller area than that big brown area I showed you, because the big brown area also encompasses where we'd put the digester as Step 2. There's some other details there. If you want to get into it, we can show you the other adjustments that we made in response to the ARB comments. That's what the very front of our facility looks like now. We're very proud. We spent—it was a \$1 million project to do landscaping all around the plant. This was one of the signature areas, our new sign and the public art that you see on the right. It corresponds to some other public art, which I guess we didn't have a slide of, in the middle of the facility. Here again is on the left the building as we're proposing it. On the right, that canopy that is just off to the right outside the photograph. I think we've been over this. From the Harbor Road side or the marsh side, this is what you'd see. This is as if you're driving toward the parking lot for Byxbee Park. You're part way along

# TRANSCRIPT

Harbor Road toward the dead-end at the parking lot. You're part way along, and you would see our dewatering building in the center. With the current vegetation, you'd see that 50-foot high building. You'd also see even closer, off to the left our existing fixed-film reactor. You can see our existing incinerator building on the right. That'll be there for quite some time due to the expense of actually removing the incinerator building. This is what it would look like. After 10 years of growth with the landscaping we've already put in as part of that project that was completed last year and the new vegetation we'd put in as part of this project, after 10 years this is what we believe it will look like. It would hide the building from that view. This is a lower elevation shot from the landfill side. Now you're much closer to our building, landfill/Byxbee Park side. Now we're looking again from that hill at Byxbee Park, but we're down on the hill, we're almost down to the bottom of the hill. The facility looks much bigger. We just thought we'd show you what that looked like too. The new building is off to the left with an arrow. The existing fixed-film reactor is further to the right with a red arrow, just to show you. Those buildings in front, that's our dual media filter and our aeration tanks. That's in the foreground, and that's the most prominent feature you see from Byxbee Park currently. It is there now, and it of course would stay there. I think I already showed you that one. I think that's our story. I'll leave it there.

Mayor Burt: Thank you. Council Member Kniss, did you have a technical question?

Council Member Kniss: I think it's technical. Thanks very much, Phil. Sea water, sea water rise, sea water level, do you want to comment on that? I think it's technical.

Mr. Bobel: Sure, that qualifies as technical. This question came up at the Planning and Transportation Commission and actually at the Architectural Review Board as well. What we've done is design this building 11 1/2 feet above mean sea—the floor of the building 11 1/2 feet above mean sea level. Our current Palo Alto requirements are that you build something that's in the flood basin 10 1/2 feet above sea level. We've added a foot on. One could argue why didn't you add more on because sea level rise is estimated to be three to five feet over the rest of this century. We did not do that because the primary method of protecting this facility from either rising water or flood is the levees that we're working on, as you know, both through the Joint Powers Authority (JPA) project and the regional project. Two different projects. Those levees are being designed to be 16 feet. They're assuming three feet of sea level rise, and then freeboard for a total, as I recall, of about 16 feet, over 16 feet. That's the height of the levees that'll be outboard of this plant. That, so far, has been our response. On May 9th, I

# TRANSCRIPT

believe it is, we're going to be bringing to Council a Study Session on sea level rise where we'll raise the question to you all for your thoughts as to the degree of double protection we should have on our systems going forward. Should we place our reliance on the 16-foot levee, which is to be constructed? Should we also either increase or—what should we do with our requirements for building the structure, the floor level at a certain level? We don't have a City policy on doing more than what we've done at this time. I just wanted to highlight that for you, so you'd understand that the plan, as of right now, is to rely on the levees for flood protection for this facility. Flood protection and sea level rise for this facility.

Council Member Kniss: Given the end of the century still has a way to go, another 85 years or so, and probably some of the technology will have changed by then, I could probably reasonably predict none of us will be here to observe the five foot sea level rise. I think it's important for the public to know that that was taken into consideration, including the levees that will go up. It's a big question. Granted, if you were in the current political race, you probably might think we had no problem whatsoever. At least we in Palo Alto have addressed it head on.

Mayor Burt: Council Member DuBois.

Council Member DuBois: Thanks for the presentation. I had some questions on Slide 9, just the long-term footprint.

Mr. Bobel: (inaudible)

Council Member DuBois: This one with the drawing. That one. The incinerators today are inside that solid brown area.

Mr. Bobel: Correct.

Council Member DuBois: A digester would go in that same space, is that basically the footprint?

Mr. Bobel: We're still sort of debating how this would look and also whether we would have two or three digesters. Jamie, can you remind me? Would we have to remove the incinerator building for two digesters?

Jamie Allen, Water Quality Control Plan Manager: Correct. The current incinerator building is the perfect location for digesters, because they're pile-supported, 80 feet deep, and then they have to have tiebacks going out. We're going to be hitting all of our nearby structures, so that was kind of the sweet spot for putting in digesters if we're going to dig a 30-foot pit out there for these tanks.

# TRANSCRIPT

Council Member DuBois: Are we going to be able to recycle those tanks? It sounds like a pretty expensive process.

Mr. Allen: They're expensive. The cost estimate was about \$13 million each for two digesters.

Council Member DuBois: I meant (crosstalk) incinerators.

Mr. Bobel: I think he means the incinerators.

Mr. Allen: I'm sorry. I didn't understand your question.

Council Member DuBois: It sounds like it's pretty expensive to pull the incinerators out. I was wondering out ...

Mr. Allen: The demolition?

Council Member DuBois: Yeah.

Mr. Allen: I don't remember the exact number. I'd estimate a couple million to demolish them.

Council Member DuBois: Since we're on this slide, a little bit off topic, but I just want to take advantage of you being here. Where it says potential salt reduction versus osmosis, if we were going to look at potable water recycling, would it be there? Would it be the same footprint shown there?

Mr. Bobel: That's our current plan. I think the initial facility that we'd probably propose wouldn't have to be that large. We'd take another look at it. Let's say we decide, for example, as an initial step we want to do roughly one million gallons per day of purified water. It wouldn't have to be that big, so we'd look elsewhere in the site and see what we could do. We'd have to knock down our current administration building. Both Jamie and I are in that building, so we ...

Council Member DuBois: Hopefully you get out first. I've read this report two weeks in a row now. I didn't see any issues. It looks like a good project. Thank you.

Mayor Burt: Council Member Wolbach.

Council Member Wolbach: Just to follow up on the discussion about sea level rise. If I heard you correctly, the time to give direction about further changes to this or have a deeper discussion about whether we want to have secondary protections for sea level rise for this facility would be tonight or at that meeting in May?

# TRANSCRIPT

Mr. Bobel: I was just giving you a preview that in May we will be sort of teeing up this question for you. At the current time, we're as Staff comfortable proposing the protection be with the levees. Since the question had come up in both of the ARB and P&TC, I didn't want to ignore it. I wanted to make sure you realize that there are—one could take the position that we should have several belts and suspenders on this thing.

Council Member Wolbach: I guess I just want to find out when does the door close on us making changes to this proposal to provide either a higher floor or other protections if we did decide perhaps at or following that May discussion that depending on the levees was not adequate insurance for sea level rise during the lifetime of this facility.

Mr. Bobel: We're at the 100-percent design level on this facility. We've designed it. Any major change is a major, major cost to the City. Just to redesign it would cost big bucks.

Council Member Wolbach: Understood. Just a couple of thoughts about this. One, I can't speak for everybody here, just referring to Council Member Kniss' comments that we won't be here. I certainly hope to be here several years from now and, I think, many of us in the community and the next generation in the community will be here. Land sea level rise is a very, very real and pressing threat. The real question is how does the lifetime of a facility match with the timeline for sea level rise. That's the real question that I'd suggest we ought to consider in our preparations for sea level rise.

Mr. Bobel: Could I just give you a quick answer to that? Most of this kind of stuff we say has a life of 30 years. The estimates toward the end of the century are three to five feet, but this is only a 30-year design life. We've added a foot on, and that's sort of our response. The other response is that this is just one, frankly, small part of our facility, even though it's going to cost over \$20 million. The rest of the facility wouldn't be compatible anyway. It really, frankly, wouldn't do much good to take this one facility and raise it to a higher level. If we need belts and suspenders, we're going to have to develop a different kind of belt and suspender. We can't just pad the whole thing up. We're going to have to use pumps and other systems like the northern European countries have to deal with the problem.

Council Member Wolbach: I appreciate that clarification. That actually really helps me think about this challenge. Thank you for that.

Mayor Burt: Council Member Schmid.

Council Member Schmid: I thought the questions you got from Mr. Waldfogel and Herb Borock were good questions on height, on odor, on

# TRANSCRIPT

landscaping. I thought your responses to them were good. I thought the process worked well, that you had time to go out for questions, time to think about it and research and come with an answer for them. They address some of the issues that I would be concerned about. I think the process worked well there. I do have one question left on the landscaping. It says very clearly on Page 8 of the Staff Report that the Baylands Master Plan notes that where specific guidelines are applicable to dedicated parkland, the design principles and concepts should also be applied in the service and commercial areas when designing or reviewing projects. One of your conclusions on the landscaping was on the southern border. You left what's called a vegetation gap. The slides that you showed, Slide Number on Page 16, that one and the one in Attachment D. We spent four years in Byxbee Park trying to turn it into parkland. Over the last month, for the first time in four years, there's actually green, and the birds love it. People love it. Nice trails. On the northern loop trail, it goes right by that picture, and you probably spend 5-10 minutes walking, staring at the facility. That gap has a dramatic impact on the hilltop view of Byxbee Park. I can't understand why attention was paid to the entire perimeter of the treatment plant except for this—what is it? A third of a mile gap. How could that be?

Mr. Bobel: The simple answer to your question, or the brief answer to your question, is that since that entire southern border is part of the Measure E site, when we did the landscaping project, we actually came to Council more than two years ago. It was just completed last year. When we brought that project forward, we surfaced this issue, and actually we had surfaced it even earlier. The thought was that it wouldn't be a good expenditure of funds to be spending money landscaping that side and then having to rip it out if it was decided to go forward with a compost energy facility on the Measure E site. It was a very conscious decision not to improve the landscaping on that side.

Council Member Schmid: I guess my reading, though, of the 10 acres—it was cut back to seven, eight acres. That is well to the left of this gap. As you look down the hill, you can see the square that has been kept out of the park. It's well outside of this gap. This gap has no relationship, not none but very little relationship to the 10 acres. It seems as though if it's planting trees, you're giving up a 10-year horizon to be consistent with the Baylands Master Plan. Those two do not seem to be consistent.

Mr. Bobel: I don't mean to argue, but actually if you look at that photograph, the entire width of that photograph is the Measure E site. If the gap you're talking about is where you see our concrete tanks, that is part of the Measure E site. If we were to fill that in, we would be planting stuff on the Measure E site.

# TRANSCRIPT

Council Member Schmid: If you go to these diagrams and maps that you have given out, the Measure E site seems to be well to the west of the gap. It's up here.

Mr. Bobel: Sorry. It's the entire length. Do you want me to show you on that map?

Mayor Burt: Why don't we do that—first we need to make sure that our question periods are focused on questions.

Council Member Schmid: The question is, is this consistent with the Baylands Master Plan.

Mayor Burt: That's not a 10-minute question. I still say that we need to have our question period more focused on questions. At this time, what we'd like to do is proceed with comments from members of the public. We have two speakers, Herb Borock to be followed by Mark Roest.

Public Hearing continued from March 21, 2016.

Herb Borock: Thank you, Mayor Burt. First, let me give a handout to the Clerk on the landscaping which will be the last thing I'll talk about. I just want to mention a couple of other things first. I echo Council Member Schmid's comments about responsiveness of Staff and Public Works, Planning and the City Attorney's Office. The final step of Component 3 is going to be having to be considering not just the general economics of what that final part would be, but also the generation of electricity and greenhouse gases that are not being converted to electricity, such as carbon dioxide. The first page of the Staff Report says that the existing incinerator building will be repurposed for a time. I'd like to know what that repurposing is and how long that's going to be. In regard to the landscaping, I have handed out a copy of the view from the top of the former landfill. That is a change in circumstances that hadn't existed before. It wasn't a parkland before. That's something new from the previous mitigations on landscaping. Also, I provided you with a copy of the site. The south side, which is the lower right-hand corner of the aerial view, shows a boundary between the Measure E site and the Regional Water Quality Control Plant. There are different views and approximate boundaries in the report, so they're not all the same. In general, there is landscaping space on the Regional Water Quality Control Plant site for the additional landscaping. The two circular objects are the secondary clarifiers. In line with those two is a building which is dual media filters. The gap between those clarifiers and that rectangular building is what you see from up the hill. You go up through that gap to the sludge facility. The response in the addendum to the Mitigated Negative Declaration (MND) is written as if the



# TRANSCRIPT

purpose is to protect the Measure E site or that the only place landscaping would be would be on the Measure E. In fact, the purpose of the landscaping on the south side should be to protect the views of the parkland on the former landfill, which you can see through that gap between those buildings on the south side. There is space on the Regional Water Quality Control Plant for that landscaping which, if planted now, would have at least two years of growth while we're waiting to build the sludge dewatering and load-out facility. There is no problem, there'll be no conflict if something is built on Measure E because the access of Measure E to the plant would be through an extension of Embarcadero Way. It couldn't possibly go through those buildings that are there. I would urge you to amend the approval to add that landscaping. Thank you.

Mayor Burt: Thank you. Our next speaker is Mark Roest. Welcome.

Mark Roest: Thank you. I'm friends with one of your citizens. He worked with a company 15, 20 years ago that was a pioneer in methane digester wastewater treatment, not just waste or sewage treatment. As an alternative to the very large tanks that you're talking about, there is a company—I think they're in Provo. It's a couple of brothers who are academics. They're affiliated with the university. They've got the best in methane digester technology on the planet from the research I did when I was in a startup that was looking at going into that business. 25,000 gallons a piece, average four day transit time eliminates issues of hydrogen sulfides and (inaudible) accumulation and plugging. Tanks height, they're (inaudible) tanks which are typically three or five times the diameter in height, like that shape. You can cluster them; you could also disperse them. It's very modular. About \$50,000 a piece is my understanding. I think that would be probably \$4 million or so for the lot to be able to handle a million gallons a day. You'd want basically four times the capacity in order to handle it every four days. You guys might want to really check those guys out before you invest in this other, older technology. Their technology also is fully instrumented and fully manageable remotely. They can manage the thing for you from Utah.

Public Hearing closed at 8:30 P.M.

Mayor Burt: Thank you. We'll now close the public hearing and return to the Council for discussion and a Motion.

Council Member Kniss: I would move the Staff recommendation and that we proceed with the Regional Water Quality Control Plant (RWQCP) sludge facility as described by Mr. Bobel tonight.

Mayor Burt: I will second that.

# TRANSCRIPT

**MOTION:** Council Member Kniss moved, seconded by Mayor Burt to approve the Mitigated Negative Declaration, the Mitigation and Monitoring Program, and the Record of Land Use approving the Site and Design Review and Architectural Review application for the new dewatering facility at the Regional Water Quality Control Plant.

Mayor Burt: Speak to your Motion.

Council Member Kniss: I think we are at such a turning point, whether we call it sludge or some other unattractive name. The time is now to have a plan for what we're doing with that. I think that this is one of those plans that's been well thought out, well thought through, and a long time coming. I'm delighted with the presentation that you made tonight. Maybe we could get it a little higher for sea level, but frankly I'm going to let Cory and Marc worry about that. I think this is a direction we have to go in. I don't think we have any choice about that. I noticed there was a long discussion on NPR today about the same thing. Maybe some of you heard it. This is the time; the time is right. Go forth and do good work.

Mayor Burt: I simply have a couple of follow-up questions. One is, Mr. Bobel, have you had a chance to both review and confirm that your notion of the 6-7 acre adjacent site is as you believed it to be in relation to the landscaping. The second half to that is given that we don't know a timeframe for build-out there, would there be any landscaping opportunities, either on an interim basis or in the zone that Mr. Borock talked about that would be worthwhile landscaping.

Mr. Bobel: A quick response. I am quite confident that the sort of gap that Council Member Schmid identified, where you see our facility through there, that that Measure E site does snuggle up to our fence at that point. It goes up against our fence, all the way across our fence. It is a 10-acre site. I'm not sure how the seven acres has come into it. The Measure E set aside is a 10-acre spot for a period that'll end in 2021 where we're to consider an energy compost facility. Like I say, when we brought this forward earlier, the consensus was let's not spend money in that area where it might be wasted. We can reconsider that. We're happy to. If directed by Council, we would do that, but it was not the direction we received initially. As far as inside our fence on the facility grounds itself, you saw our Long Range Facility Plan. We are trying to reserve all the space essentially inside the fence for facilities. We don't recommend landscaping there. In fact, I think what the environmental folks really want is—they have coined this term "the landscape corridor." If we're planting at all, they want us planting outside the fence so that that area cannot only be a visual screen to some extent, but it can act to let wildlife go between the Renzel Wetlands and the Bay. If

# TRANSCRIPT

you think of that strip, then that goes right across the Measure E site. It just wouldn't fulfill that objective of creating the wildlife corridor to put vegetation inside our fence. It would be inconsistent with the Long Range Facility Plan that we adopted.

Mayor Burt: Thanks. Just to add, I think the discrepancy on the 10 acres versus 6-7, if I'm recalling correctly, the last time that we saw a proposal, it was one that was not necessarily utilizing all 10 acres. It was the 6-7 that would be utilized, even though we had allocated 10. That's ringing a bell?

Mr. Bobel: Yeah. We did have proposals that used less than 10, you're right.

Mayor Burt: I see—Council Member Schmid.

Council Member Schmid: I believe when the final design of Byxbee Park was done, there was a compromise where they said they would not design the space Measure E needed. It was about six or seven acres, but the rest was designed to be parkland with slopes. If you look at the CH2M HILL materials that we were given, Page 25, it clearly identifies what seems to be the Measure E site that's protected. It actually is designed into the slope of the landfill. That is a part of the south-facing fence that is well landscaped at the moment. The landscaping in the corridor as you move east is the part that is empty. I think it is well outside of this site that has been designed in Byxbee Park as the park area. The trails go through that open space. I guess I would like to propose an Amendment that we add a review of the landscaping on what would be the south side of the facility to be consistent with the Baylands Master Plan.

Mayor Burt: That's acceptable to the maker and the seconder.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, "and add a review of landscaping on the south side of the facility to be consistent with the Baylands Master Plan."

Mayor Burt: Do you need to add some timeframe to this or do we need Staff to come back on that? It's open-ended.

Council Member Schmid: I would think with a discussion with the Community Services Department about the parkland and who pays, where it is, what could be done, whether this CH2M HILL map is an accurate depiction of the Measure E land.

# TRANSCRIPT

Mr. Bobel: I'm quite confident that if that shows it not extending all the way across, it's an error. We'll correct that error.

**MOTION RESTATED:** Council Member Kniss moved, seconded by Mayor Burt to approve the Mitigated Negative Declaration, the Mitigation and Monitoring Program, and the Record of Land Use approving the Site and Design Review and Architectural Review application for the new dewatering facility at the Regional Water Quality Control Plant and add a review of landscaping on the South side of the facility to be consistent with the Baylands Master Plan.

Mayor Burt: We have no more lights. Please vote on the board. That passes unanimously with Vice Mayor Scharff absent and Council Member Holman absent. Thank you.

**MOTION AS AMENDED PASSED:** 7-0 Holman, Scharff absent

8. Resolution 9580 Entitled, "Resolution of the Council of the City of Palo Alto Continuing the Palo Alto Clean Local Energy Accessible Now (CLEAN) Program and Decreasing the Contract Rate: (1) for Solar Resources to 8.9c/kWh to 9.0c/kWh, and (2) for Non-Solar Renewable Energy Resources to 8.1c/kWh to 8.2c/kWh; and Amending Associated Program Eligibility Rules and Power Purchase Agreement Accordingly (Continued From March 21, 2016)."

Mayor Burt: We will now proceed to what was Item Number 8 which is a Finance Committee recommendation to adopt a Resolution continuing the Palo Alto Clean Local Energy Accessible Now program and decreasing the contract rate for solar resources to 8.9 cents per kilowatt hour to 9.0 cents, and, two, for non-solar, renewable energy resources to 8.1 to 8.2 cents, and amending associated program eligibility rules and Power Purchase Agreement accordingly. Ms. Ratchye, are you going to kick things off?

Jane Ratchye, Utilities Department, Assistant Director: Yes, I am. Mayor and members of the Council, Jane Ratchye, Assistant Director of Utilities. I have a brief presentation. I know you want to get to your discussion. There's people here with comments. I think you have a copy of the presentation. I'm proposing maybe skipping some of the background section, if that's acceptable, unless someone would like me to go through that part. I'm going to skip that part and get to what the Finance Committee recommended unanimously for the local solar part, that the CLEAN contract price be reduced to the avoided cost which is 8.9 cents per kilowatt hour for a 20-year contract term and nine cents per kilowatt hour for a 25-year contract term. This chart shows generally the changes over time in the avoided cost of local solar. In the past, the Council has identified

# TRANSCRIPT

in the Resolutions adopting the CLEAN price that there are additional benefits above and beyond the avoided cost. Those include the things listed on this slide. The avoided cost itself is not just the energy, but also includes the renewable attributes because it is eligible renewable energy, the transmission and distribution losses and the capacity and all the charges that we face to get a remote renewable brought to the City itself. This chart shows how the avoided costs have changed over time over the life of the CLEAN program since it was first adopted. You can see the bottom bar, which is the energy part, has declined over time as renewable prices have declined, as you have seen when the Council has adopted new renewable energy, long-term Power Purchase Agreements. Those prices have continued to decline over the last several years. In fact, just last week you adopted one with 3.7 cents for energy. We included in the March 2016 update the avoided cost was 4.6 cents; that's higher than the 3.7 because at that point that we developed the avoided costs, you hadn't executed that contract yet. If we were to do it today, we may even lower it. This 4.6 is equal to about the average of the best, I think it's five contracts or proposals we got in our last Request for Proposals for renewable energy. That's how we came up with that. You can see it's made up of the energy, how much extra you generally pay in the market for renewable energy premium. The 4.6 plus the 0.9, that's what you just signed a contract for, for 3.7 cents. Then there's the local capacity benefit or the cost. Then there's this thing on the chart is called a TAC charge; that's a transmission access charge. The estimation of what those are hasn't changed that much over the years. You have the losses, the distribution and transmission losses. That's how you get that total amount of avoided cost. This just shows kind of the bottom chart, just the avoided cost portion. It breaks it down; it's the same number as the last chart. I also had heard a question about does this program have a different sort of subsidy or excess cost above what some of our other solar energy programs have. We didn't really have a huge amount of time to do a lot of research on this, but what this chart shows is our Net Energy Metering program. What you can see here are our current energy rates, our current electric rates. The line there is the local solar avoided cost that we're assuming right now, which is about nine cents a kilowatt hour. You can see Net Energy Metering is effectively—people are compensated for their generation of their Photo Voltaic (PV) onsite based on the full retail rate. For a residential customer, the compensation depends on what tier of energy use they're in. If they're just in the Tier Number 1, our rates are just above nine cents, so there's not much above the avoided cost for this program. Remember that the Net Energy Metering program is a program that we're required to have. This is a State requirement that we have Net Energy Metering available to customers up to a cap that you identified. The Council has adopted a cap for this program, and we expect to reach that cap at maybe the end of this year. You can see like in residential customers in the

# TRANSCRIPT

Tier 2, then they're getting compensated for the next amount of energy they use at that rate. Then in the Tier 3, they're compensated at a little over 17 cents per kilowatt hour. Even if someone who's in a Tier 3, though, they use 300 kilowatt hours of Tier 1 energy, then 300 more on Tier 2, and then all the energy above 600 is in Tier 3. The amount of what you might call a subsidy depends on how much they're in each of those tiers. For our small commercial customers in the E-2 rate, you can see those rates are shown on the chart there. They differ in summer and winter. There are no tiers in the nonresidential rates. The medium commercial customer rates, E-4, and the large commercial customer rates, E-7, these look a lot lower on this chart because these customers pay not only an energy charge but a demand charge. Generally even with PV on your roof, you don't necessarily avoid the demand charge. In this case, the Net Energy Metering sort of incentive doesn't really exist for the larger customers. We also have the PV Partners program; that's a rebate program that was also required by State law. That program had a number of steps of rebate, and the rebates stepped down according to the law. We had ten steps in the program. For residential, those rebates have run out over a year ago. They're very low for the remaining customer groups. I'm showing here what that rebate amounted to in terms of cents per kilowatt hour over time. Of course, this program will end relatively soon when these rebates are out. This PV Partners program required by State law, required by Senate Bill 1, that sort of subsidy, sort of program is running out as well. All these programs were meant to develop the solar market and drive down the costs of solar energy. They have been incredibly effective in doing that. The price of solar has declined significantly. That's really all I have. Open for your questions or comments.

Mayor Burt: Thank you. We can hear from any technical questions from the Council. I have currently six speaker cards. Council Member Filseth.

Council Member Filseth: Hi. Thank you very much. I have two technical questions. If you look on Slide 8, the March 2016 column. You said that doesn't include the Hecate contract. Did I hear you say that the 3.7 cents on the Hecate replaces both the 4.6 and the 0.9 of Renewable Portfolio Standard (RPS)?

Ms. Ratchye: Yes. The Hecate contract was 3.7 cents, and that was renewable energy. That included the premium plus the energy cost long term.

Council Member Filseth: Is it a fair assumption to say that—again, the Hecate contract doesn't go into effect for—we don't start collecting power for a couple of years. Is it fair to say that in that case the Hecate contract, that

# TRANSCRIPT

8.9 total cost would be somewhere in like 7.1, 7.2 cents? Do I read that right?

Ms. Ratchye: You do read that right. One thing you have to take note, the Hecate contract does not start until 2021 and it's not in place and it may never come to fruition at that price. That's something you have to keep in mind. The price here is probably—at 8.9 cents is still probably relatively accurate.

Council Member Filseth: My other question was my recollection was that—it wasn't obvious in the Staff Report—the proposal was to change the feed-in tariff for future projects but not affect any of the existing ones, so the Unitarian Church and so forth. That's correct isn't it?

Ms. Ratchye: Yes. Everyone who's applied now and submitted applications under the program, submitted it during the time that the 16.5 cents is in effect, all the five applications we have will be under that rate.

Council Member Filseth: Thank you.

Mayor Burt: I have a question. We have a City policy to achieve 4 percent local renewables. Can you break down where we stand in that and how this program fits within that policy?

Ms. Ratchye: This program is one of the bag of tools that we have to try to achieve that goal. The goal is to get 23 megawatts of solar by 2023. I believe we have about 8-ish megawatts now. The applications we've already received under the CLEAN program amount to 1.3 megawatts. That's leaving 1.7 megawatts under the CLEAN cap. Those would contribute to meeting the goal. We're hoping to have a community solar program. People are still trying to put solar on right now. I don't know how many are kind of in progress right now. We expect that there will be kind of a race to get under the Net Energy Metering program.

Mayor Burt: Our current Net Energy program and then the PV Partners program, how much more capacity exists under those two before they're at their expiration?

Ms. Ratchye: For PV Partners?

Mayor Burt: Both, Net Metering and PV Partners.

Ms. Ratchye: Net Metering, we probably have another half a megawatt under PV Partners. I believe we have about—that half megawatt would also be under Net Metering. Everybody in the Partners program is also net

# TRANSCRIPT

metered. The Net Metering cap is 9.5 megawatts. When that's met, then we'll have to get somehow 13 1/2 or whatever that amounts to, to get to the 23, outside of Net Metering somehow.

Mayor Burt: This CLEAN program, we don't count utility solar against the local of course. We have three programs that are designed to achieve that four percent?

Mr. Ratchye: We also have a community solar program that we have not yet rolled out. We did do the Group Buy program, and we got a lot of applications under that program. I don't believe all those have been installed yet.

Mayor Burt: Would the community solar program potentially utilize CLEAN or be outside of that?

Ms. Ratchye: It could. We haven't figured that—that program has not been designed yet. It may use a CLEAN-type approach. That would probably require Council action.

Mayor Burt: The solar installation on our garages, which is the largest uptake in the CLEAN program, there are other requirements that we placed on that project for Electric Vehicle (EV) charging and EV readiness. Is that correct?

Ms. Ratchye: I think that was part of your lease agreement.

James Keene, City Manager: We didn't place requirements, but the response that we got on the lease actually offered that additional value as part of the proposal.

Mayor Burt: Thank you. Council Member Berman.

Council Member Berman: You covered it.

Mayor Burt: We'll now proceed to members of the public, and we have more cards. Mark Roest to be followed by Sven Thesen. Welcome.

Mark Roest: Hi. I'm Mark Roest. I'm with a battery technology startup company, do a lot of volunteering with 350 Bay Area, and strongly in favor of keeping the 16.5 cents. Rather than cutting that compensation, adding provision for later addition of battery storage. It's not quite ready now in terms of the pricing, but within 2-3 years I expect batteries to be two cents or less per kilowatt hour levelized cost of energy. The National Renewable Energy Laboratory published a study a couple of years ago by now where they said that six hours of storage on a solar system would add 3.5 cents of



# TRANSCRIPT

value for every single kilowatt hour that comes out of the solar system, whether it goes through storage or not. You're basically adding a third to a half of the wholesale cost of electricity in value available to the utility, which in this case is municipal, in terms of—they were only talking about load shifting and deferred capital expenditures for expansions. They weren't even talking about all of the benefits in terms of stabilizing the grid and demand response and all that other stuff. You've got a lot of opportunities here which you could be passing up and throwing under the bus. It's a small portion—the Finance Committee made this argument that, because it was such a small portion of the total amount of electricity you buy, you should not allow it to be higher. No, for that very reason, you should go ahead and do it, because you're doing an experiment here. It's a pilot project. You should be looking at what are all the possibilities to blow the doors off that four percent number and get up to 40, 50, 60 percent, which is possible if you do things like using captive column structural systems to throw up structures over your streets and parking lots and putting solar on that. There's a lot of things you can do to go beyond what people do today. The costs of solar are going to fall in half again. The cost of the batteries is going to be around \$150, \$140 a kilowatt hour within two years. Within three or four years, it'll probably be under \$100 a kilowatt hour. That gives you the full economic value. The full economic potential of the solar is realized by having the storage. If you're only looking at the solar, you're not looking at the whole picture. If you're only looking at today's technology, you're not looking at the whole picture. You need to be looking at what is the moving target going forward and what can you do to maximize the value you're going to get out of it.

Mayor Burt: Thank you. The next speaker is Sven Thesen, to be followed by Bruce Hodge. Welcome.

Sven Thesen: Good evening, all. My name is Sven Thesen. Full disclosure, I'm a resident of Palo Alto, founder of Project Green Home, one of the nation's most energy efficient homes. I'm on the Unitarian Universalist Co-Chair of our Green Sanctuary that applied for and successfully got Palo Alto CLEAN program. I run a Limited Liability Company (LLC) that finances solar on top of nonprofits. Lastly, I consult for Palo Alto on EV matters. Pat, your comment about getting chargers as part of the four solar canopies on four garages, we are going to highly likely win a very large grant to install chargers there. I just want to say I support the CLEAN program, and I'm a big fan of Winston Churchill and what he did during World War II. As such, the shenanigans—I say that word again because I think he liked it, shenanigans—of the Council's Finance Committee in accelerating and railroading this Motion was just not cricket, but I approve. If you're at war and trying to save the budget, you would do something like that. I approve.

# TRANSCRIPT

The only problem is we're all in this together. We're Palo Alto residents. Three or four years ago—I don't know the exact date—we as a City, the residents decided that we wanted to have four percent locally generated, renewable energy. As an ex-PG&E guy, it would have been easy to put up a small combined cycle natural gas plant. It's only 23 megawatts, not a big deal, but we said we wanted local renewable. I don't know how much poop we generate, because we could also put in a biogas and make natural gas out of our poop or other things. We could have put a big wind farm, but we decided that the most cost-effective way to meet that four percent was to go PV. Right now, we've got a long way to go to meet that four percent. This, to me, sounds like the most cost-effective way to get to that four percent. I'm all about saving money. I approve of what the Finance Committee did if it was a game of war, but it's not. We're in this together. This seems to be, unless we're going to change the four percent, the most cost-effective way. Thank you.

Mayor Burt: Thank you. Our next speaker is Bruce Hodge, to be followed by Michael Closson. Welcome.

Bruce Hodge: Good evening, Mayor Burt and Council. I will be brief. Tonight I'd like to ask you to vote against the proposed modification by the Finance Committee and avoid essentially killing a pilot program that is only just beginning to bear fruit. Palo Alto CLEAN has a lot of promise and has already been constrained in many ways to avoid runaway costs. This program was developed purposefully with high initial costs in mind in order to pencil out the very real costs that developers face in mounting larger-scale, local solar projects here in Palo Alto. As the program becomes more successful, the intent all along has been to lower the rate given developers at appropriate times. This is not such a time and is definitely not the appropriate process for doing so. I'd like to ask any constituents in the audience that support the continuation of the Palo Alto CLEAN program in its current form to please stand to indicate your support. That's really impressive. Thanks to all of our community members who took time out of their busy schedules to come down and make their voice heard. The community wants local solar; let's make it happen. Thank you.

Mayor Burt: Thank you. Our next speaker is Michael Closson, to be followed by Vanessa Warheit.

Michael Closson: Good evening, Mayor Burt and members of the Council. My name is Michael Closson. For about three decades I was a resident of Palo Alto and a couple of years ago moved across the creek to Menlo Park. I thought I'd bring you an outside perspective on this issue very briefly. I'm a former Executive Director of Acterra. Since I retired from Acterra, I've been

# TRANSCRIPT

working with an organization called the Center for Climate Protection promoting an idea called Community Choice Energy which is spreading across the state. It's a number of people who wished that they had their own municipal utilities; since they don't, they're trying to go halfway by being able to procure their own energy and breaking away from the grip that Pacific Gas & Electric (PG&E) has upon their electricity supply. It's really taking off in San Mateo County, and in much of Santa Clara County it'll be starting within a year. The reason I'm bringing that up is because they all have big plans to develop as much local solar energy as possible. Right away in the start, there will probably be just very little. My guess is over the next four or five or 10 years they'll have substantial amounts of local solar, at least that's what they hope for. Matter of fact, quite a bit more than the four percent. Who knows exactly what the implications are of that? One can imagine actually, because of all the demand for solar, that there might be an initial shortfall. Down the road, obviously if you ask for it, the supply is going to increase. My point here is not to belabor that, but to say that you know the benefits of local solar. I think it's very important at this point in time to keep the tariff the way it is and allow Palo Alto to reach its target. That's going to be requiring to have some commercial developers do this. Once you reach that, then you can maybe relax the payback a little bit and see how it works out. I think at this point in time it's very desirable to keep the program the way it is. Thank you very much.

Mayor Burt: Thank you. Our next speaker is Vanessa Warheit, to be followed by Herb Borock.

Vanessa Warheit: Thank you very much for moving this proposal off the Consent Calendar last week. I'm another voice in favor of the Palo Alto CLEAN pilot remaining at its current rate. Locally generated, clean electricity is an essential part of our City's resilience efforts. Local solar arrays can be tied into community micro-grids and supply our City with power in case of emergency. It's more efficient, because you don't lose energy in transmission when you generate your power next door and don't have to schlep it hundreds or thousands of miles. The Palo Alto CLEAN pilot project was designed as a crucial step in fulfilling our stated goal of generating four percent of our power locally. It does this by temporarily raising rates to help bring in solar developers and sort out the permitting, construction tie-in details, all the factors needed to pave the way for locally generated, large-scale, clean electricity. Having been intimately involved with UUCPA solar project and what it took to get that off the ground, I can assure this is a really important component. What you also need to remember is that even with the CLEAN program, as other people have pointed out, running its course unhindered, even once the City's Net Metering program has been fulfilled, we are still nowhere near meeting our goal of four percent. Another

# TRANSCRIPT

reason to keep the CLEAN program is to use it as a testing ground for community solar. Like 44 percent of Palo Alto residents, I'm a renter, so I'm particularly eager for a way to buy into local solar projects and offset my power usage at home. The vast majority of Palo Alto's commercial properties are also non-owner occupied. They are also not able to take advantage of Net Energy Metering. It's, as people have pointed out, also running out. The cost of fulfilling the rest of the Palo Alto CLEAN program comes to less than 10 cents per month for the average customer. The City Staff and the Utilities Advisory Commission have recommended continuing the pilot program, so I'd like to ask you to please stop wasting all of our time on trying to kill this small but important project and instead to direct Staff to start developing a plan to achieve our goal of four percent locally generated, clean power as quickly as possible. Thank you.

Mayor Burt: Thank you. Our next speaker is Herb Borock, to be followed by Jeralyn Moran.

Herb Borock: Mayor Burt and Council Members, I support the recommendation of the Finance Committee. I would suggest the first page of the resolution be amended at the bottom of the page to track the actual recommendation of the Finance Committee, which is to maintain the contract price of 16.5 percent for those applications that have already been received. You received some correspondence from people associated with one of those applications who thought the purpose of this recommendation was to reverse the decision that was made for them, but it is not. In fact, it's just the opposite. It is to give them special consideration to keep the 16.5 percent. It would help maintain the legislative history to have the resolution include that language so that there's no misunderstanding in the future as to what action was taken. There has been some question about the process. The appropriate process was followed. One of your Commissions made a recommendation. Under normal procedure, it's a subject that goes to your Finance Committee after the Utilities Advisory Commission (UAC) makes the recommendation, and then comes to the Council. It doesn't go back to the Commission to see whether they agree with what the bodies above them are doing. They already had their chance. In this particular case of a seven-member Commission, there was a minimum number of four for a quorum and minimum vote of three out of that vote to create a majority. That included Commissioner Cook who is the Director of Development for the company First Solar. This project is mainly a subsidy for people who are in the business of providing solar and who cannot make the numbers work unless the other ratepayers subsidize them. You've had that opportunity, and you've seen that you first had to raise the price. It was originally less than 16.5 percent, and then a previous Council raised it. I think having these examples that we have already is enough.

# TRANSCRIPT

While a small group of people can send an email message and create people coming to the meeting and have essentially the same letters coming from each them, when the people who are paying to subsidize it are essentially the rest of the citizens, unless you sent out an equivalent email message to everybody in the City, you're not going to get the same kind of response coming here. That's why we have committees to do this kind of work. Thank you.

Mayor Burt: Thank you. Our next speaker is Jeralyn Moran, to be followed by Zach—I can't make it out. Pardon me? Robin, Rabin, Rabin maybe.

Jeralyn Moran: Good evening, Council. I appreciate you guys, as a Palo Alto resident myself, your ongoing efforts to really do the right thing here. It's our hard-earned tax dollars, and I'm really aware of your important jobs. It's hard to make these financial choices. As a Council, you represent the rest of us in some really important ways. In this moment, I'm highlighting the long-term environmental stewardship of our area. The global crisis here, it's here, it's everywhere. Your influence in this giant matter goes beyond the boundaries of this City. You, the City Council, and us, the balance of Palo Alto, we're a team in continuing this City's exemplary journey toward truly comprehensive clean energy options. I really applaud all of us for progress that we've made so far, but we're still ramping up. Palo Alto CLEAN project is an example here. It's still ramping up. More time is needed to allow its benefits to materialize. I urge you to consider this and the wonderful example we can continue to set for other communities. Greenhouse gas reduction must continue to be a top priority for all of us, for everyone. The CLEAN project adds to Palo Alto's solution puzzle an important solar piece. Thank you for listening.

Mayor Burt: Thank you. Zach Rubin to be followed by Craig Lewis. Welcome.

Zach Rubin: Good evening. I am Zach Rubin with Komuna Energy. I guess if we look at the program that exists today, the only reason we were able to get the parking garages in place was because of the 16.5 cents. If we look at Palo Alto, the issue is the real estate that's available to us. We have limited land available to us. The land that is available to us, the highest and best use is generally to do a real estate development. The roofs that are available in Palo Alto are limited. It leaves us really with the carport options. When we develop a carport, there's a lot more steel and materials that go into that. As a result, that 16.5 cents, that one penny delta between what's being proposed, actually makes a major difference in what we can use to control site. The City example in order to get that big that we got, we had to put an offer to them for how much we'd be willing to pay them per year

# TRANSCRIPT

for the site. The price would have come down significantly if that 16.5 cent number was reduced. When you talk about the taxpayers, the residents of Palo Alto subsidizing this, I asked the question how much was that. I think it was about 10 cents a month. I may be off on that; I don't know what the number is. Give them a voice and ask them if that is a significant amount for them to not support this program. I would just suggest that we see this thing out. Once these sites are developed, the whole City's going to take notice of this. People are going to walk down University Avenue, and they're going to see these carports. At that point, what's going to happen is the commercial market may potentially open up. The people that own buildings here may see, "That's possible to actually develop a carport on my property. The City did it. Maybe I can do it." I don't think it's going to bring in other developers, but what it's going to do is it's going to actually give confidence to the commercial property owners here to actually have that discussion. I urge you just to keep it in place for a little bit longer, see what happens. Thank you.

Mayor Burt: Thank you. Craig Lewis to be followed by our final speaker, Bob Moss. Welcome.

Craig Lewis: Thank you, Mayor, Council Members. A pleasure to be here again. The Clean Coalition, my organization, develops projects and programs for municipalities and utilities across the country. We work primarily on procurement programs like Palo Alto CLEAN, interconnection streamlining programs to make sure that the interconnection processes can be done cost effectively and smoothly. We also do community microgrid work. All of which we have done in some form or fashion here in Palo Alto, including helped design the Palo Alto CLEAN program initially, starting about five years ago. The real question you have before you tonight is do you want to get local solar in Palo Alto or not. If you want to, if the answer is that you want to, then you need to keep this program, the Palo Alto CLEAN program, in place in its current form at the current price. As we've heard, the cost of that to the average ratepayer is less than 10 cents a month. It's negligible. What we need to be thinking about is what does the next program after Palo Alto CLEAN look like. Let me tell you what I think it needs to look like. It cannot be another Net Metering program. It has to be another Palo Alto CLEAN program. The reason for that is the only way that Palo Alto is going to fulfill its four percent local solar goal is to open up the commercial market segment. That is the only segment where we can get the rooftops and the parking lots that we need in order to fill the volume of local solar that we need. If Sven is successful getting the electric vehicle segment really moving here in Palo Alto, we're going to need a lot more than 23 megawatts of solar. The electric load is going to go way up as we move into the transportation sector. I think the utilities, their projections for

# TRANSCRIPT

electricity use are low. What I will tell you is that Palo Alto CLEAN is by far the most cost-effective approach. A couple of things that are not talked about in Net Metering is the Palo Alto CLEAN program is primarily used for non-owner occupied properties which the vast majority of commercial properties are, especially here in Palo Alto. It's probably 90 percent plus. Rent has to be paid to the property owner. In Net Metering, it's not the case, but Net Metering doesn't apply to very much of the commercial market segment here. We've got to have the commercial market segment open up, and you have to pay rent to that property owner. That is several cents per kilowatt hour. It's just the facts. Also on Palo Alto CLEAN, the grid upgrades happen for free. The developer is responsible for 100 percent of the costs of any grid upgrades. This is a huge benefit to the ratepayer. It does not exist in Net Metering. In Net Metering, the utility pays for the grid upgrades, so they're required. Palo Alto CLEAN is the most cost-effect, by far approach that we can use for local solar. I urge you to allow the pilot program to run its course at the current price and to instruct Utilities Staff to design a follow-on program that is really going to open up the commercial market segment. Thank you.

Mayor Burt: Thank you. Our final speaker is Bob Moss. Welcome.

Robert Moss: Thank you, Mayor Burt and Council Members. Listening to the discussion and the comments from the public was quite interesting. As you probably know, I have an awful lot of experience with solar power. I helped to build some of the largest solar panels ever flown on spacecraft. I've been working with the solar business for decades, so I've got a lot of experience. One of the problems with solar is the sun doesn't always shine on Earth. It does in space, but not on Earth. You have other aspects of energy that you have to take into account. The main one being batteries. There are, of course, a lot of benefits to having solar power and having it locally, but there are also a lot of problems. While the cost is coming down, it's not competitive yet with cheap things like gas and some of the other rather nasty types of energy. How do we get around that? Putting solar energy on individual homes isn't cost effective. We get calls once or twice a week from people who want to give us solar energy on the house. The best they can offer is something that will take between 20 and 35 years to amortize before we get our cost back from reduced energy costs. That doesn't pay. The place where it does payoff is in industrial areas, where they use a lot more energy and they have a place where they can put the panels, large layers of panels, the roofs. That's where we should be concentrating our attention. One of the things we should be looking at is how we can offer other incentives to get industrial developers, commercial developers, to go solar. Let me give you a couple of suggestions. Recently you put in a limit of 50,000 square feet per year for office space. You said that if more than

# TRANSCRIPT

50,000 square feet is requested, you're going to have a beauty contest. Let's do it a little bit differently. Anybody that comes in with an office development and also says they're going to use solar power gets to the head of the line. They don't have to worry about whether they're going to be the 55,000 square feet or 5,000. They would get basically a chit that they're going to be the first people authorized to build those buildings. Secondly, I think you should take a look at ways you can work with various businesses and commercial entities and large property owners and give them reductions in other utilities, besides electricity, gas, water, whatever, in exchange for their putting in electricity since we have our own utilities. Look at giving these big users incentives so they will provide the solar power we need.

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

Council Member Wolbach: As a member of the Finance Committee, I want to address a couple of things. One, there have been some statements made in the public that this was done in a non-transparent way, that the Finance Committee rammed something through. Nothing could be further from the truth. We have the Brown Act in California. It applies to the Finance Committee. It was done in public. It was fully transparent, meaning it was noticed. Minutes are available. That said, I think we made a mistake. My question for Staff is what would be the most elegant way to amend the recommended Motion here to return to the Utilities Advisory Committee recommendation to maintain the current price for (crosstalk).

Mayor Burt: I think we can handle that as a Council.

Council Member Wolbach: If another Council Member would like to make the Motion, I'd be happy to second it.

Mayor Burt: Council Member Berman.

Council Member Berman: I think I can give that a shot. To me the analysis is no different than it was in February 2014 when I voted to increase the cap from two megawatts to three megawatts. It's not different from the conversation we had less than a year ago, in May 2015, when pretty much this exact—I'm kind of having déjà vu all over again in the sense of there being a recommendation to dramatically lower the cost per kilowatt hour. I think Pat will talk to this, and I'll let him do it. The process was transparent. I could quibble with some of the ways it went down, but this is the process. The Utilities Advisory Committee recommended one thing, and Staff recommended one thing. Normally when the UAC and the Staff recommend the same thing, I feel pretty good about that recommendation, because there have been a lot of times when they've been on opposite sides. Then it



# TRANSCRIPT

goes to Finance, and then it comes to us. That's fine. I'm going to move that we—I want to make sure that I get the language correct—continue the Palo Alto CLEAN program for solar energy resources at 16.5 cents per kilowatt hour for a 20-year contract and 16.5 cents per kilowatt hour for a 25-year contract term, and to continue with the CLEAN program limit for solar energy resources of three megawatts. I'm probably okay with Part B because I think that's in line with what our policy was for non-solar eligible, renewable energy resources. If colleagues want to ...

Mayor Burt: Second.

**MOTION:** Council Member Berman moved, seconded by Mayor Burt to:

A. Adopt a Resolution to:

- i. Maintain the Palo Alto CLEAN program price for local solar energy resources at the current price of \$0.165 per kilowatt-hour (\$/kWh) for a 20-year or 25-year contract term, and continue with a program limit of 3 megawatts (MW); and
- ii. Reduce the Palo Alto CLEAN program price for local non-solar eligible renewable energy resources to the updated avoided cost of such energy (\$0.081/kWh for a 20-year contract term, or \$0.082/kWh for a 25-year contract term), from the prior avoided cost projection (\$0.093/kWh for a 20-year contract term, or \$0.094/kWh for a 25-year contract term), and continue with a separate program limit of 3 MW specifically for local non-solar eligible renewable resources; and

B. Approve the amended CLEAN program Power Purchase Agreement (PPA) to implement the recommended changes.

Council Member Berman: Just to briefly talk to it. I think a lot of members of the public have spoken to it. I think we spoke to it 10 months ago. First of all, the City Council has adopted a policy of four percent locally generated renewables. As we heard tonight, we're barely a third of the way there. Even if we get fully subscribed on Palo Alto CLEAN, we'll still be less than 50 percent of the way there. Obviously I think the market has indicated from previous failed attempts that, if we were to lower the rate 40 percent or whatever it is, we're not going to get applicants for that remaining 1.7 megawatts for Palo Alto CLEAN. That's a stated Palo Alto goal. There are times when we subsidize things. We did that earlier tonight, where we're subsidizing applications that have to do with childcare facilities. We're subsidizing appeals from residents. There are plenty of times when we do that, because there are additional, kind of external benefits to the

# TRANSCRIPT

community. Here two of the big ones are resiliency and making sure that we have a minimum amount of locally generated power if the grid were to go down. A second reason is that, I think, we spoke about 10 months ago, public knowledge and awareness of different renewable options and just that constant reminder that these aren't unlimited resources. We need to be very diligent about how we generate them and how we use them. I think large public projects, including the projects that we'll have at the Unitarian Universalist Church and projects on our parking garages, are good projects that people will see on a regular basis. It kind of keeps that need to conserve front of mind. For those reasons, I'm perfectly comfortable continuing at 16.5 cents per kilowatt hour.

Mayor Burt: I'd like to speak to a few aspects of this. First, I actually did watch the Finance Committee meeting. The discussion on this was actually quite brief. I think it largely missed a whole bunch of relevant aspects. The first is the fundamental premise was a comparison of this program to utility-scale solars. I think that's frankly a false dichotomy. This is one of our local programs of which we've had three, Net Metering, PV Partners and the CLEAN program. Together those do not yet have in place programs that would meet our official policy of the City, which is to obtain four percent local renewables by 2023. Whether all of the Committee realized it or not, basically what came out of the Finance Committee was the opposite of what the recommendation said it was. The recommendation said it was to continue this program at a lower rate. What it literally meant was to end the program by setting this rate. That is the absolute de facto impact of what came out of the Committee. I don't think it was fully appreciated that that was the impact. Nevertheless, it's unambiguous that that's the case. It would not only end this program, but it would put on life support at best our local renewable program. We just don't have a means to achieve it. As Council Member Berman alluded to, having local subsidy programs or, for that matter, State or Federal subsidy programs for progressive initiatives, whether in resources including energy or other areas, is not an anomaly. This is something that we do right and left. I was just thinking through. We certainly have our own renewable energy program. We began this 20 years or so ago and, throughout most of that period, paid well above the market for brown power. That's what we were comparing to. We had programs that were well above State mandates. We also have currently efficiency programs where we subsidize ratepayers for electric efficiency, gas efficiency, water efficiency, all because we've decided that these are values that are important and this is how we achieve change. We also have EV charging subsidies. For that matter, we have extensive State and local subsidies for electric vehicles. Those are all ones that we have. We have our Zero Waste program which well exceeds the State standards. We have on the highways high occupancy vehicle lanes which are a subsidy for those

# TRANSCRIPT

who will drive in high occupancy vehicles. There's a whole myriad of these. To look at one in isolation and make an economic calculation by comparing it to the improper comparison point is really not looking at things in the broad way. Although I think the action of the Finance Committee was unintended, I really want to challenge the Committee to be thinking more broadly and deeply on subjects when they come before them, especially when it's something that we went through this exercise less than a year ago and had similar arguments. We're now twice in less than a year going through a lot of Staff and Council time to repeat something that we already had discussed and deliberated on. We, frankly, are having this before us because we did not have—the lack of transparency that I think was alluded to was not how things were discussed and deliberated in public. It was that it was non-transparent as to the ramifications of the action. It may not have been fully understood by much of the Committee. Nevertheless, that's, I think, the reality. If Colleagues disagree with the four percent local renewable program, then the honest and transparent thing to do is to bring forward a Colleagues Memo to attempt to repeal it. Then we'd have a public discussion on that and determine what to do. Barring that, using this as a backdoor way to kill this program and indirectly kill the local renewable program, I think, is really not proper. Also, it was alluded that we have, for instance, before us a community solar program. I know some of the questions that were brought up about who benefits from a program like this aside from us as a whole and the community. Who more narrowly benefits? Does it help residents? This program isn't set up for individual households. It's been identified as a candidate program for the community solar, which is basically a solar co-op. If your home isn't a great candidate for solar, this is how you can buy in and own a share of solar. I hope that we'll be seeing a CLEAN program-based community solar program. This whole model of what we call the CLEAN program in Europe is called a feed-in tariff. This is how Germany became global leaders in the solar adoption and how we have all benefited from the initiative that Germany did. They have now just millions of homes that are powered by solar that were run off of feed-in tariff programs, essentially this type of program. It does go to the point that we initially are not offering this program to residences. That was something that was put on hold when we first adopted it, so that we would learn how to do the program efficiently and potentially adopt it for residences in the future. I think there's a whole series of very sound reasons why this fits within a whole range of progressive programs that we've done and been leaders as a City. Frankly, we currently are at what approximately, Jane? 25 percent below PG&E in electricity, is that about where we are?

Ms. Ratchye: I think it's 35, but we are having a rate increase (crosstalk).

# TRANSCRIPT

Mayor Burt: Thirty-five, I stand corrected. They'll have raises too, though. At currently 35 percent below PG&E with having strong subsidy programs, including this one and including a whole series of other subsidies that we do that are beyond what PG&E does, we deliver on the whole rates 35 percent below PG&E in our electricity. If we look at one little thing in isolation, we could make an argument, especially if we compare it to the wrong point of comparison, against it. I think everything else counters that argument.

Mr. Keene: Mr. Mayor?

Mayor Burt: Mr. City Manager.

Mr. Keene: If I might make a clarifying comment. Good comments we're hearing here. I think actually, though, in this case it's inaccurate for us to be talking about this as a subsidy really. This is paying towards benefits for the Utility as a whole and potentially benefits that will accrue to individuals and folks. It's an investment. What we're looking at are the investments in distribution system resiliency and the need not to have to invest in other transmission costs, even to the extent that we incent any local economic development and sort of shift the market so we can pay lower costs in the future. I just sort of think that there's that component here that's advising this.

Mayor Burt: I readily accept that correction. Council Member DuBois.

Council Member DuBois: I did want to say thank you for this presentation. I think it was very useful to have it broken down this way. We can see the increase over time that we're paying for these solar benefits/subsidies/investment. Even in less than a year, it's dropped 1.5 cents, which is pretty astounding. I think that's okay. We just need to acknowledge that we are incenting this behavior. The rate this technology is changing, I do think we need to keep an eye on it. I do think this is a totally fair discussion to be having. I thought the letter from Mr. Borock was interesting. He was talking about putting solar on the Regional Water Quality Control Plant, which we just talked about. Looking for more City facilities to do solar is a good idea. I also found Zach Rubin's comments pretty compelling. It's reasonable to finish supporting the pilot program kind of as is to see if we can get some more interested parties just for the remaining 1.7 megawatts. I do want to say I appreciate the Finance Committee being fiscally conservative. I'll look to support you if you find other places to cut some costs. I do think we should support this pilot program. I also think we need to start to look at storage in isolation from the grid. At least my understanding is we're not really getting resiliency putting our local power into the grid in an emergency situation. I think

# TRANSCRIPT

that's kind of the next step. I'd love to see us push forward with smart grid with fiber to the home. I think the other thing to think about is when it comes to the next phase after this pilot is over, we're going to be economically challenged in that the rooftop rent costs are going to be higher than the cost of the solar technology. We really need property owners to understand that and not expect that kind of premium or that's going to kill the program going forward. The rent costs are going to outweigh everything. Just something to think about.

Mayor Burt: Thank you. Council Member Kniss.

Council Member Kniss: Let me associate my comments with those who have spoken so far. Listening to you talk, Pat, I realize how long you've been involved in this. It's probably been 20 years. I think you've all come tonight, and you've all said it very well. You've said this is a small but really important program. It respects cultural values of our community. Our community is, without doubt, green in many aspects. It's a green community and has proven it through the years starting in the '70s. It's not new to be green. It's great to continue being green. That's really what we're talking about tonight. This is a good, solid program. It's still in pilot form, but certainly headed for the termination of that as we move forward. As I said, Marc and I are new to this. It's a little over three years. The rest of the group has been going at this for a long time, and you've persisted in it. Sven, I have heard you talk about this since I got on the Council, usually with great enthusiasm and vigor, which you did again tonight. It's a pleasure to support this kind of program. Thanks to all of you who came out tonight. Isn't it nice that it's not midnight and it's just 9:45 p.m.? It helps. Anyhow, we really appreciate your being here.

Mayor Burt: Thank you. Council Member Schmid.

Council Member Schmid: I was on the Finance Committee and went through the discussion. The quote that caught my attention tonight was someone said this is the most cost-effective option. At the Finance Committee meeting, we were confronted with two votes that night. The first one was whether to accept a 20-year deal of energy at 3.7 cents per kilowatt hour, and we did enthusiastically with whatever qualifications came with that. The second vote then, the next item on the Agenda, was let's continue a subsidy of 16.5 cents for commercial enterprises in Palo Alto. That raised the question what is the most effective use of our money, of our thinking where are we going. That 3.2 cents seemed to open up options, the options we've been looking for. A breakthrough on solar energy, dramatically lower prices coming in for long-term supplies. It seems to me to be the start of a discussion. How can we best use our subsidies? If you look at our history

# TRANSCRIPT

over the last 10 or 15 years, we have substantial long-term contracts that are now fairly well above market prices, but they got us into all kinds of activities. We're able to look at wind power, gasification and lots of different things. Now we have moved to solar energy, the same way that we have moved over the last 10 or 15 years as opportunities came up, to be flexible enough to take advantage with what's going on. I don't think there's anyone here tonight that wouldn't jump on the 3.2 cents per kilowatt hour and commit to a 20-year contract, even with transmission costs. The 16 cents costs 10 cents per customer per month, but that adds up to \$380,000 per year. Over the 20 years, it's \$7 million. Is there something else we could do with \$7 million that would be effective, the most cost-effective move? I think the Finance Committee stepped back and said this is an opportunity, an opportunity that should give us some room for thought. Let me make a friendly Amendment that we add a "C" on this and say let's reassess cost effectiveness taking into account the recent 3.2 cents contract and looking at whether we as residents of Palo Alto but also residents of California—I mean, if we spent \$7 million on more 3.2 cents energy and gave it away to Los Angeles, the State of California would be better off. Let me just make a "C" that we reassess long-term cost effectiveness taking into account the dramatic drop in prices of solar energy in California.

Council Member Berman: I'm not going to accept the proposed Amendment.

Mayor Burt: Nor I. If Colleagues want to bring forward a Colleagues Memo to try to have a reconsideration of our local solar program, then that would, in my mind, be the proper way to attempt to do this, not another backdoor.

Council Member Schmid: I'll make a Motion. Any second?

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member XX to add to the Motion, "reassess long term cost effectiveness taking into account the dramatic drop in prices of solar energy in California."

Mayor Burt: That fails for lack of a second. Council Member Filseth.

## **AMENDMENT FAILED DUE TO THE LACK OF A SECOND**

Council Member Filseth: This will be pretty short. Economics is an important component of this. If we had infinite money, of course we would do this. If we had zero money, we wouldn't. Obviously, we're in the middle, and that's why we're here talking about this kind of thing. I think the reason it's appropriate for the Council to check-in and see if this still makes sense is because the economics has shifted in the last year. I do appreciate some of the interesting dialog earlier. There has been some discussion about resiliency and, of course, what we're talking about is a tiny fraction of the

# TRANSCRIPT

City's power that only works in the daytime. If you really want resiliency, you need to look at some of these other technologies that some of the speakers mentioned, like storage, potential changes to the grid and so forth. If we were talking about that, then we'd probably be having a different conversation. The economic piece is where basically two things have changed in the last year. I think that's why it's reasonable for us to take a look again at this. The first is utility-grade solar economics have gotten much better. Even without the Hecate contract, we're still paying 14 percent less for utility-grade solar than we were a year ago. The Hecate contract is going to drop that even farther. Utility solar economics are getting better. At the same time in the last year the City economics have gotten worse. We're now projecting operating shortfalls for the next couple of years. If you include the City's unfunded pension and health liabilities, the City is actually losing many millions of dollars a year. A substantial amount of that actually comes from the Utilities in the Enterprise Funds. At the same time, we're projecting an 18 percent electricity rate hike over the next two years. None of this includes the possibility of a recession ahead. As we look at the economics, the real question is—I think there may be disagreement on the exact point here—do we want to pay 7-9 cents for solar electricity or do we want to pay 16 cents for solar electricity. I think the seven cents is relevant because we're talking about 25-year contracts here which means the ones we sign under this program will still be in effect to 2040 or potentially later. I think the practical benefits are tenuous. The costs, as long as it's just the pilot, are probably not that much, but they could increase significantly if we expand beyond the pilot. The economics of solar are changing pretty quickly. Given this context, is this still the place we want to spend this money? If the answer is yes—it sounds like it's going to be yes—I think we should revisit this from time to time. Final consideration which is this fall the County and possibly the City are going to go back to voters and ask for tax increases on top of all this. I think it's important we show people that we continue to be spending their existing money very thoughtfully as we go asking for more. Thank you.

Mayor Burt: Please vote on the board. That passes on a 6-1 vote with Council Member Filseth voting no. Thank you, everyone, for your participation this evening.

**MOTION PASSED:** 6-1 Filseth no, Holman, Scharff absent

## Inter-Governmental Legislative Affairs

Mayor Burt: We have Inter-Governmental Affair Legislative report, nothing.

# TRANSCRIPT

## Council Member Questions, Comments and Announcements

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

Council Member Kniss: Same urging, for people to sign up for bocce ball which is on Wednesday, April 20th. The following night, when some people thought it was, is an Acterra event. I think that on that Friday night there is a holiday. Am I correct? I'm pretty sure on the 22nd. If you're hesitant at all, as you know, it's in Los Gatos. It's lots of fun, for a good cause, us. It cannot be advertised through the City Clerk or otherwise. It has to be done of our own volition. Just so you know, I will keep on reminding you about it as I head up the Peninsula Division of the California League of Cities. Also, we met last week and had an interesting presentation on High Speed Rail. I know some of the rest of you were otherwise occupied, but it was interesting. I would only say we should have had a "no" side as well as a "yes" side. That's my report.

Mayor Burt: I'll just briefly say that at the same time that the Peninsula League of Cities was having a presentation by the High Speed Rail Authority, the Local Policymaker Group to Caltrain, on which I serve, was having a similar presentation on the Business Plan. It didn't go quite as well for the Rail Authority there. There were really—surprising, there were a number of assertions by the Chairman of the High Speed Rail Authority that were tenuous at best. We had quite a bit of dialog on that. We're looking really on what we need to do as a City and as a collaboration of cities to help assure that the Business Plan addresses the impacts that the potential High Speed Rail system on the Peninsula could have on the need for grade separations as well as whether the entire set of analysis of alternatives will be done in a proper way. We've been advocating for the re-adoption of context sensitive solutions which was what was committed to this sector back in 2010 and went by the wayside when the four-track system went by the wayside. I and others have been pushing hard to have that re-adopted as the process going forward. We can't discuss it tonight, but I did want to give you that update.

Adjournment: The meeting was adjourned at 9:53 P.M.

Mayor Burt: I see no more lights, so the meeting is adjourned. Thank you.